



Minnesota Judicial Branch Policy

Policy Source:	Judicial Council
Policy Number:	515
Category:	Court Operations
Title:	Petty Misdemeanor and Payable Misdemeanor_Failure to Appear Policy
Effective Date:	February 3, 2009, January 1, 2014
Revision Date(s):	June 1, 2012; November 14, 2013
Supersedes:	

Petty Misdemeanor and Payable Misdemeanor Failure to Appear Policy

I. POLICY STATEMENT

It is the policy of the Minnesota Judicial Branch to take the following actions when persons fail to appear in response to payable citations.

A. Failure to Appear:

A person is deemed to have failed to appear in response to a payable citation when the person has not:

- a) appeared in court before a judge or hearing officer,
- b) paid the payable fine instead of appearing,
- c) submitted valid proof of insurance as provided in Judicial Council Policy 506.4, Proof Of Insurance, or
- d) submitted valid DL as provided in Minn. Stat. § 171.08

by the end of the “appear by” date entered in the case.

B. Late Notice and Penalties:

1. First Late Penalty and Late Notice

All persons who fail to appear in response to a payable citation by the end of the “appear by” date shall be assessed a “first late penalty” in the case and mailed a late notice if the person’s address is known.

The late notice shall inform the defendant of the assessment of the first late penalty, the assessment of the second late penalty if the defendant fails to appear within 30 days, and other consequences for failing to appear.

2. Second Late Penalty

All persons who fail to appear in response to the citation by the end of day, 30 days after assessment of the first late penalty or 30 days from the date of the last late notice generated, whichever is later, shall be assessed a “second late penalty” in the case and the case shall be processed as provided in paragraphs C-E.

3. Waiver of Late Penalties

Late penalties may be waived only by a judge or referee, except as follows:

- a. Hearing officers may administratively waive the first or second late penalties or both when a person attends a hearing officer appointment after the penalty has been assessed, unless the case is in an open Referred to Collections status.
- b. The court administrator or designee, and the Court Payment Center Accounting Manager or designee may administratively waive late penalties if the court administrator/CPC Manager/designee determines that:
 - 1) a penalty was automatically assessed before a payment could be applied;
 - 2) a person attempted but was unable to make payment by phone or online due to technical issues beyond the person’s control; or
 - 3) a person was unable to appear for circumstances beyond the person’s control.

C. Convictions/Adjudications of Guilt:

1. Petty Misdemeanor Cases¹:

Pursuant to Minn. Stat. § 609.491, subd. 1, court administration shall administratively enter a plea of guilty and conviction when a person fails to appear in a petty misdemeanor case², except as provided in this paragraph.

A conviction³ *shall not* be entered under Minn. Stat. § 609.491, subd. 1, when a person fails to appear if a person makes some attempt to appear in court for a petty misdemeanor offense, but later fails to appear for a scheduled court date, *State v. Haney*, 600 N.W.2d 469 (Minn. App. 1999).

¹ See I. G . 4 6 for definition of Petty Misdemeanor Case.

² Failing to pay a fine in lieu of appearing in court in response to a citation is *not* a failure to pay under Minn. Stat. § 171.16, subd. 3.

³ See 506.1, Statewide Payable Offense Policy for entry of conviction when a partial payment is made or payment agreement is entered into.

2. Payable Misdemeanor Cases⁴:

Court administration shall not administratively enter a plea of guilty or conviction when a person fails to appear in a payable misdemeanor case.⁵

D. Administrative License Sanctions.

Court administration shall notify:

1. The Department of Public Safety (DPS) when a person fails to appear in a petty misdemeanor or payable misdemeanor case, as required under Minn. Stat. § 169.92, subd. 4, except when the vehicle description and registration number required for the suspension of a driver's license are not provided by law enforcement on the citation.
2. DPS when a person charged with "No Proof of Insurance" or "No Insurance" in violation of Minn. Stat. §§ 169.791 or 169.797, respectively, fails to provide valid proof of insurance within ten (10) days after the "appear by" date.
3. The Department of Natural Resources when a person fails to appear in a payable misdemeanor case charging a violation of game and fish laws, as provided under Minn. Stat. § 97A.421.

E. Warrants.

When a person fails to appear in a payable misdemeanor case, it remains a local decision whether the court will schedule an arraignment date, send notice, issue a bench warrant for the person's arrest, refer the case to the prosecutor for a warrant and complaint, and/or take no further action.

F. Scope.

1. This policy applies to petty misdemeanors and payable misdemeanor cases only. It is not intended to apply to cases in which a person fails to appear in a misdemeanor case that requires a court appearance.
2. This policy applies to payable cases under the jurisdiction of the adult criminal court. It does not apply to cases under the jurisdiction of the juvenile court.

⁴ See I. G.5 for definition of Payable Misdemeanor Case.

⁵ See 209(b), Collection of Past-Due Accounts, for policy on referring these cases to collections and revenue recapture.

3. This policy applies in all counties and to the Minnesota Court Payment Center. Hennepin and Ramsey Counties are exempt from applying this policy while they process payable cases in ViBES to the extent it is inconsistent with existing programming in ViBES.

G. Definitions.

For purposes of this policy the following definitions apply:

1. By the end of day or date. When a person is required to respond by the “end of day” or “end of date”, the person must respond by 11:59 p.m. on that day or date.
2. Court Administration. Court administration means the Court Administrator’s Office in the county of venue, or the Court Payment Center (CPC).
3. Late Penalty. A late penalty is a monetary penalty administratively assessed in a payable case for failing to appear. The first late penalty is \$5. The second late penalty is \$25.
4. Payable Cases. Payable cases are cases initiated by citation in which all the charges have been designated as payable statutory or administrative rule offenses by the Judicial Council, or payable ordinance offenses by a District Court, as authorized under Minn. R. Crim. P. 23.03.
5. Payable Misdemeanor Case. A payable misdemeanor case is a payable case with at least one misdemeanor offense charged.
6. Petty Misdemeanor Case. A petty misdemeanor case is one in which all charges are either petty misdemeanors or misdemeanors on the Statewide Payables List that have been certified as a petty misdemeanor under Minn. R. Crim. P. 23.04, or a payable misdemeanor charge has been dismissed and all of the remaining charges are petty misdemeanors. A payable misdemeanor with a payable fine of \$300 or less is not a petty misdemeanor charge. All petty misdemeanor offenses in violation of statute or administrative rule are payable. Petty misdemeanor ordinance violations are payable if designated as a payable by the District Court.⁶

II. IMPLEMENTATION AUTHORITY

Implementation of this policy shall be the responsibility of the State Court Administrator and the Chief Judges of the Judicial Districts.

III. EXECUTIVE LIMITATIONS

⁶ Minn. R. Crim. P. 23.03, subd. 2(2); 506.1, Statewide Payable Offense Policy.

None.