

M.R. 3140

**IN THE
SUPREME COURT
OF
THE STATE OF ILLINOIS**

Order entered December 9, 2020.

(Deleted material is struck through, and new material is underscored.)

Effective January 1, 2021, Illinois Supreme Court Rules 529, 530, and 531 are amended, as follows.

Amended Rule 529

Rule 529. Written Pleas of Guilty in Minor Traffic Offenses

(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. 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 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

FILED

DEC 9 - 2020

**SUPREME COURT
CLERK**

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).

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 September 20, 1979, effective October 15, 1979; amended December 22, 1981, effective January 15, 1982; amended April 27, 1984, effective July 1, 1984; amended March 27, 1985, effective May 1, 1985; amended June 26, 1987, effective August 1, 1987; amended June 19, 1989, effective August 1, 1989; amended December 20, 1991, effective January 1, 1992; amended June 12, 1992, effective July 1, 1992; amended January 20, 1993, effective immediately; amended May 24, 1995, effective January 1, 1996; amended April 1, 1998, effective immediately; amended March 16, 2001, effective immediately; amended December 5, 2003, effective January 1, 2004; amended August 6, 2010, effective September 15, 2010; amended December 7, 2011, effective immediately; amended Dec. 29, 2017, eff. Jan. 1, 2018; amended Mar. 8, 2019, eff. July 1, 2019; amended Dec. 9, 2020, eff. Jan. 1, 2021.

Committee Comments
(December 5, 2003)

Under present Supreme Court Rule 529 (Fines, Penalties and Costs on Written Pleas of Guilty in Minor Traffic and Conservation Offenses), cash bail is distributed on pleas of guilty, where a court appearance is not required, by deducting applicable costs, including clerk's fees (705 ILCS 105/27/1a, 27.2 or 27.2a, as the case may be), Automation Fee (705 ILCS 105/27.3a), Document Storage Fee (705 ILCS 105/27.3c) and Fee to Finance the Court System (55 ILCS 5/5-110). The balance is then distributed by the clerk to the Traffic and Criminal Conviction Surcharge (TCCS) and LEADS Maintenance Fund (730 ILCS 5/5-9-1(c)), Driver's Education Fund (Driver's Ed) (625 ILCS 5/16-104a), Violent Crime Assistance Fund (VCVA) (725 ILCS 240/10(b)) (VCVA is not assessed in speeding violation cases), Trauma Center Fund (625 ILCS 5/16-104(b)), if applicable, and the entity entitled to receive the fine.

The proposed amendments to Rules 529(a) and 529(b) would exclude electronic pleas and eliminate itemized distribution by the clerk of the funds noted above and, instead, after first deducting the Automation Fee and Document Storage Fee, distribute the bail for traffic offenses along the present line of section 27.6 of the Clerk's of Court Act (705 ILCS 105/27.6) in the following percentages: 44.5% to the entity entitled to receive the fine, 38.675% to the county's general fund, and 16.825% to the state Treasurer. Under Rule 529(b), since conservation offenses are not included under section 27.6, bail would be distributed as follows: 67% to the entity entitled to receive the fine, 16.175% to the county's general fund, and 16.825% to the state Treasurer, which is similar to the current disbursal of these amounts.

The \$5 Fee to Finance the Court System (55 ILCS 5/5-1101) is distributed to the county's general fund under the present rule on an itemized basis, and would be included in the 38.675% disbursed to the county's general fund under proposed amended Rule 529(a).

The Court Security Fee (55 ILCS 5/5-1103) is not included either in present Rule 529, or the proposed amendment, since the statute requires a court appearance by the violator before the assessment of this fee.

By way of background, the percentage distribution formula under 705 ILCS 105/27.6 became effective on January 1, 1993, and has been adopted for the assessment of fines, fees, costs and forfeitures in 10 counties throughout the state, including Cook County, for violations of the Vehicle Code.

Supreme Court Rule 526 (Bail Schedules-Traffic Offenses), Rule 527 (Bail Schedule-Conservation Offenses) and Rule 529 (Fines, Penalties and Costs on Written Pleas of Guilty in Minor Traffic and Conservation Offenses), among others, were amended on June 12, 1992, effective July 1, 1992, increasing bail in minor traffic cases from \$50 to \$75 and from \$75 to \$95 since the amount of fines received by the municipalities was being reduced by legislative "add-ons."

The committee does not believe Supreme Court Rule 529, in its present form, provides adequate direction to the circuit clerks in the distribution of funds under this rule. For instance, a problem arises in the calculation of the TCCS/LEADS Fund which requires the court to assess an additional penalty of \$5 for each \$40, or fraction thereof, of fine imposed, and the Driver's Ed Fund and VCVA, which requires the court to assess an additional penalty of \$4 for each \$40, or fraction thereof, of fine imposed. This, by necessity, involves the use of a multiplier. To arrive at the multiplier, the clerk must divide the fine by 40 when a fine plus costs is assessed, or follow the method prescribed under 730 ILCS 5/5-9-1(c) (TCCS/LEADS Maintenance Fund), 725 ILCS 240/10(b) (VCVA) and 625 ILCS 5/16-104a (Driver's Ed) when the court levies "a gross amount for fine, costs, fees and penalties." The committee concluded that an assessment under Rule 529 was not a "levy of a gross amount."

Under the current rule, the fine is represented as the "balance of the bail," and is the amount remaining after deducting various costs and fees. Therefore, since the court has not assessed a specific fine, the clerk has no exact amount to divide by 40 and is left to reach his or her own conclusion as the correct multiplier. In certain instances if the clerk computes these additional penalties with a multiplier of 1, it results in a fine which is greater than \$40; if a multiple of 2 is used, it results in a fine of less than \$40.

Chief Justice Benjamin K. Miller, in the Supreme Court's Annual Report to the Legislature dated January 31, 1991, discussed the "plethora of user fees and surcharges enacted by the General Assembly," then concluded that "[t]he complexity of the structure of various charges is such that they are not uniform, and are confusing. It has been impossible for the court system to apply the charge in a consistent and coherent manner."

The Article V Committee agrees, and in order to enhance uniformity and consistency throughout the state in the disbursement of fines, costs, penalties and forfeitures under Rule 529, it recommends a percentage disbursement of funds upon pleas of guilty in traffic and conservation cases which are satisfied without a court appearance by the violator. The committee believes this disbursement, which would be made monthly to all entities, would be fair to all concerned, increase the efficiency of the clerks, and substantially reduce the possibility of error.

As an example of the continuing dilemma facing the circuit clerks, Public Act 93-32, effective

June 20, 2003, directs that an “additional penalty of \$4.00 shall be assessed by the court imposing a fine (upon a plea or finding of guilty in all traffic, criminal, conservation and local ordinance cases).” The funds are to be remitted by the circuit clerk to the state Treasurer and deposited in the Traffic and Criminal Surcharge Fund. The committee concluded the additional penalty under this act could not be collected or distributed und Rules 529 and 556 since the total amount of bail was already exhausted by other fines, fees and costs and the act itself provides that the additional penalty “shall not reduce or affect the distribution of any other fine, costs, fees and penalties.” The committee felt the only way to obtain the funds required under Public Act 93-32 would be: (1) order the offender to appear in court for the assessment of the \$4 additional penalty, or (2) increase the amount of bail under Rule 526. It considered the first option to be counterproductive. As to the second option, the committee noted Justice Heiple’s dissent when bail was increased under Rule 526 in 1992. In his dissent, he stated, “[W]hile the original purpose of enacting and enforcing highway traffic laws was public safety, this purpose has, in substantial measure, given way to the purpose of earning bounty revenues of government. Any bail figure, to the extent it exceeds the amount necessary to insure the presence of the defendant in court, in a misuse and abuse of the bail process.” The committee, after discussion, is not recommending the increase of bail under Rules 526 and 527.

The committee was also concerned about the 10 counties which distribute gross fines and costs pursuant to 705 ILCS 105/27.6, since this distribution would include money collected by the circuit clerk as a result of forfeiture of bonds, ex parte judgments or guilty pleas pursuant to Rule 529. Public Act 93-32 directs the court to assess an additional penalty; section 27.6 provides that “(f) or offenses subject to this section, judges shall impose one total sum of money payable for violations. The circuit clerk may add on no additional amounts except for amounts that are required by Sections 27.3a and 27.3c of this Act.” The inconsistency between the two acts places the circuit clerks in a quandary, particularly in those counties operating under section 27.6.

The committee has recommended the circuit clerks be given a clear and definite direction concerning distribution of funds under this rule and believes the proposed amendment would provide that direction.

Amended Rule 530

Rule 530. Written Pleas of Guilty in Conservation Offenses

(a) Conservation Offenses. Conservation offenses, as defined in section 1-5 of the Criminal and Traffic Assessment Act (705 ILCS 135/1-5), for which cash bail is required under Rule 527(a), 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 11 assessment, as provided in section 15-55 of the Criminal and Traffic Assessment Act (705 ILCS 135/15-55). Per the Act, only one scheduled assessment shall be applied regardless of the number of citations issued and prosecuted together. If the defendant fails to satisfy the charges and fails to appear at the court appearance, the court shall address the charges in accordance with Rule 556. No other fines, fees, penalties, assessments, or costs shall be assessed in any case that is disposed of on a written plea of guilty without a court appearance under this Rule 530.

(b) 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 530. The clerk of the circuit court shall disburse monies collected under this Rule 530 in accordance with the Schedule 11 assessment, as provided in section 15-55 of the Criminal and Traffic Assessment Act (705 ILCS 135/15-55).

Adopted Mar. 8, 2019, eff. July 1, 2019; amended Dec. 9, 2020, eff. Jan. 1, 2021.

Amended Rule 531

Rule 531. Written Pleas of Guilty in Overweight and Permit Offenses

(a) Overweight and Permit Offenses. A charge for violating section 3-401(d), 15-111, or offenses punishable by fine pursuant to sections 15-113 .1, 15-113 .2, or 15-113.3 of the Illinois Vehicle Code (truck overweight and permit moves) (625 ILCS 5/3-401(d), 15-111, 15-113.1 through 15-113.3), or similar municipal ordinances may be satisfied without a court appearance by a written plea of guilty and payment of the minimum fine fixed by statute, plus an amount equal to the Schedule 10.5 assessment, as provided in section 15-52 of the Criminal and Traffic Assessment Act (705 ILCS 135/15-52). Per the Act, only one scheduled assessment shall be applied regardless of the number of citations issued and prosecuted together. If the defendant fails to satisfy the charges and fails to appear at the court appearance, the court shall address the charges in accordance with Rule 556. No other fines, penalties, assessments, or costs shall be assessed in any case that is disposed of on a written plea of guilty without a court appearance under this Rule 531.

(b) 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 531. The clerk of the circuit court shall disburse the fines collected under this Rule 531 in accordance with Sections 15-113 and 16-105 of the Vehicle Code (625 ILCS 5/15-113, 16-105) and shall disburse the assessments collected under this Rule 531 in accordance with the Schedule 10.5 assessment, as provided in section 15-52 of the Criminal and Traffic Assessment Act (705 ILCS 135/15-52).

Adopted Mar. 8, 2019, eff. July 1, 2019; amended Dec. 9, 2020, eff. Jan. 1, 2021.