

TRAFFIC COURT ASSESSMENT ALL COUNTIES

COURT DOES NOT HAVE DISCRETION TO MODIFY COURT COSTS

We note that the costs statute leaves no discretion in the trial court because it directs that court to give judgment against the convicted offender to pay the costs of the prosecution.

Thus, the costs statute required the trial court here to enter the order it did..., directing defendant to pay court costs, and the court could not do otherwise.

People v. Terneus, 239 Ill. App. 3d 669, 672, 607 N.E.2d 568, 570 (1992)

ASSESSMENT ARE “COSTS”

“Assessment” means any costs imposed on a defendant under schedules 1 through 13 of this Act.

705 Ill. Comp. Stat. Ann. 135/1-5

THE COURT "SHALL" ORDER ASSESSMENTS

a) In each case, the court shall order an assessment at the time of sentencing, as set forth in this Act, for a defendant to pay in addition to any fine, restitution, or forfeiture ordered by the court when the defendant is convicted of, pleads guilty to, or is placed on court supervision for a violation of a statute of this State or a similar local ordinance. The court may order a fine, restitution, or forfeiture on any violation that is being sentenced but shall order only one assessment from the Schedule of Assessments 1 through 13 of this Act for all sentenced violations in a case, that being the schedule applicable to the highest classified offense violation that is being sentenced, plus any conditional assessments under Section 15-70 of this Act applicable to any sentenced violation in the case.

705 Ill. Comp. Stat. Ann. 135/5-10

COMMUNITY SERVICE INSTEAD OF ASSESSMENTS

(b) If the court finds that the schedule of assessments will cause an undue burden on any victim in a case or if the court orders community service or some other punishment in place of the applicable schedule of assessments, the court may reduce the amount set forth in the applicable schedule of assessments or not order the applicable schedule of assessments. If the court reduces the amount set forth in the applicable schedule of assessments, then all recipients of the funds collected will receive a prorated amount to reflect the reduction.

705 Ill. Comp. Stat. Ann. 135/5-10

HOURLY RATE FOR COMMUNITY SERVICE

§ 5-20. Credit; time served; community service.

(a) Any credit for time served prior to sentencing that reduces the amount a defendant is required to pay shall be deducted from the fine, if any, ordered by the court.

(b) Excluding any ordered conditional assessment, a defendant who has been ordered to pay an assessment may petition the court to convert all or part of the assessment into court-approved public or community service. The period of public service necessary to satisfy the assessment shall be set by the court, but in no event shall the hourly rate of the public or community service performed by the defendant be equivalent to less than the minimum wage of this State. The court may adjust the hourly rate of public or community service in accordance with this amendatory Act of the 102nd General Assembly for any mandatory assessments imposed between July 1, 2019 and the effective date of this amendatory Act of the 102nd General Assembly. The performance of this public or community service may be a condition of probation, conditional discharge, or supervision and shall be in addition to the performance of any other period of public or community service ordered by the court or required by law.

705 Ill. Comp. Stat. Ann. 135/5- 20

NOTE: 725 ILCS 5/124A-20 allows for a percentage approach to assessemnt waivers, but ONLY applies to Cook County

WAIVER OF ASSESSMENTS FOR PD CLIENTS DOESN'T APPLY TO VEHICLE CODE OFFENSES

Per Supreme Court Rule 404:

In any case where a defendant is represented by a public defender, criminal legal services provider, or an attorney in a court-sponsored pro bono program, the attorney representing that defendant shall file a certification with the court, and that defendant shall be entitled to a waiver of assessments as defined in **725 ILCS 5/124A-20(a)** without necessity of an Application under this rule.

However, **725 ILCS 5/124A-20(a)** excludes traffic offenses from the waiver.

725 ILCS 5/124A-20(a)

“Assessments” means any costs imposed on a criminal defendant under Article 15 of the Criminal and Traffic Assessment Act, **but does not include violation of the Illinois Vehicle Code assessments except as provided in subsection (a-5).**

Subsection (a-5) only applies to Cook County.

Subsection (a-5)

(a-5) **In a county having a population of more than 3,000,000,** “assessments” means any costs imposed on a criminal defendant under Article 15 of the Criminal and Traffic Assessment Act, including violation of the Illinois Vehicle Code assessments. This subsection is inoperative on and after July 1, 2024.

NOTE:

“The court may give credit toward the fulfillment of community service hours for participation in activities and treatment as determined by court services”

This language appears in the following statutes:

Conditions of probation and of conditional discharge	730 ILCS 5/5-6-3
Dispositions - DWLS	730 ILCS 5/5-5-3 (4.4)
Cannabis Control At Probation	720 ILCS 646/70
Second Chance Probation	730 ILCS 5/5-6-3.4
Driving while driver's license, permit, or privilege to operate a motor vehicle is suspended or revoked	625 ILCS 5/6-303
First Offender Probation	720 ILCS 570/410
Offender Initiative Program	730 ILCS 5/5-6-3.3

It isn't clear whether the Court can give credit toward the fulfillment of community service hours for participation in activities and treatment, when those community service hours are for Assessments, rather than the Sentence.