

IN THE COURTS OF THE FIRST JUDICIAL CIRCUIT

ADMINISTRATIVE ORDER NO. 2014-23

RE: CLERK OF COURT

**IMPOSITION OF MANDATORY ASSESSMENTS, COSTS, FEES, FINES,
SERVICE CHARGES, AND SURCHARGES**

WHEREAS, section 28.2457, *Florida Statutes*, requires that any monetary assessment mandated by statute shall be imposed; and

WHEREAS, section 28.2457, *Florida Statutes*, further states that all such mandated assessments shall be included in the judgment without regard to whether the assessment is announced in open court; and

WHEREAS, various chapters of the Florida Statutes provide for the imposition of mandated costs, fees, fines, service charges, and surcharges in criminal cases; and

WHEREAS, it is necessary for the efficient and proper administration of justice to ensure that all statutorily mandated assessments, costs, fees, fines, service charges, and surcharges are imposed and are accurately reflected in the written judgments and sentences; and

WHEREAS, criminal defendants should have a clear, accurate understanding of all financial obligations arising from the resolution of any case as a result of sentencing, it is, therefore,

ORDERED:

1. **Definitions.**

- a) All references herein to the Clerk of the Circuit Court (hereinafter "Clerk")

shall apply to every Clerk of Court within the First Judicial Circuit to include Escambia County Clerk of Court, Okaloosa County Clerk of Court, Santa Rosa County Clerk of Court, and Walton County Clerk of Court.

- b) Pursuant to section 28.2457(3), *Florida Statutes*, the term “monetary assessment” or “assessment” as imposed by any statute or lawfully approved county or city ordinance includes, but is not limited to, a fine or other monetary penalty, a fee, a service charge, and/or a cost. As used in this order, an “assessment” shall also include any required surcharge.

2. **Imposition of Mandated Monetary Assessments.**

Regardless of whether any mandated assessments are orally pronounced by the presiding judge at sentencing, the Clerk is hereby directed to include all statutorily mandated assessments in all written judgments and sentences prior to submission to the judge for signing.

If the presiding judge inadvertently orally pronounces any mandated monetary assessment which is lower than that required, the Clerk present in the courtroom shall while in court **immediately** bring the discrepancy to the attention of the presiding judge, and the defendant shall be notified of the accurately imposed monetary assessments during sentencing. The Clerk, in preparing the written judgment, must include the accurate amounts as mandated by statute.

In the rare instance in which the Clerk discovers an inaccuracy in any orally

imposed amount after Court proceedings have concluded and while preparing the written judgment, the Clerk shall notify the presiding judge that an inaccurate amount was orally imposed and that same has been corrected in the written judgment.

3. If at sentencing the presiding judge fails to orally pronounce a statutorily required monetary assessment, the Clerk is hereby prohibited from recording and/or reporting such assessment as “waived” without explicit oral or written authority for the waiver from the presiding judge. Likewise, under no circumstances shall the difference between a lesser inaccurate amount pronounced by the presiding judge and the statutorily required amount be recorded and/or reported as “waived” without oral or written authority for the waiver from the judge presiding at sentencing.

4. **Imposition of Mandatory Fines and Surcharges.**

Regardless of whether mandatory fines and surcharges are orally pronounced at sentencing, the Clerk is hereby directed to include all statutorily mandated fines and surcharges in the written judgments and sentences prior to submission to the judge for signing. If there is a range in the amount of a mandatory fine to be imposed and the presiding judge fails to pronounce the fine and surcharge, the Clerk is directed to include in the written judgments and sentences the statutory minimum amount of the fine and surcharge. If a higher

fine is imposed by the presiding judge, then the Clerk shall include the higher fine and surcharge in the judgment and sentence.

For drug trafficking charges, the Clerk shall include the mandatory fine and surcharge unless the presiding judge explicitly reduces or suspends a defendant's fine pursuant to the state attorney's motion for a finding of substantial assistance under section 893.135(4), *Florida Statutes*.

The Clerk shall include the mandatory fine and surcharge unless the mandatory fines are not imposed by the court in a case wherein a defendant is sentenced as a Youthful Offender pursuant to section 958.04, *Florida Statutes*.

If the presiding judge orally pronounces a fine which is lower than that required by statute, the Clerk present in the courtroom shall while in court **immediately** bring the discrepancy to the attention of the presiding judge, and the defendant shall be notified of the accurately imposed fine and surcharges during sentencing.

The Clerk, in preparing the written judgment, must include the accurate fine and surcharge as mandated by statute. In the rare instance in which the Clerk discovers an inaccuracy in any orally imposed amount after Court proceedings have concluded and while preparing the written judgment, the Clerk shall notify the presiding judge that an inaccurate amount was orally imposed and that same has been corrected in the written judgment.

5. If the presiding judge fails to orally pronounce a statutorily required fine or surcharge, the Clerk is hereby prohibited from recording and/or reporting such assessment as "waived" without explicit oral or written authority for the waiver from the sentencing judge. Likewise, under no circumstances shall the difference

between a lesser, inaccurate amount pronounced by the presiding judge and the statutorily required amount be recorded and/or reported as “waived” without oral or written authority for the waiver from the presiding judge.

6. This order shall be effective upon entry.

While it is the intent of this order for the procedures outlined herein to be implemented immediately by all Clerks, the undersigned recognizes there may be a need for each Clerk to educate their staff in the statutory authority and mandated procedures. Therefore, compliance by each Clerk and each Clerk’s personnel with this order is expected in full no later than June 1, 2014.

DONE AND ORDERED in Pensacola, Escambia County, Florida this 29th day of April, 2014.

/S/ TERRY D. TERRELL

TERRY D. TERRELL
CHIEF JUDGE

Copies furnished to:

All Judges, First Judicial Circuit
All Clerks, First Judicial Circuit
Lisa Goodner, State Court Administrator
Robin Wright, Trial Court Administrator
Posted: www.FirstJudicialCircuit.org