



STATE OF DELAWARE
THE JUSTICE OF THE PEACE COURT

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POLICY DIRECTIVE 19-262

**TO: ALL JUSTICE OF THE PEACE
ALL JUSTICE OF THE PEACE COURT PERSONNEL**

**FROM: HON. ALAN G. DAVIS
CHIEF MAGISTRATE** 

DATE: JANUARY 14, 2019

**RE: TRANSFER OF DELINQUENT CIVIL TRAFFIC OFFENSES TO OSCCE FOR
COLLECTIONS**

Scope:

This Policy Directive establishes the process by which failure to comply with court-ordered work referral for civil traffic offenses will result in the transfer of the judgment to the Office of State Court Collections Enforcement (OSCCE) for collection.¹

Justice of the Peace Court Policy:

It is the policy of the Justice of the Peace Court that once all other alternatives have been used to collect civil traffic offense penalties and costs, the case will be transferred to OSCCE for collection.² The process and necessary forms are described in the document.

¹ The transfer to OSCCE is pursuant to 21 *Del.C.* § 805, effective June 9, 2016 for civil traffic offenses for which the defendant has failed to pay penalties and costs and has also failed to perform work referral hours. The Court will continue to collect data and work with OSCCE to further the process of transferring restitution judgments and Title 16 civil judgments for collection, when the same elements are present.

² Uncollected civil penalties and costs from "Red Light Appeal" cases do not transfer to OSCCE. Red light appeal cases are subject to a public-private partnership between the state/municipality and a private vendor and are therefore not appropriate for transfer to OSCCE.

Policy Directives Affected:

No other policy directive addresses the collection of unpaid civil traffic offense fines and a referral to OSCCE for collection, therefore none are affected.

Effective Date:

This policy directive is effective beginning January 15, 2019.

Discussion:

According to 21 *Del. C.* § 805(h), the Court may order a defendant to participate in work referral until the civil penalties and costs are paid. If the defendant fails to participate in work referral, or fails to complete the work referral program, the Court shall not hold the defendant in contempt, but may transfer the judgment to the Office of State Court Collections Enforcement to be collected according to 11 *Del. C.* § 4104, which may include wage garnishment. Prior to issuing an order transferring the judgment to OSCCE, the Court will ensure that the charge is a stand-alone civil traffic charge, that the defendant has previously been referred to work referral and that the Court has a notice from Probation and Parole stating that the defendant failed to appear or failed to complete the work referral program.

Once these elements are met, a system-generated “Transfer to OSCCE” Order (attached for reference) will be created and prepared for a judge’s approval. The judge has the discretion to sign the order to transfer the case to OSCCE or to order a transfer of the case to the civil judgment docket.³ This Order shall transfer the judgment to OSCCE and serve as notification of the transfer to the defendant. A copy of this order will be electronically delivered to OSCCE.

OSCCE will attempt to collect any outstanding civil penalties and costs for 2 years. At the conclusion of that time, if the judgment has not been paid in full and/or OSCCE is not actively receiving payments, OSCCE will send a “Cost Closure Report” to the Justice of the Peace Court (attached for reference) that the case is uncollectable and recommend that the balance of fees be deemed uncollectable. OSCCE defines, “actively receiving payments” as payment from or contact with the defendant in the last 90 days. The report is given to a judge for approval to close the case. The judge has the discretion to deem the balance uncollectible and close the case with a charge-off of all financials, or to order a continuation of collection attempts by the Court. The report will be returned to OSCCE.

Conclusion:

It is the policy of the Justice of the Peace Court that once all other alternatives have been employed to collect unpaid civil traffic offense civil penalties and costs, the case will be transferred to OSCCE for collection. This process shall occur through an Order of the Court sent to both the defendant and OSCCE. If uncollectable after a period of 2 years, a judge may approve that the receivable file be closed.

³ Justice of the Peace Court Criminal Rule 10. “Prior to transfer to the civil judgment docket any judgment resulting from an adjudication of responsibility for a civil penalty, the Justice of the Peace Court may, but is not obligated to, attempt collection efforts using the processes available through Office of State Court Collections Enforcement (OSCCE). If collection efforts are initiated by the Court through OSCCE, transfer of the judgment to the civil docket shall be delayed for a period of time not to exceed 2 years from the date of the finding of responsibility.”

Attachments:

- GJ730 ORDER TRANSFER TO OSCCE
- COST CLOSURE REPORT (OSCCE DOCUMENT)

cc: Honorable Leo E. Strine, Jr
Honorable Andre Bouchard
Honorable Jan Jurden
Honorable Alex J. Smalls
Honorable Michael K. Newell
Amy Quinlan, State Court Administrator
All Justice of the Peace Court Employees
Marianne Kennedy
Jody Huber, Esquire
Mark Hitch
Jill Malloy
William DiBartola, Collections Administrator
Law Libraries: New Castle County, Kent County, Sussex County,
Widener University School of Law

JUSTICE OF THE PEACE COURT OF THE STATE OF DELAWARE
IN AND FOR NEW CASTLE COUNTY
COURT NO. 11

ORDER
TRANSFER TO OSCCE

TO: ROGER RABBIT
1528 POPLAR AVE
DOVER DE 19901

REF: CASE NUMBER 1604083018

The Justice of the Peace Court refers the above case to the Office of State Collections Enforcement (OSCCE) for:

(1) Collection of unpaid assessments pursuant to Delaware Code, Title 21, Section 805 (h). The Court has ordered the defendant to participate in the Work Referral Program until all civil penalties and costs are paid. The defendant has failed to complete the Work Referral Program as ordered by the Judge. Failure to comply with the court ordered work referral has resulted in the transfer of judgment to the Office of State Court Collections Enforcement to be collected according to Section 4101 of Title 11, which may include, but is not limited to, wage garnishment pursuant to Delaware Code, Title 11, Section 4101(c);

IT IS SO ORDERED this 21 day of September, 2018

Justice of the Peace (Seal)

CC: COURT FILES
OSCCE

Administrative Office of the Courts
Office of State Court Collections Enforcement
414 Federal St, Rm 176
Dover, DE 19901
Ph. (302)739-1980
Fax (302)739-1985

Cost Closure Report

[DATE NOTICE ISSUED]

The Honorable Magistrate
Justice of the Peace Courts
Court No. [Originating Court]

REF: [Defendant Name]
[OSCCE Case Number]; [Original Court Case Number]

Your Honor:

The Office of State Court Collection Enforcement has pursued the collection of the above referenced case for the past two years. This has included time to pay delinquency notice, continued inclusion in the State Tax Refund/Lottery Winnings Intercept program and wage garnishment for compliance pursuant to DE Code, Title 11, Section 4104 (c).

As we have been unable to enforce the collection of this assessment, and believe it is no longer cost effective to pursue this receivable, it is our recommendation that the Court deem this account uncollectable and close out both the financial and case file in this matter;

Thank you for your consideration in this matter.

Respectfully,

Office of State Court Collections Enforcement

COST CLOSURE ORDER

_____ Deem the balance of \$[Account balance] uncollectable, and close both the financial and case file in this matter.

_____ Other

Date

Justice of the Peace Magistrate

Cc: Court File
OSCCE