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August 15, 2022

To: Gabriela Conley at gconley@illinoiscourts.gov.
Supreme Court Statutory Court Fee Task Illinois Supreme Court Rules Committee

Re: Proposed amendment to Supreme Court Rule 529

Attached is a proposal to amend Supreme Court Rule 529. I submitted to the Supreme Court Rules Committee on February 2, 2021. It is docketed with the Supreme Court Rules Committee as Proposal 21-03. Pursuant to Supreme Court Rule 3(d)(1), The proposal has been referred to the Supreme Court Commission on Access to Justice.

What does Rule 529 provide?

Under Rule 529, person charged a minor traffic violation need not appear in court, if that p6rty (a) signs that portion of the ticket admitting guilt, (b) agrees a \$164 assessment¹ and prepays the \$164. The rule provides that those who take this option will not be assessed additional fees or a fine.

What does the proposal call for?

The proposal recommends that Rule 529 be amended to extend Rule 529 protections to those (a) charged with minor traffic violations, (b) wish to plead guilty by mail, (c) want to avoid a court appearance, agree to the \$164 assessment - but is unable to raise \$164 the assessment pre-payment.

Rule 529 has a disparate impact on low-income persons charged with minor traffic offenses

One charged with a minor traffic offense who is unable to raise the \$164, is required to appear in court, in order to plead guilty. That individual will leave the courtroom owing an assessment of \$226 (outside of Cook County) or \$254 (in Cook County).² In addition to the assessment, that individual may be ordered to pay a fine in the amount set by statute or ordinance.

Should this person fail to appear, the court may enter guilty finding and assess costs and a fine. In the alternative, the court may continue the case. If the defendant fails to appear on the continuance date, the court may instruct the Secretary of State to suspend the individual's driver's license.³

¹ 705 ILCS 135/15-60).

² 705 ILCS 135/15-50 provides that for a minor traffic offense, except those offenses listed in Schedule 10.5, the Clerk of the Circuit Court is "to collect \$226 plus, if applicable, the amount established under paragraph (1.5) of this Section." Paragraph 1.5 authorizes Cook County to add \$28 to the \$226

³ Supreme Court Rule 556(a)

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February 2, 2021

Illinois Supreme Court Rules Committee
c/o Administrative Office of the Illinois Courts,
222 N. LaSalle Street, 13th Floor,
Chicago, Illinois 60601

Re: Proposed amendment to Supreme Court Rule 529

Summary of Proposal

The purpose of this letter is to propose that Rule 529 be amended to provide that an individual charged with a minor traffic offense who wishes the charge to be disposed of pursuant to Rule 529 may avoid appearing in court by submitting a signed admission of guilt and an agreement to the imposition an assessment in the amount set by section 15-60 of the Criminal and Traffic Assessment Act (705 ILCS 135/15-60). Upon receipt of the written admission of guilt and agreement, the court would enter a judgment of conviction and impose the agreed assessment.

Rule 529 provides that one charged with a minor traffic offense (a charge which does not require an appearance in court) may avoid appearing in court by submitting a written admission of guilt and payment of an assessment in the amount set out in section 15-60 of the Criminal and Traffic Assessment Act (705 ILCS 135/15-60). Currently, that amount is \$164. No other fines, fees, penalties, assessments, or costs may be assessed against the defendant in a case which is disposed of pursuant to the Rule 529 - with one exception which is not relevant to this proposal.⁴

Under this proposal, the Rule 529 option would be available to those who cannot raise \$164. Rule 529 provides a significant protection to those who can raise \$164. Other than the \$164 assessment, no other fines, fees, penalties, assessments, or costs may be imposed. This protection against fines and higher assessments is denied to those willing to plead to plead guilty to traffic offenses, but are unable to make the \$164 payment.

Today, one charged with a minor traffic violation and unable to raise \$164 can appear in court and plead guilty. That individual will leave the courtroom owing an assessment in an amount set out in section 15-50 of the Criminal and Traffic Assessment Act (705 ILCS 135/15-50). Currently, that amount is \$226 (outside of Cook County) or \$254 (in Cook County).⁵ In addition to the assessment, that individual may be ordered to pay a fine in the amount set by statute or ordinance.

⁴ Where a defendant seeking an order of supervision agrees to attend and successfully complete a traffic safety program the defendant is responsible for payment of the traffic safety program fees.

⁵ 705 ILCS 135/15-50 provides that for a minor traffic offense, except those offenses listed in Schedule 10.5, the Clerk of the Circuit Court is "to collect \$226 plus, if applicable, the amount established under paragraph (1.5) of this Section." Paragraph 1.5 authorizes Cook County to add \$28 to the \$226

Supreme Court Rule 556(a) provides the trial court with more than one option to deal with those charged with a minor traffic violation who fails to appear.

One option is entry of an ex parte judgment of conviction. Rule 556 (a) provides that in entering an ex parte judgment for a minor traffic violation, the court is required to impose both the assessment set out in 705 ILCS 135/15-50 and the minimum fine allowed by statute.

Rule 556(a) also permits a hasher judicial response. Where a defendant, charged with a minor traffic offense, fails to appear on the initial court date and on the continuance date, the court may issue an arrest warrant and the clerk of the court is to request the Secretary of State to suspend the defendant's driver's license.⁶

Rule 529 has an unintended disparate impact on the poor.

The Rule provides a motivation for those wishing to plead guilty to promptly satisfy the economic sanctions attached to a finding of guilt. However, this incentive has a disparate impact on the poor and on racial and ethnic minorities.

Some may raise a concern that the proposed amendment would impede collection of assessments. Collection of assessments entered under this proposal would be no different than collection of assessments entered by the court where the defendant pleads guilty in a courtroom, or where the court enters a default judgment.

Yours truly,

Thomas Grippando

Proposed Amendment to Rule 529

Rule 529. Written Pleas of Guilty in Minor Traffic Offenses

⁶ Under the Rule 556(a), the court may continue the case for a minimum of 30 days. The clerk is to "send notice of the court's order to the defendant at his or her last known address. If the defendant does not appear on the continued court date or, within that period, satisfy the court that his or her appearance is impossible and without any fault on his or her part, the court shall enter an order for failure to appear to answer the charge. In addition to forfeiture, a verified charge may be filed (if none has previously been filed), and a summons or warrant of arrest for the defendant may be issued. Within 21 days after the date to which the case has been continued for a traffic offense, the clerk shall notify the Secretary of State of the court's order of failure to appear. The Secretary of State shall, in the case of an Illinois licensed driver who has deposited his or her driver's license, immediately suspend the defendant's driving privileges in accordance with section 6-308 of the Illinois Vehicle Code, as amended (625 ILCS 5/6-308); if the defendant is not an Illinois licensed driver or resident, the Secretary of State shall notify the appropriate driver's licensing authority. The clerk of the circuit court shall notify the Secretary of State of the final disposition of the case as provided in Rule 552 when the defendant has appeared and otherwise satisfied his or her obligations following an order for failure to appear."

(a) Minor Traffic Offenses. All minor traffic offenses, except those requiring a court appearance under Rule 551 and those involving offenses set out in Rule 526(b)(1), may be satisfied without a court appearance by a written plea of guilty, including electronic pleas as authorized by the Supreme Court, and payment of an amount equal to the Schedule 12 assessment, as provided in section 15-60 of the Criminal and Traffic Assessment Act (705 ILCS 135/15-60). Per the Act, only one scheduled assessment shall be applied regardless of the number of citations issued and prosecuted together. In lieu of a payment of an amount equal to the Schedule 12 assessment, the defendant may submit a signed statement agreeing to the imposition of an assessment in an amount equal to the Schedule 12 assessment. If the defendant fails to satisfy the charges and fails to appear at the date set for appearance, the court shall address the charges in accordance with Rule 556.

Except as provided in paragraph (b) of this Rule 529, no other fines, fees, penalties, assessments, or costs shall be assessed in any case which is disposed of on a written plea of guilty without a court appearance under this Rule 529.

(b) Supervision on Written Pleas of Guilty. In counties designated by the Conference of Chief Circuit Judges, the circuit court may by rule or order authorize the entry of an order of supervision under section 5-6-3.1 of the Unified Code of Corrections (730 ILCS 5/5-6-3.1), for minor traffic offenses satisfied pursuant to paragraph (a) of this Rule 529. Such circuit court rule or order may include but does not require a program by which the accused, upon payment of an amount equal to the Schedule 12 assessment, as provided in section 15-60 of the Criminal and Traffic Assessment Act (705 ILCS 135/15-60), agrees to attend and successfully complete a traffic safety program approved by the court under standards set by the Conference. The accused shall be responsible for payment of any traffic safety program fees. If the accused fails to file a certificate of successful completion on or before the termination date of the supervision order, the supervision shall be summarily revoked and conviction entered. A traffic safety program provider may be authorized to file a certificate of completion on behalf of the accused; however, it is the responsibility of the accused to ensure that the certificate is timely filed. Any county designated by the Conference pursuant to this rule may opt-out of this rule upon notification to the Conference by the chief judge of the circuit and rescinding any rule or order entered to establish supervision on written pleas of guilty.

(c) The provisions of Supreme Court Rule 402 relating to pleas of guilty do not apply in cases where a defendant enters a guilty plea under this rule. The clerk of the circuit court shall disburse the monies collected under this Rule 529 in accordance with the Schedule 12 assessment, as provided in section 15-60 of the Criminal and Traffic Assessment Act (705 ILCS 135/15-60).