

§ 1109. Remedies for failure to pay

(a) As used in this section:

(1) "Amount due" means all financial assessments contained in a judicial bureau judgment, including penalties, fines, surcharges, court costs, and any other assessment authorized by law.

(2) "Designated collection agency" means a collection agency designated by the court administrator.

~~(3) "Designated credit bureau" means a credit bureau designated by the court administrator or the court administrator's designee.~~

(b) A judicial bureau judgment shall provide notice that a \$30.00 fee shall be assessed for failure to pay within 30 days. If the defendant fails to pay the amount due within 30 days, the fee shall be added to the judgment amount and deposited in the court technology special fund established pursuant to section 27 of this title.

(c) Civil contempt proceedings. If an amount due remains unpaid for 75 days after the judicial bureau provides the defendant with a notice of judgment, the judicial bureau may initiate civil contempt proceedings pursuant to this subsection.

(1) Notice of hearing. The judicial bureau shall provide notice by first class mail sent to the defendant's last known address that a contempt hearing will be held pursuant to this subsection, and that failure to appear at the contempt hearing may result in the sanctions listed in subdivision (2) of this subsection.

(2) Failure to appear. If the defendant fails to appear at the contempt hearing, the hearing officer may direct the clerk of the judicial bureau to:

~~(A) cause the matter to be reported to one or more designated credit bureaus collection agencies; or~~

(B) refer the matter to criminal division of the superior court for contempt proceedings.

(3) Hearing. The hearing shall be conducted in a summary manner. The hearing officer shall examine the defendant and any other witnesses and may require the defendant to produce documents relevant to the defendant's ability to pay the amount due. The state or municipality shall not be a party except with the permission of the hearing officer. The defendant may be represented by counsel at the defendant's own expense.

(4) Contempt.

(A) The hearing officer may conclude that the defendant is in contempt if the hearing officer states in written findings a factual basis for concluding that:

(i) the defendant knew or reasonably should have known that he or she owed an amount due on a judicial bureau judgment;

(ii) the defendant had the ability to pay all or any portion of the amount due; and

(iii) the defendant failed to pay all or any portion of the amount due.

(B) In the contempt order, the hearing officer may do one or more of the following:

(i) Set a date by which the defendant shall pay the amount due.

(ii) Assess an additional penalty not to exceed ten percent of the amount due.

~~(iii) Direct the clerk of the judicial bureau to cause the matter to be reported to one or more designated credit bureaus. The court administrator or the court administrator's designee is authorized to contract with one or more credit bureaus for the purpose of reporting information about unpaid judicial bureau judgments.~~

(iv) Recommend that the criminal division of the superior court incarcerate the defendant until the amount due is paid. If incarceration is recommended pursuant to this subdivision (4), the judicial bureau shall notify the criminal division of the superior court that contempt proceedings should be commenced against the defendant. The criminal division of the superior court proceedings shall be de novo. If the defendant cannot afford counsel for the contempt proceedings in criminal division of the superior court, the defender general shall assign counsel at the defender general's expense.

(d) Collections.

(1) If an amount due remains unpaid after the issuance of a notice of judgment, the court administrator may authorize the clerk of the judicial bureau to refer the matter to a designated collection agency.

(2) The court administrator or the court administrator's designee is authorized to contract with one or more collection agencies for the purpose of collecting unpaid judicial bureau judgments pursuant to 13 V.S.A. § 7171.

(e) For purposes of civil contempt proceedings, venue shall be statewide.

(f) Notwithstanding 32 V.S.A. § 502, the court administrator is authorized to contract with a third party to collect fines, penalties, and fees by credit card, debit card, charge card, prepaid card, stored value card, and direct bank account withdrawals or transfers, as authorized by 32 V.S.A. § 583, and to add on and collect, or charge against collections, a processing charge in an amount approved by the court administrator. (Added 2007, No. 51, § 2; amended 2007, No. 153 (Adj. Sess.), § 18; 2009, No. 154, § 238.)