

## **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 assessing fines, penalties, assessments, and costs in an amount equal to 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 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 (*i.e.*, Schedule 12). 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, and if the accused is an Illinois registered driver, the clerk shall notify the Secretary of State of any unsatisfied judgment pursuant to section 6-306.6(a) of the Illinois Vehicle Code, as amended (625 ILCS 5/6-306.6(a)).

(2) In lieu of the foregoing procedure, 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 order declaring bail, if any, to be forfeited, and the court shall continue the case for a minimum of 30 days. The clerk shall 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.

(3) 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" or on the bond form:

"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; cash bail or other security you

have deposited will be applied toward payment.”

**(b) Court Appearance Required.**

(1) If a person accused of an offense punishable by fine only that requires a court appearance under Rule 551 does not appear on the date set for appearance or any date to which the case may be continued, the court may, with concurrence of the prosecuting agency, enter an *ex parte* judgment of conviction and in so doing shall assess an amount equal to the applicable assessment Schedule 9, 10, 10.5, 11, or 13 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. 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 disbursement of the schedule assessed under the Criminal and Traffic Assessment Act (705 ILCS 13 5-1 *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, and if the accused is an Illinois registered driver, the clerk shall notify the Secretary of State of any unsatisfied judgment pursuant to section 6-306.6(a) of the Illinois Vehicle Code, as amended (625 ILCS 5/6-306.6(a)).

(2) For offenses punishable by a term of imprisonment of less than one year, and in lieu of the foregoing procedure for offenses punishable by fine only that require a court appearance under Rule 551, if a defendant fails to appear on the date set for appearance, or any date to which the case may be continued, and a court appearance is required, the court may enter an order declaring the bail to be forfeited and shall continue the case for a minimum of 30 days. The clerk shall send notice of the court’s order to the defendant at his or her last known address. If the accused 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

(i) enter judgment in accordance with sections 110-7 or 110-8 of the Code of Criminal Procedure of 1963, as amended (725 ILCS 5/110-7, 110-8). In addition to forfeiture, a verified charge may be filed and a summons or warrant of arrest may issue or

(ii) enter an order for failure to appear to answer the charge. Upon an entry of an Order for Failure to Appear for a traffic offense, within 21 days after the date to which the case had been continued, the clerk shall notify the Secretary of State of the court’s order. 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 court shall notify the Secretary of State of the final disposition as provided in Rule 552 when the defendant has appeared and otherwise satisfied his or her obligation following an order for failure to appear.

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.

Committee Comments  
(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.