

Plea in Abeyance Fees

Resources:

- For specific CORIS instruction, see District [DCJUST Document](#)
- [UCA 77-2a-3\(5\)](#), [Rule 4-704](#)

Background:

As part of the agreement, the judge may: "order the defendant to pay a non-refundable plea in abeyance/**diversion** fee... which shall be allocated in the same manner as if it had been paid as a fine..."

Policy:

1. Plea in abeyance fees will be split with the state and local government in the same manner as a fine is distributed. Plea in abeyance fees are subject to surcharge.
2. Plea in abeyance fees are judicially ordered and the plea in abeyance distribution codes should only be used if the order is complied with. When the plea in abeyance stipulations are not adhered to by the defendant and the original fine is imposed, the plea in abeyance distribution codes should be changed to the revenue distribution code appropriate to the original fine, applying the appropriate surcharge.
3. Code "PN" - Plea in Abeyance fee - Misdemeanor. Used for all Misdemeanor or lower charges subject to the plea in abeyance. Fees collected are distributed 50% to the State and 50% to the Prosecuting Agency. The prosecutor distribution for PN will be reflected on the Weekly Revenue Report with the other code distributions.
4. Code "PS" - Plea in Abeyance fee - Felony. Used for all Felony charges subject to the plea in abeyance. 100% of these fees are retained by the state.

Procedures:

Responsibility Action

District Court
Clerk

1. Upon the ordering of a plea in abeyance fee (the judge may refer to these as "Court Costs"), the clerk will create the accounts receivable using fee type "Plea in Abeyance--Misdemeanor" (code "PN") or "Plea in Abeyance--Felony" (code "PS") for misdemeanor and felony cases, with the appropriate surcharge. Surcharge is included in or added to the Plea in Abeyance amount depending on how the fine is ordered.
2. If the terms of the agreement are not met, the original fine may be imposed based on the judicial order. Change the disposition of the charge from "Plea in Abeyance" to "Guilty." Note: Per [Legal opinion](#) dated 5/12/2011, interest begins from this day forth (not the original plea agreement date).
 - a. If the original fine is imposed and no monies have been receipted, the accounts receivable should be changed to reflect FN or FS with the appropriate surcharge. Surcharge is included in the fine amount or added to the fine, depending on how the fine is ordered.
 - b. If monies have been receipted during the Plea in Abeyance agreement, set up an accounts receivable for the new fine amount due. Process a transfer to reflect the amount(s) previously paid. Mark the option to adjust the "from" account amount due down by the amount of the transfer. Transferring all monies previously paid to the fine will ensure the Court Security fee is not overpaid.
3. Make the appropriate annotations of any changes to the accounts receivable in the court docket.