

# Benton & Franklin Counties Office of Public Defense Collection of Fines & Fees

My name is: \_\_\_\_\_ My date of birth: \_\_\_\_\_

I am here on the following case number(s): \_\_\_\_\_

## Public Assistance

I currently receive the following public assistance (check all that apply):

- TANF                       Food stamps             Medicaid  
 SSI/SSDI                 Welfare                  Other \_\_\_\_\_

## Financial situation

I am currently (check all that apply):

- Working full time             Working part time     Working seasonally only  
 Laid off                       On worker's comp     On unemployment ins.  
 Unemployed

I work at: \_\_\_\_\_ Phone No. \_\_\_\_\_

Supervisor's name: \_\_\_\_\_ City/State: \_\_\_\_\_

I take home \$ \_\_\_\_\_ every week

My marital status:  Single     Married                       Divorced

If married, my spouse  works                       isn't working

My spouse works at: \_\_\_\_\_ Phone No. \_\_\_\_\_

Spouse's take home \$ \_\_\_\_\_ every week

## Employment efforts (skip if currently employed)

I am making the following efforts to obtain employment

- Registered at WorkSource                       Registered at LaborReady  
 Sending out resumes                               Working with a career center

## Educational background

My education is (check all that apply):

- Highschool diploma or GED             Some college  
 Associates degree                       Bachelor's degree  
 Master's degree

## Family

I have \_\_\_\_\_ number of children that live with me and whom I am legally obligated to support.

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7122 W Okanogan Pl, Bldg A  
Kennewick, WA 99336

I have \_\_\_\_\_ number of children that do not live with me and whom I am legally obligated to support.

**Disabilities**

I have the following disabilities

- Physical, short term describe: \_\_\_\_\_
- Physical, long term describe: \_\_\_\_\_
- Mental health describe: \_\_\_\_\_

**Financial obligations**

I have the following monthly obligations:

Food	\$
Rent	\$
Transportation	\$
Child care	\$
Other court fines/fees	\$
Medical expenses	\$
Other (describe)	\$
<b>TOTAL</b>	<b>\$</b>

**Financial assets**

I have the following assets

	Value	Loan/debt
Car		
<i>Year/make/model:</i>		
House		
Bank account balance		
Investments/retirement accounts		

**I swear under penalty of perjury that the information I entered above is true, accurate and complete.** *(Important: Providing inaccurate or incomplete information can subject you to prosecution for perjury, a felony under state law).*

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Date

Signed at (city) \_\_\_\_\_, WA

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## **Standing In The Gap**

### **Helping Our Clients Avoid The Modern- Day Debtor's Prison.**

*In Benton County, approximately 20% of people booked into the county jail are serving time because of non-payment of fines.*

### **The Court Must Inquire into the Defendant's Ability To Pay Fines Prior To Imposition.**

No defendant may be required to pay costs as part of a criminal sentence except in accord with the constitutional criteria. In Fuller v. Oregon the United States Supreme Court identified seven criteria which the court must consider prior to the imposition of any fines or costs. 417 U.S. 40; 94 S.Ct. 2116; 40 L.Ed. 642 (1974).

The court must consider:

- 1) Repayment must not be mandatory;
- 2) Repayment may be imposed only on a convicted defendant;
- 3) Repayment may be ordered only if the defendant is or will be able to pay;
- 4) The court must take into account the financial resources of the defendant and the nature of the burden that payment of costs will impose;
- 5) A repayment obligation may not be imposed if it appears there is no likelihood the defendant's indigence will end;
- 6) The convicted person must be permitted to petition the court for remission of the payment of costs or any unpaid portion; and
- 7) The convicted person cannot be held in contempt for failure to repay if the default was not attributable to an intentional refusal to obey the court order or a failure to make a good faith effort to make repayment.

See State v. Curry. 118 Wn.2d 911, 915-16; 829 P.2d 166 (1992).

*Many courts routinely impose fines without considering whether a person is able to pay them, contrary to state law.*

## **Once Fines Have Been Imposed The Court Must Make A Meaningful Inquiry As To Whether Failure To Pay Was Solely Due To Indigence Or Was A Willful Non-Payment.**

A court violates equal protection when it converts fines into jail time based on inability to pay. The Constitution prohibits the State from imposing a fine as a sentence and then automatically converting it into a jail term solely because the defendant is indigent and cannot forthwith pay the fine in full. *Tate v. Short*, 401 U.S. 395, 398 (1971). No defendant will be incarcerated for his or her inability to pay the penalty assessment unless the violation is willful. *State v. Curry*, 118 Wn.2d at 918.

## **The Court Cannot Require A Client Receiving Government Benefits To Make Payments Out of Those Benefits.**

42 U.S.C. §407(a) states:

The right of any person to any future payment under this subchapter shall not be transferable or assignable, at law or in equity, and none of the moneys paid or payable or rights existing under this subchapter shall be subject to execution, levy, attachment, garnishment, or other legal process or the operation of any bankruptcy or insolvency law.

### **Best Practices:**

Discuss with client prior to sentencing whether clients receive government benefits and actual ability to pay.

Have clients complete a Financial Screening Form

Have clients provide proof of government benefits.

Discuss with clients the risks of requesting that fines and costs be waived.

If appropriate aggressively argue client's inability to pay.

### **Cases Of Interest:**

*Fuller v. Oregon*, 417 U.S.40; 94 S.Ct. 2116 (1974)

*State v. Curry*, 118 Wn.2d 911, 829 P.2d 166 (1992)

*Bearden v. Georgia*, 461 U.S. 6660; 103 S.Ct. 2064 (1983)

<https://aclu-wa.org/sites/default/files/attachments/Modern%20Day%20Debtor%27s%20Prison%20Final%20%283%29.pdf>