

# Costs, Fees, and Other Monetary Obligations



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October 2014



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## Recent History of Costs

- Before 2011:
  - Waiver authority unclear
  - No costs in active cases unless judgment said so
- 2011:
  - Waiver allowed with written finding of “just cause”
  - No special rule for active cases
- 2012:
  - Waiver requires “written order, supported by findings of fact and conclusions of law, determining that there is just cause”

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## S.L. 2014-100, sec. 18B.2

**ANNUAL REPORT ON CRIMINAL COURT COST WAIVERS**  
**SECTION 18B.2.** Section 15.10(b) of S.L. 2011-145 reads as rewritten:  
 “SECTION 15.10(b) The Administrative Office of the Courts shall make the necessary modifications to its information systems to maintain records of all cases in which the judge makes a finding of just cause to grant a waiver of criminal court costs under G.S. 7A-304(a) and shall report on those waivers to the Joint-Legislative-Commission-on-Governmental-Operations by October 1. Chairs of the Senate Appropriations Committee on Justice and Public Safety, the Chairs of the House Appropriations Subcommittee on Justice and Public Safety, and the Chairs of the Joint Legislative Oversight Committee on Justice and Public Safety by February 1 of each year. The report shall aggregate the waivers by the district in which the waiver or waivers were granted and by the name of each judge granting a waiver or waivers.”

**The report shall aggregate the waivers by the district in which the waiver or waivers were granted and by the name of each judge granting a waiver or waivers.**

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## Recent History of Costs

- Since 2012:
  - Waiver requires “written order, supported by findings of fact and conclusions of law, determining that there is just cause”
  - No special rule for active cases

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## What Are “Costs”?

Costs	Fees
Fines	Restitution

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## Objectives

- Identify categories of monetary obligations
- For each category, consider:
  - Waiver authority
  - Responses to nonpayment
  - Authority to impose civil judgment

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## Background Principles

- No costs without conviction. Art. I, sec. 23
- Statutory costs are exclusive. G.S. 7A-320.
- Collection priorities are statutory:
  - Victim restitution
  - Costs due the county
  - Costs due the city
  - Fines to the schools
  - Restitution to non-victims
  - Costs due the State
  - Attorney fees

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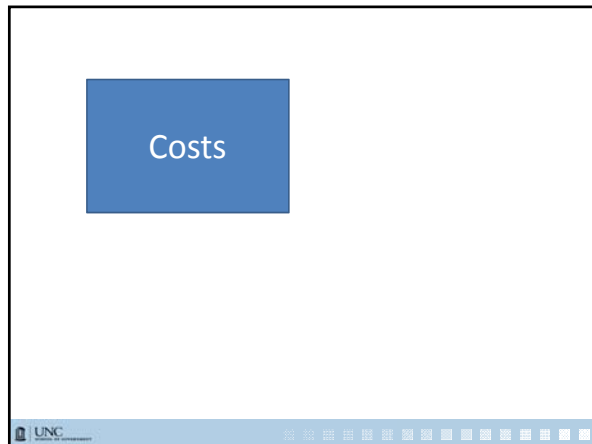
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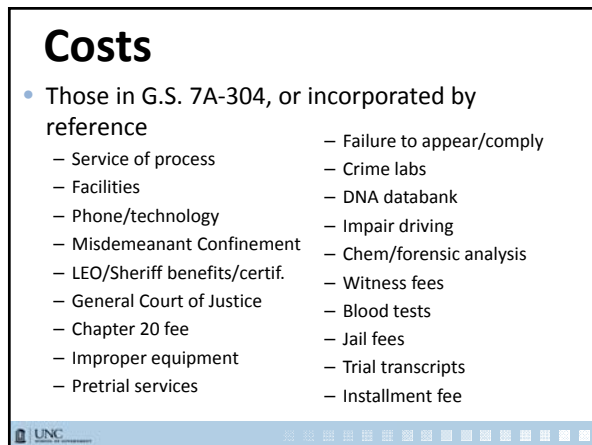
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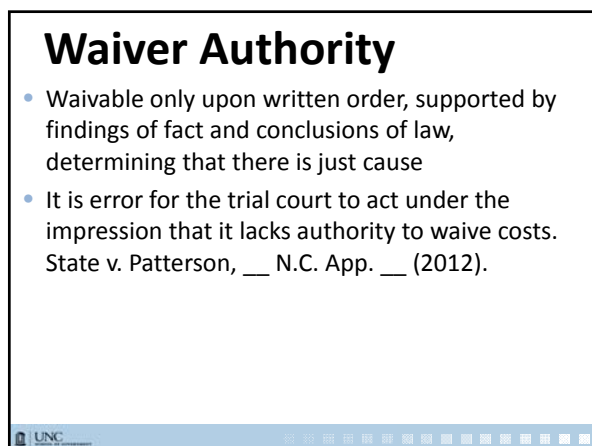
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## Response to Noncompliance

- G.S. 15A-1364
  - Show cause
  - Notice and hearing to determine default
  - Opportunity to show good faith inability to pay
- In probationary cases, probation violation
  - Opportunity to show good faith inability to pay




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## Civil Judgment Authority

- Unpaid costs may be docketed as a civil judgment upon finding of default
- No execution on judgment if defendant serves suspended sentence (or 30 days in fine-only cases)




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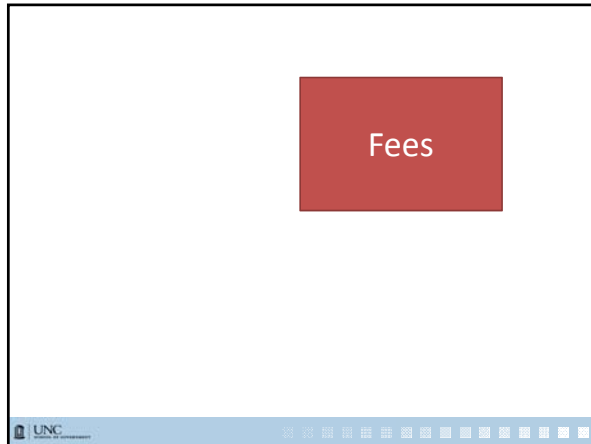
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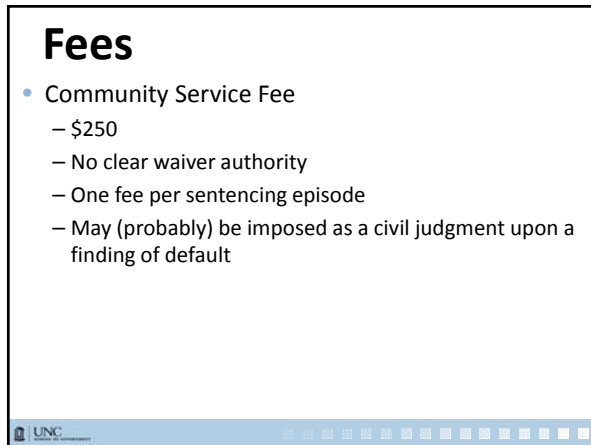
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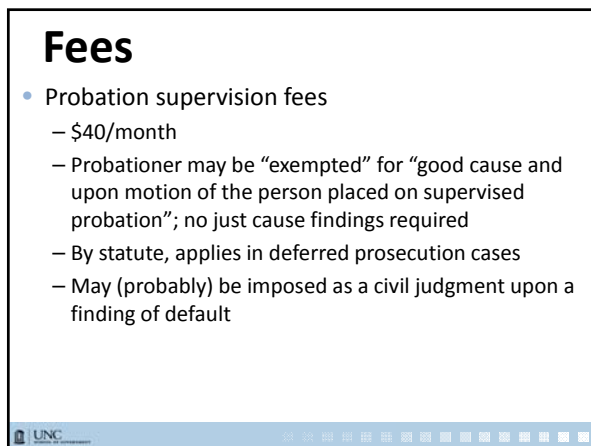
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## Fees

- Electronic House Arrest (EHA) fees
  - \$90, plus actual daily cost (\$4.37/day)
  - Probationer may be “exempted” for “good cause and upon motion of the person placed on house arrest”; no just cause findings required
  - By statute, applies in deferred prosecution cases
  - May (probably) be imposed as a civil judgment upon a finding of default



## Fees

- Jail fees
  - Two types of jails fees under G.S. 7A-313
    - Pretrial: \$10/day (true “cost”; mandatory unless waived)
    - Probationary (split sentence): \$40/day (discretionary)
  - There is no jail fee for post-conviction active time

**INTERMEDIATE PUNISHMENTS**

In addition to complying with the regular and any special community or intermediate conditions of all probation, or terms for the above elements, the defendant shall also comply with the following terms:

**1. Special Probation - G.S. 15A-1351**

For all defendants on active probation, the defendant shall also comply with the following terms:

(1) Obey the rules and regulations of the Division of Adult Correction governing the probation officer in the State of North Carolina who supervises (2) hours of the defendant.

(A) Serve an active term of \_\_\_\_\_ days \_\_\_\_\_ months \_\_\_\_\_ years in the custody of the State of North Carolina.

(B) If the defendant is not in custody, the defendant shall remain in custody until \_\_\_\_\_.

(C) If the defendant is not in custody, the defendant shall remain in custody until \_\_\_\_\_.

(D) If the defendant is not in custody, the defendant shall remain in custody until \_\_\_\_\_.

(E) If the defendant is not in custody, the defendant shall remain in custody until \_\_\_\_\_.

(F) If the defendant is not in custody, the defendant shall remain in custody until \_\_\_\_\_.

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(I) If the defendant is not in custody, the defendant shall remain in custody until \_\_\_\_\_.

(J) If the defendant is not in custody, the defendant shall remain in custody until \_\_\_\_\_.

(K) If the defendant is not in custody, the defendant shall remain in custody until \_\_\_\_\_.

(L) If the defendant is not in custody, the defendant shall remain in custody until \_\_\_\_\_.

(M) If the defendant is not in custody, the defendant shall remain in custody until \_\_\_\_\_.

(N) If the defendant is not in custody, the defendant shall remain in custody until \_\_\_\_\_.

(O) If the defendant is not in custody, the defendant shall remain in custody until \_\_\_\_\_.

(P) If the defendant is not in custody, the defendant shall remain in custody until \_\_\_\_\_.

(Q) If the defendant is not in custody, the defendant shall remain in custody until \_\_\_\_\_.

(R) If the defendant is not in custody, the defendant shall remain in custody until \_\_\_\_\_.

(S) If the defendant is not in custody, the defendant shall remain in custody until \_\_\_\_\_.

(T) If the defendant is not in custody, the defendant shall remain in custody until \_\_\_\_\_.

(U) If the defendant is not in custody, the defendant shall remain in custody until \_\_\_\_\_.

(V) If the defendant is not in custody, the defendant shall remain in custody until \_\_\_\_\_.

(W) If the defendant is not in custody, the defendant shall remain in custody until \_\_\_\_\_.

(X) If the defendant is not in custody, the defendant shall remain in custody until \_\_\_\_\_.

(Y) If the defendant is not in custody, the defendant shall remain in custody until \_\_\_\_\_.

(Z) If the defendant is not in custody, the defendant shall remain in custody until \_\_\_\_\_.



## Fees

- Attorney fees
  - Court may order partial fee depending on defendant’s ability to pay
  - Civil judgment “shall” be entered at the outset
    - Active cases: Automatically docketed at sentencing
    - Probationary cases: Automatically docketed upon termination, revocation, or expiration of probation
- Attorney appointment fee (\$60)
  - Unwaivable: “May not be remitted or revoked”
  - Collected in same manner as attorney fees



**JUDGMENT #1 (Attorney Fees and Expenses)**  
 the indigent defendant the TOTAL AMOUNT  
 Total Fees And Expenses Allowed," together  
 one of the following boxes is checked:

☐ 1. This is an interim fee or this case is s  
 attention of the presiding judge at the time  
☐ 2. The defendant was not convicted of a  
☐ 3. Other: \_\_\_\_\_

**JUDGMENT #2 (Attorney Appointment Fee)** It  
 Attorney Appointment Fee amount is \$ \_\_\_\_\_

By signing below, the Court certifies that the amount of the fee is correct and that the fee is to be paid by the defendant or the defendant's family or the defendant's friend or the defendant's relative or the defendant's community or the defendant's employer or the defendant's insurer or the defendant's other source of funds.

**V. DOCKETING - CSC USE ONLY**

NOTE: Do not  
 and/or

NOTE TO CLERK: If judgment is entered on the date of the hearing, the Court should enter the Disposition Date on the date of the hearing. If the Court enters the Disposition Date on the date of the hearing, the Court should enter the Disposition Date on the date of the hearing. If the Court enters the Disposition Date on the date of the hearing, the Court should enter the Disposition Date on the date of the hearing.

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**Costs** **Fees**

**Fines** **Restitution**

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**Fines**

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## Fines

- Authority to remit:
  - Upon petition, court may remit or revoke in whole or in part at any time. G.S. 15A-1363.
- Response to noncompliance (same as costs):
  - Show cause
  - Notice and hearing to determine default
  - Opportunity to show good faith inability to pay

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## Civil Judgment Authority

- Unpaid fines may be docketed as a civil judgment upon finding of default
- No execution on judgment if defendant serves suspended sentence (or 30 days in fine-only cases)

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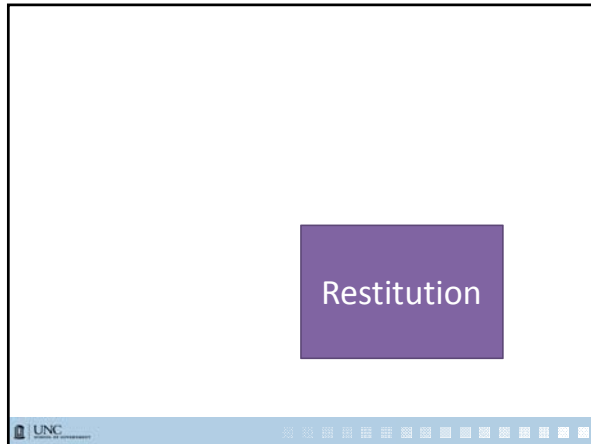
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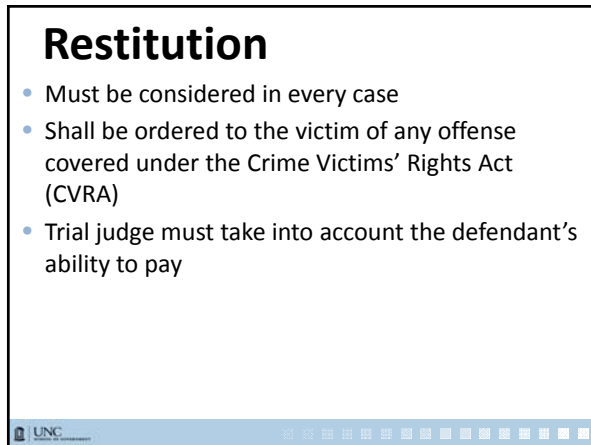
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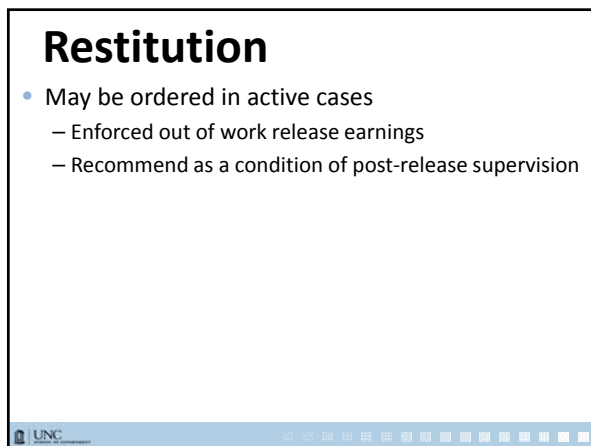
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## Civil Judgment Authority

- Non-CVRA:
  - No authority for civil judgment
- CVRA:
  - Order enforcement
  - Probation until term

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## Conclusion




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## Conclusion

- Just cause findings required only for waiver of true costs
- Notice and hearing before default
- Be precise about monetary categories

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