

Rule 556. Procedure if Defendant Fails to Appear or Satisfy Charge

(a) Court Appearance Not Required.

(1) If a person accused of an offense that does not require a court appearance under Rule 551 does not satisfy the charge pursuant to Rules 529, 530, or 531 or does not appear on the date set for appearance, or any date to which the case may be continued, the court may enter an *ex parte* judgment of conviction imposing a single assessment, specified in the applicable assessment Schedule 10, 10.5, or 11 for the charged offense, as provided in the Criminal and Traffic Assessment Act (705 ILCS 135/1 *et seq.*), plus the minimum fine allowed by statute. If the defendant submits payment for an offense under Rule 529, 530, or 531 but fails to execute the required plea of guilty, the court may enter an *ex parte* judgment against the defendant but may elect to impose only the assessment applicable under Rule 529, 530, 531. Payment received for fines, penalties, assessments, and costs assessed following the entry of an *ex parte* judgment shall be disbursed by the clerk pursuant to the schedule assessed under the Criminal and Traffic Assessment Act (705 ILCS 135/1 *et seq.*) and any other applicable statute. The clerk of the court shall notify the Secretary of State of the conviction pursuant to Rule 552.

(2) In all cases in which a court appearance is not required under Rule 551, the defendant shall be provided with a statement, in substantially the following form, on the “Complaint”:

“If you do not satisfy the charge against you prior to the date set for appearance or if you fail to appear in court when required, you consent to the entry of a judgment against you in the amount of all applicable fines, penalties, assessments, and costs.”

(b) Court appearance required.

The following statement(s) shall appear on the charging document in the event a warrant or *ex parte* judgment is sought by the prosecuting entity:

(1) A statement that an *ex parte* judgment may be entered for offenses punishable by fine only in the event the person fails to appear in court or answer the charge made on the date set for the defendant’s court appearance or any date to which the case is continued. The statement must also contain the specific amount of any *ex parte* judgment.

(2) A statement that an arrest warrant may issue if the defendant fails to appear at any hearing.

(3) A statement that a violator may be tried and sentenced *in absentia* for offenses punishable by a term of imprisonment of less than one year and a judgment entered on the charge.

Amended effective October 7, 1970; amended February 17, 1977, effective April 1, 1977, in counties other than Cook, effective July 1, 1977, in Cook County; amended December 22, 1981, effective January 15, 1982; amended April 27, 1984, effective July 1, 1984; amended June 26, 1987, effective August 1, 1987; amended June 19, 1989, effective August 1, 1989; amended December 7, 1990, effective January 1, 1991; amended May 24, 1995, effective January 1, 1996; amended October 22, 1999, effective December 1, 1999; amended December 5, 2003, effective January 1, 2004; amended December 30, 2014, eff. Jan. 1, 2015; amended June 8, 2018, eff. July 1, 2018; amended Dec. 10, 2018, eff. Jan. 1, 2019; amended Mar. 8, 2019, eff. July 1, 2019; amended June 9, 2020, eff. July 1, 2020; amended July 20, 2021, eff. July 1, 2021, *nunc pro tunc*; amended Oct. 27, 2022, eff. Jan. 1, 2023.

Committee Comments

(January 1, 2023)

Committee comments below are retained to memorialize the history of Rule 556 for reference.

(December 10, 2018)

Effective January 1, 2019, Rule 501(g) no longer requires that a promise to comply be written.

(June 8, 2018)

“For a fine only offense where the minimum statutory fine is greater than the cash bail amount, the fines, penalties, and costs assessed shall be equal to the minimum statutory fine in whole dollars” language was added to eliminate conflicts between bail amounts that are not equal to minimum statutory fines; if a prosecuting agency agrees to an *ex parte* judgment, defendants are being assessed widely differing fine amounts. For example, violations of operating without insurance (625 ILCS 5/3-707) require bail of \$2000 under Rule 526(d). However, the statute states “a person shall be required to pay a fine in excess of \$500, but not more than \$1,000.” Defendants were being assessed fines in various amounts, and in some cases, defendants that did not appear in court and the court entered an *ex parte* judgment paid a lower fine than a defendant that appeared in court as required by the Rule. A variety of fine amounts were being assessed, such as: a fine of \$200 (10% of the bail amount), a fine of \$500.01 or \$501 under statute, a fine of \$1000 under statute, or a fine of \$2,000—the full bail amount under Rule 526(d). These amendments are meant to eliminate varying fine amounts being assessed to defendants. When the minimum statutory fine is “in excess of” or “more than” a specified amount, the court should assess the fine to the next whole dollar amount.

(December 5, 2003)

Supreme Court Rule 556 (“Procedure if Defendant Fails to Appear”) delineates several procedures if the defendant fails to appear after depositing a driver’s license in lieu of bond, executes a written promise to comply, posts bond or issued a notice to appear.

The rule provided that the court may “enter an *ex parte* judgment of conviction against any accused charged with an offense punishable by a fine only and in so doing shall assess fines, penalties and costs in an amount not to exceed the cash bail required by this article.” Rule 556 does not detail the specific costs and penalties, or their amounts, in the entry of *ex parte* judgments. The clerk is then left with deciding which costs, fees and additional penalties (and their amounts) should be applied. This is currently being determined on a county by county basis.

The committee concluded that distribution under Rule 556 was not a “levy of a gross amount.” See Rule 529, Committee Comments.

The committee believes that consistency and uniformity in disbursing funds from *ex parte* judgments was of the utmost importance in the efficient administration of justice and recommends that the fines, penalties, and costs assessed be equal to bail, and the distribution of those amounts should be pursuant to Supreme Court Rule 529(a). The State’s Attorney fee, if any, would be

included within the county's 38.675% distribution.