

## SENTENCING FOR DOLLARS

Sentencing For Dollars is an initiative of Justice Strategies, the research, training, and policy division of the Center For Community Alternatives.

Prior to any plea, a defense attorney should counsel his or her client regarding the direct and collateral consequences of a criminal conviction. The ever-increasing fees and surcharges associated with a criminal conviction are often overlooked and should be included in a review of the consequences of the conviction.

The information in this pamphlet is designed to assist defense counsel in calculating fees, surcharges and civil penalties that may be applicable based upon the category of the offense, type of sentence, length of sentence and amount of time under probation or parole supervision. This pamphlet includes the fees, surcharges, and penalties in effect on March 1, 2004. For defendants sentenced to probation, additional county fees may be imposed depending upon local county law.

### JUSTICE STRATEGIES

The Justice Strategies team has helped to draft local legislation, testified before the U.S. Senate Health, Education, Labor and Pensions Committee, published a report on racial disparities in local criminal justice and trained hundreds of attorneys, community leaders, employment and youth counselors, young people, and educators on criminal and juvenile justice issues.

### EXAMPLE ONE

John, age 20, after refusing a chemical test, was convicted of Driving While Intoxicated, a class E felony, and No Insurance, a misdemeanor. He was sentenced to 5 years probation. The financial consequences of his conviction will include:

Mandatory fine of no less than	\$ 1,000.00
Mandatory Surcharge	\$ <del>000</del> 50.00
Crime Victim Assistance Fee	\$ <del>000</del> 0.00
Probation Supervision Fee (\$30.00/Month)	\$ 1,800.00
Civil Penalty (Zero Tolerance DWI)	\$ <del>000</del> 25.00
Fee for termination of license revocation	\$ <del>000</del> 00.00
Surcharge for VTL §1192 conviction	\$ <del>000</del> 5.00

Civil Penalty for No Insurance	\$ 00050.00
Civil Penalty for chemical test refusal with prior VTL §1192 conviction within 5 years	\$000050.00
<b>TOTAL</b>	<b>\$ 4,820.00*</b>

\* See note to Mandatory Surcharges table

**EXAMPLE TWO**

Jane, a 26 year old single mother of 2 children, was convicted of criminal possession of a controlled substance in the second degree, a class A-II felony. She was sentenced to 8 1/3 to life and made parole after serving 8 1/3 years and remained on parole for ten years. The financial consequences of her conviction will include:

Mandatory Surcharge	\$0000250.00
Crime Victim Assistance Fee	\$ 0000020.00
DNA Bank Fee	\$ 0000050.00
Incarceration Fee	\$ 0000033.00
Parole Supervision Fee	\$ 000,600.00
Fee for termination of license suspension	\$0000025.00
<b>TOTAL</b>	<b>\$ 4,378.00</b>

## MANDATORY SURCHARGES

AMOUNT	APPLIES TO	STATUTE
\$250	VTL § 1192 DWI felony*	VTL §1809 (1)(b)(i)
\$140	VTL § 1192 DWI misdemeanor	VTL §1809 (1)(b)(ii)
\$25	VTL Article 9 infraction	VTL §1809 (1)(a)
\$45	Selected VTL offenses	VTL §1809 (1)(c)
\$25	Surcharge for any conviction VTL § 1192	VTL §1809-c
\$250	Felony surcharge	Penal Law §60.35(1) (a)
\$140	Misdemeanor surcharge	Penal Law §60.35(1)(b)
\$75	Violation Surcharge	Penal Law §60.35(1)(c)
\$5	Proceeding in town or village	VTL §1809(9)
Up to \$10	Additional surcharge applies in village justice court, if local legislative body enacts local surcharge for violations also subject to VTL §1809 mandatory surcharge	VTL §1809-d
5% - 10% of total restitution	Designated surcharge paid to agency collecting restitution for collection & administration	Penal Law §60.27(8)

\*Any person convicted of a second DWI within five years shall be required to pay for the installation and monthly maintenance fees for an ignition interlock device (VTL §1193(1-a)(c)(i) and penal law §65.10(2)(k-1))

## FEES

AMOUNT	APPLIES TO	STATUTE
\$20	Felony offense Crime Victim Assistance Fee (CVAF)	Penal Law § 60.35(1)(a)
\$20	Misdemeanor offense CVAF	Penal Law § 60.35(1)(b)
\$20	Violation CVAF	Penal Law § 60.35(1)(c)

\$20	For VTL § 1192 felony offense CVAF	VTL § 1809(1)(b)
\$20	For VTL § 1192 misdemeanor offense CVAF	VTL § 1809(1)(b)
\$5	For VTL Art 9 traffic infraction CVAF	VTL § 1809(1)(a)
\$5	VTL offenses covered by 1809(1)(c) CVAF	VTL § 1809(1)(c)
\$1000	Supplemental Sex Offender Victim Fee	Penal Law §60.35
\$50	DNA Databank Fee: a person convicted of a designated offense as defined by Executive Law §975 (7) shall, in addition to a mandatory surcharge and crime victim assistance fee, pay a DNA databank fee	Penal Law § 60.35(1)(e)
\$50	Sex offender registration fee (SORA): a person convicted of a sex offense as defined by Correction Law §168-a(3) or a sexually violent offense as defined by Correction Law §168(3)	Penal Law § 60.35(1)(d)
\$10	SORA change of address fee	Correction Law §168(b)(8)
\$50	Termination of license revocation fee. If drivers license is revoked-- application for re-issuance	VTL §503 (2)(h)
\$100	Termination of license revocation fee. If drivers license is revoked for an alcohol-related offense and driver is under 21	VTL §503 (2)(j)
\$25	Termination of license suspension Fee	VTL §503 (2)(j)
\$100	Termination of suspension fee--Zero Tolerance. If driver is under 21, license is suspended for an alcohol- related offense	VTL §503 (2)(j)

\$35	Termination of suspension fee where suspension is for failure to appear, pay fine, penalty, or mandatory surcharge	VTL §503 (2)(j-1)(i)
\$30/month	Fee for parole supervision	Executive Law §259-a(9)(a)
\$30/month	Fee for probation supervision (DWI-related)	Executive Law § 257-c
\$1/ week	Incarceration Fee: The commissioner may collect from the compensation paid to a prisoner for work performed while housed in a general confinement facility an incarceration fee	Correction Law §189(2)

**NON-STATUTORY COUNTY IMPOSED PROBATION FEES  
(VARIES BY COUNTY)**

AMOUNT	APPLIES TO	STATUTE
\$10/test or \$50 one time fee	Drug testing	County
\$350	Probation pre-sentence investigation report	County
\$3-\$8/day	Electronic Monitoring fee	County
\$30/month	Supervision	County
\$30/session	Victim Impact Panel	County

**CIVIL PENALTIES**

AMOUNT	APPLIES TO	STATUTE
\$125	Zero Tolerance Law: For offenders under age 21 for alcohol-related offense	VTL §1194-a(2)

\$750	Operating with no insurance or underinsured	VTL §319(5)
\$300	Chemical test refusal	VTL §1194(2)(d)(2)
\$750	Second Chemical test refusal with alcohol within 5 years	VTL §1194(2)(d)(2)
\$750	Chemical test refusal with prior VTL §1192 conviction within 5 years	VTL §1194(2)(d)(2)
\$250 per year for three years	Driver Responsibility Assessment applicable to any person convicted of a DWI, DWAI or chemical test refusal	VTL §1199
\$100 for three years plus \$25 for each additional point	Driver Responsibility Assessment applicable to any person who accumulates 6 points or more within an 18 month period	VTL §503

**NB**

1. If restitution is paid in full prior to sentencing the CVAF and surcharges are waived. VTL §1809(6) and Penal Law §60.35(6).
2. Charges occurring prior to November 11, 2003 had lower surcharges and Crime Victim Assistance fees.
3. Youthful offenders are subject to all fees, penalties and surcharges as their adult counterparts by an amendment to Penal Law §60.35 and Vehicle and Traffic Law §1809.□

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*The Center for Community Alternatives (CCA) is a leader in the field of community-based alternatives to incarceration. Through pioneering services as well as the innovative research, policy analysis and training of its Justice Strategies division, CCA fosters individual transformation, reduces reliance on incarceration and advocates for more responsive juvenile and criminal justice policies*

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