

POTENTIAL MONEY ASSESSMENTS IN CRIMINAL CASES

Massachusetts Trial Court
District Court Department



GENERAL CASE-RELATED ASSESSMENTS

Type of Money Assessment	Description	Waivable?	Payable to
FINE c.279 §§ 1, 1A, 7, 9, 10, 11	As provided by statute for offense.	<ul style="list-style-type: none"> Defendant unable to pay fine may not be imprisoned unless no other punishment satisfies the state's interests in punishment and deterrence. <i>Bearden v. Georgia</i>, 461 U.S. 660 (1983); <i>Comm. v. Gomes</i>, 407 Mass. 206 (1990). Fines of \$200 or less must be suspended for defendant unable to pay unless "detrimental to the interests of the public" or deft "will probably default." G.L. c.279, §1. 	General Fund unless otherwise provided by law (c.29A, §3; c.280 §2)
SURFINE c.280 §6A	25% surfine REQUIRED on payable portion of any criminal fine, except for motor vehicle offenses not punishable by incarceration.	If defendant imprisoned for non-payment of fine, surfine may be waived or reduced if a hardship to defendant or immediate family.	General Fund
CIVIL MOTOR VEHICLE ASSESSMENT c.90C §3(C)(3)	Scheduled civil assessment REQUIRED when defendant found responsible for a civil motor vehicle infraction (CMVI) unless CMVI is filed and defendant sentenced on accompanying criminal charge. Scheduled civil assessment is set by Dist. Ct. Admin. Reg. 2-86 (rev. 11/3/04, Trans. 861), but Dist. Ct. Admin. Reg. 3-86 (rev. 1/1/92, Trans. 392) allows judge to reduce scheduled assessment up to 50% "for exceptional circumstances in the particular case" unless (1) the scheduled assessment is less than \$50 or (2) the offense is speeding.	CMVI may be filed without imposing an assessment only if defendant "has been found guilty of, and is simultaneously being sentenced on, [an accompanying] criminal automobile law violation."	Usually to municipality, except for speeding (50% to municipality and 50% to Highway Fund). For violations of Mass. Turnpike regulations: (1) criminal fines are 80% to MTA and 20% to General Fund; (2) CMVI assessments are 100% to MTA. See c.280 §2; c.81A §4(k).
CIVIL FINE c.277 §70C	On oral motion at arraignment or pretrial conference, or sua sponte at anytime, judge may discretionarily convert most misdemeanor, ordinance or by-law charges to a civil infraction. If civil fine not specified in statute, judge may impose civil fine of not more than \$5000. The following offenses are ineligible for such treatment: G.L. c.90 §§ 22F, 24, 24D, 24G, 24L and 24N; c.90B §§ 8, 8A and 8B; c.119; c.119A; c.209; c.209A; c.265; c.268, §§ 1, 2, 3, 6, 6A, 6B, 8B, 13, 13A, 13B, 13C, 14, 14B, 15, 15A, 16, 17, 18, 19, 20, 23, 28, 31 and 36; c.268A; c.269 §§ 10, 10A, 10C, 10D, 10E, 11B, 11C, 11E, 12, 12A, 12B, 12D and 12E; and c.272 §§ 1, 2, 3, 4, 4A, 4B, 6, 7, 8, 12, 13, 16, 28, 29A and 29B.		Apparently distributed in same manner as criminal fine for that offense. See c.29A, §3; G.L. c. 280, § 2.
COURT COSTS c.280 §6 Mass.R.Crim.P. 10(b) Mass.R.Crim.P. 6(d)(1)	<ul style="list-style-type: none"> Defendant may be assessed the "reasonable and actual expenses of the prosecution" as a condition of dismissal, filing, or probation (c.280 §6). Defendant or either counsel may be assessed any "unnecessary expenses" incurred by the adverse party as a condition of granting a continuance requested without sufficient notice (Mass.R.Crim.P. 10[b]). Defendant may be assessed the "reasonable costs" resulting from a default that was "intentional or negligent and without good cause." c.280 §6; Mass.R.Crim.P. 6(d)[1]. They must be "actual expenses resulting directly" from the default, and not merely nominal costs. <i>Commonwealth v. Gomes</i>, 407 Mass. 206 (1990). 		<ul style="list-style-type: none"> Prosecutor's office that incurred expenses; Otherwise General Fund (c.29A §3). Party that incurred expenses Whoever incurred expenses

Type of Money Assessment	Description	Waivable?	Payable to
<p>RESTITUTION c.119 §62 c.258B §3(o) c.276 §§92-92A</p> <p><i>Authorized for specific offenses in:</i> c.119 §58B c.131 §90 c.149 §152A c.151A §47 c.175H §7 c.266 §30(5) c.273 §15A(5)</p> <p><i>Mandated for specific offenses listed.</i></p> <p><i>Triple restitution may be assessed for property damages upon conviction of a hate crime (c.265 §39).</i></p>	<ul style="list-style-type: none"> • May be based on victim's loss, established by preponderance of evidence, after considering defendant's ability to pay. <i>Comm. v. Nawn</i>, 394 Mass. 1 (1985). Limited to injury resulting from incident but not limited by elements of offense. <i>Comm. v. McIntyre</i>, 436 Mass. 829 (2002). May include "medical expenses, court-related travel expenses, property loss and damage, lost pay, or even lost [pay] required to attend court proceedings," <i>Comm. v. Rotonda</i>, 434 Mass. 211 (2001), or replacement cost for comparable substitute, <i>Comm. v. Hastings</i>, 53 Mass. App. Ct. 41 (2001). • Restitution REQUIRED for these offenses: <ul style="list-style-type: none"> • c.152 §14 (Workers Compensation Fraud) • c.160 §225 (Malicious Injury to Railroad) • c.175H §§2&7 (False Health Care Claim) • c.175H §§3&7 (Health Care Kickback) • c.266 §§27&92A (Larceny of Construc.Tools) • c.266 §27A (Conceal MV to Defraud) • c.266 §§28&92A (Larceny of MV, Malicious Damage to MV, or Receiving Stolen MV) • c.266 §37E (Identity Fraud) • c.266 §87 (Conceal Leased Personalty) • c.266 §94 (Vandalize Building, Sign, Light) • c.266 §95 (Vandalize Marker/Monument) • c.266 §96-97 (Vandalize State/County Bldg) • c.266 §99A (Larceny of Library Materials) • c.266 §100 (Vandalize Library Materials) • c.266 §102A½ (Hoax Explosive) • c.266 §§111B&92A (False MV Insur Claim) • c.266 §126A (Vandalize Property) • c.266 §126B (Tagging Property) • c.266 §§139&92A (Altered VIN) • c.269 §14 (Bomb/Hijack Threat) • c.269 §14B (False/Silent 911 Call) 	<p>Defendant unable to pay restitution cannot be imprisoned unless no other punishment satisfies the state's interests in punishment and deterrence. <i>Bearden v. Georgia</i>, 461 U.S. 660 (1983); <i>Comm. v. Gomes</i>, 407 Mass. 206 (1990).</p>	<p>Victim</p>
<p>VICTIM/WITNESS ASSESSMENT c.258B §8</p> <p><i>NOTE: By statute, this assessment has FIRST PRIORITY among all "fines, assessments or other payments."</i></p>	<ul style="list-style-type: none"> • Felony: not less than \$90 assessment MANDATORY upon conviction or finding of sufficient facts of any felony. • Misdemeanor: \$50 assessment MANDATORY upon conviction or finding of sufficient facts of any misdemeanor. • Delinquency: \$45 assessment MANDATORY upon adjudication or finding of sufficient facts of any delinquency by juvenile aged 14 or older. • There is no limit on cumulative assessments for multiple criminal charges.¹ • Youthful Offenders are not subject to this assessment.² 	<p>WAIVER REQUIRES WRITTEN FINDINGS</p> <p>May be reduced or waived only on a written finding of fact that it would cause "severe financial hardship," to be determined independently of indigency for purposes of appointing counsel.</p>	<p>General Fund since Victim & Witness Assistance Fund (c.10 §49) was repealed by St. 2003, c. 26, §45.</p>
<p>PROBATION FEE & VICTIM SERVICES SURCHARGE c.276 §87A ¶¶ 2-9</p> <hr/> <p>ADMINISTRATIVE PROBATION FEE & VICTIM SERVICES SURCHARGE c.276 §87A ¶¶ 2-9</p>	<p>\$65 per month (\$60 fee plus \$5 surcharge) MANDATORY from defendant on supervised probation, including all OUI probationers</p> <ul style="list-style-type: none"> • Exception: nonsupport convictions under c.273 §1 or §15 where support payments are a condition of probation. <p>\$50 per month (\$45 fee plus \$5 surcharge) MANDATORY from defendant on administrative supervised probation</p> <ul style="list-style-type: none"> • Exception: nonsupport convictions under c.273 §1 or §15 where support payments are a condition of probation. 	<p>WAIVER REQUIRES WRITTEN FINDINGS & COMMUNITY SERVICE</p> <ul style="list-style-type: none"> • May be waived to the extent that defendant pays equivalent restitution • May be reduced/waived only upon hearing and written finding of undue hardship to defendant or his/her family due to limited income, employment status, or some other factor (and only while such hardship continues); defendant must instead perform community work service of at least: <ul style="list-style-type: none"> • 1 day per month in lieu of Probation Fee • 4 hours per month in lieu of Administrative Probation Fee 	<p>General Fund</p>

Type of Money Assessment	Description	Waivable?	Payable to
COUNSEL FEE c.211D §§ 2½ (f)&(g) & 2A ¶2	\$150 fee MANDATORY when counsel appointed for defendant who is indigent or indigent but able to contribute unless court determines that defendant is "unable to pay such \$150 within 180 days." Fee is in addition to any counsel contribution. Unless counsel fee is waived, case may not be terminated or bail released until fee is paid.	<ul style="list-style-type: none"> • May be waived only for defendant who is unable to pay within 180 days. • Where not waived, judge may permit fee to be "worked off" with 10 hours of community service for each \$100 owed. • As to whether acquitted defendant may be entitled to remittal, see c.278 §14. 	General Fund
COUNSEL CONTRIBUTION c.211D §2 SJC Rule 3:10(10)(c)	"Reasonable amount" MANDATORY toward cost of counsel (in addition to Counsel Fee) when counsel appointed for defendant who is indigent but able to contribute.	<ul style="list-style-type: none"> • As to whether acquitted defendant may be entitled to remittal, see c.278 §14. 	General Fund

DEFAULT WARRANT FEE c.276 §§ 30 ¶1, 31 & 32	\$50 fee MANDATORY: <ul style="list-style-type: none"> • when a default warrant is recalled, or • when a default warrant is issued solely for defendant's failure to pay required moneys. 	May be waived upon a finding of good cause.	General Fund
DEFAULT WARRANT ARREST FEE c.276 § 30 ¶2	\$75 fee MANDATORY from defendant who is arrested on a default warrant (i.e., a warrant issued because of a default on a recognizance or upon surrender by a probation officer)	WAIVER REQUIRES COMMUNITY SVCE May be waived for indigency, whereupon defendant must perform 1 day of community service unless physically or mentally unable.	Municipality where defendant arrested

SPECIAL ASSESSMENTS FOR PARTICULAR OFFENSES

OUI §24D FEE c.90, §24D ¶¶ 9-10	\$250 fee MANDATORY when defendant is placed in a driver alcohol or drug abuse education program as part of c.90 §24D disposition for OUI.	May be reduced, paid over time or waived if would cause "grave & serious hardship" to deft or family	General Fund, earmarked for OUI programs
OUI VICTIMS ASSESSMENT c.90, §24(1)(a)(1) ¶3	\$50 assessment MANDATORY upon conviction, CWOFF, probation, admission to sufficient facts or guilty plea for: <ul style="list-style-type: none"> • c.90 §24 OUI • c.90 §24G Vehicular Homicide involving OUI • c.90 §24J OUI with Serious Injury. 	<ul style="list-style-type: none"> • Must be imposed "in addition to, and not in lieu of, any other fee imposed by the court" • "[S]hall not be subject to waiver by the court for any reason" 	Victims of Drunk Driving Trust Fund (c.10 §66)
HEAD INJURY ASSESSMENT FOR OUI OR OPER NEGL c.90 §24(1)(a)(1) ¶2 or §24(2)(a) ¶2 or c.90B § 8(a)	\$250 assessment MANDATORY upon conviction, CWOFF, probation, admission to sufficient facts or guilty plea for: <ul style="list-style-type: none"> • c.90 §24(1) OUI/.08% • c.90 §24(2) Operating Negligently • c.90B §8(a) OUI-Boat 	"[S]hall not be subject to reduction or waiver by the court for any reason"	\$150 (60%) to Head Injury Treatment Services Trust Fund (c.10 §59) & \$100 (40%) to General Fund
BATTERERS INTERVENTION PROGRAM ASSESSMENT c.209A §10	\$350 assessment MANDATORY when defendant is referred to a certified batterers intervention program as a condition of probation (in addition to cost of program, and any other fines, assessments or restitution imposed).	May be reduced or waived if indigent or if payment would cause defendant or dependents financial hardship	General Fund

Type of Money Assessment	Description	Waivable?	Payable to
DRUG ANALYSIS FEE c.280 §6B	<p>\$150-\$500 fee MANDATORY upon conviction or finding of sufficient facts of these felonies:</p> <ul style="list-style-type: none"> • c.94C §32 Distribute Class A Drug • c.94C §32A Distribute Class B Drug • c.94C §32B Distribute Class C Drug • c.94C §34 Possess Heroin, 2d offense. <p>\$35-\$100 fee MANDATORY upon conviction or finding of sufficient facts of these misdemeanors:</p> <ul style="list-style-type: none"> • c.94C §32C Distribute Class D Drug • c.94C §32D Distribute Class E Drug • c.94C §32G Distribute Counterfeit Drug • c.94C §35 Being Present Where Heroin Kept. <p>Maximum cumulative assessment is \$500.</p>	May be reduced or waived if it would cause undue hardship	Drug Analysis Fund (c.10 §51; c.280 §6C)
GPS FEE c.265 §47	<p>\$7.95/day fee MANDATORY from probationer who must wear GPS device as mandatory probation condition for</p> <ul style="list-style-type: none"> • any sexual offense that requires sex offender registration. 	May be waived if defendant establishes inability to pay fee.	General Fund
HATE CRIMES SURFINE c.265 §39(b)	<p>\$100 surfine MANDATORY on any fine imposed for the following crimes under c.265 §39:</p> <ul style="list-style-type: none"> • c.265 §39 Assault to Intimidate • c.265 §39 A&B to Intimidate • c.265 §39 A&B to Intimidate, with Bodily Injury • c.265 §39 Property Damage to Intimidate. <p>For multiple offenses, surfine applies to each.</p>		General Fund since Diversity Awareness Education Trust Fund (c.10 §35Q) was repealed by St. 2003, c. 26, § 38.
SPEEDING HEAD INJURY SURFINE c.90 §20 ¶4	<p>\$50 surfine MANDATORY on any civil assessment imposed on a CMVI for:</p> <ul style="list-style-type: none"> • c.90 §17 Speeding • c.90 §17 Speeding in Constr Zone • c.90 §17 Speeding While Overweight • c.90 §18 Speeding in Viol of Special Regul <p>except if CMVI accompanying a criminal charge is filed without assessment under c.90C §3(C)(3).</p>		\$30 (60%) to Head Injury Treatment Services Trust Fund (c.10 §59) & \$20 (40%) to General Fund
209A VIOLATION ADDITIONAL FINE c.209A §7 ¶5	<p>\$25 additional fine MANDATORY on any conviction for:</p> <ul style="list-style-type: none"> • c.209A §7 Violation of Restraining Order in addition to other authorized penalties, including an optional fine of not more than \$5000. 		General Fund

¹ Whether there is a cap on Victim/Witness Assessments for multiple juvenile delinquency charges is complicated by two factors. It is uncertain whether the \$30 cap on "the total assessment against a person who has not attained seventeen years" (G.L. c.258B, § 8, fifth sentence, second clause) applies to juvenile delinquency charges as well as to juvenile CMVIs. It clearly did so prior to its 1990 amendment. If the \$30 cap does apply, it is unclear how to apply it after St. 2002, c.184, § 127 increased the assessment for a delinquency charge from \$30 to \$45 but, apparently by oversight, did not similarly increase the \$30 cap.

² General Laws c. 258B, § 8 requires a Victim/Witness Assessment from a juvenile who is "adjudicated a delinquent child or against whom a finding of sufficient facts for a finding of delinquency is made" but is silent as to a juvenile who is "adjudicated a youthful offender" (G.L. c. 119, § 58, third par.).



Statutes Requiring Mandatory Money Assessments in Criminal Cases

209A VIOLATION ADDITIONAL FINE

G.L. c.209A §7, ¶5: Any violation of such order or a protection order issued by another jurisdiction shall be punishable by a fine of not more than five thousand dollars, or by imprisonment for not more than two and one-half years in a house of correction, or by both such fine and imprisonment. In addition to, but not in lieu of, the forgoing penalties and any other sentence, fee or assessment, including the victim witness assessment in section 8 of chapter 258B, the court shall order persons convicted of a crime under this statute to pay a fine of \$25 that shall be transmitted to the treasurer for deposit into the General Fund

BATTERERS INTERVENTION PROGRAM ASSESSMENT

G.L. c.209A §10: The court shall impose an assessment of three hundred and fifty dollars against any person who has been referred to a certified batterers' treatment program as a condition of probation. Said assessment shall be in addition to the cost of the treatment program. In the discretion of the court, said assessment may be reduced or waived when the court finds that the person is indigent or that payment of the assessment would cause the person, or the dependents of such person, severe financial hardship. Assessments made pursuant to this section shall be in addition to any other fines, assessments, or restitution imposed in any disposition. All funds collected by the court pursuant to this section shall be transmitted monthly to the state treasurer, who shall deposit said funds in the General Fund.

CIVIL MOTOR VEHICLE ASSESSMENT

G.L. c.90C § 3(C): If a violator is cited for a civil motor vehicle infraction in conjunction with and arising from the same occurrence as an automobile law violation that constitutes a criminal offense, (3) If the violator has been found guilty of, and is simultaneously being sentenced on, the criminal automobile law violation, the justice may order filed without imposition of an assessment any associated civil motor vehicle infraction as to which the violator admits responsibility or has been found responsible. In all other cases, if the violator admits responsibility or has been found responsible for the civil motor vehicle infraction, the justice shall require the violator to pay a civil assessment in accordance with subsection (A)

COSTS

G.L. c.280 § 6: Costs shall not be imposed by a justice as a penalty for a crime. A justice may, as a condition of the dismissal or placing on file of a complaint or indictment, or as a term of probation, order the defendant to pay the reasonable and actual expenses of the prosecution. A justice may impose reasonable costs as a result of a default by a criminal defendant that was intentional or negligent and without good cause.

G.L. c.278 § 14: No prisoner or person under recognizance, acquitted by verdict or discharged because no indictment has been found against him, or for want of prosecution, shall be liable for any costs or fees or for any charge for subsistence while he was in custody.

Mass.R.Crim.P. 6(d)(1): A judge may order that expenses incurred as a result of the entry of a default against a defendant are to be assessed as costs against the defendant.

Mass.R.Crim.P. 10(d): When a continuance is granted upon the motion of either the Commonwealth or the defendant without adequate notice to the adverse party, causing the adverse party to incur unnecessary expenses, a judge may in his discretion assess those expenses as costs against the party or counsel requesting the continuance.

COUNSEL CONTRIBUTION

G.L. c.211D § 2: The committee for public counsel shall establish a definition of "indigency" for the purposes of this chapter and uniform standards and procedures for the determination by the courts of the commonwealth that (1) a person is indigent and is unable to obtain counsel or (2) said indigent person has the ability to pay a reduced fee for the appointment of counsel Payment of any reduced fee by an indigent person for the appointment of counsel shall be made to the probation department of the appointing court, and shall be forwarded to the state treasurer who shall deposit such in the general fund.

S.J.C. Rule 3:10(10)(c) [Payment of Counsel Costs]:

(i) While determined to be indigent, a party may not be ordered, required, or solicited to make any payment toward the cost of counsel, except for an order entered pursuant to G.L.c 211D, § 2A.

(ii) If a party is determined to be indigent but able to contribute, the judge shall order the party to pay a reasonable amount to the probation officer or other appropriate court employee toward the cost of counsel in addition to assessing a legal counsel fee as provided in G.L.c. 211D, § 2A. The amount ordered to be paid shall be based on the financial circumstances of the party.

COUNSEL FEE

G.L. c.211D §2½: (f) A person provided counsel under this chapter shall be assessed a counsel fee of \$150, which the court may waive only upon determining that the person is unable to pay such \$150 within 180 days. If, upon reviewing the chief probation officer's report on the 60-day re-assessment of the person's indigency, the court concludes that the defendant is able to pay the \$150 counsel fee of which he obtained a waiver, the court shall invalidate the waiver and re-impose the \$150 counsel fee.

(g) The court may authorize a person for whom counsel was appointed to perform community service in lieu of payment of the counsel fee. A person seeking to work off his counsel fee in community service shall perform 10 hours of community service for each \$100 he owes in legal counsel fees. Notwithstanding any general or special law, rule or regulation to the contrary, a court proceeding shall not be terminated and the person shall not be discharged if he owes any portion of the legal counsel fee imposed by this section. The clerk shall not release any bail posted on such court proceeding until the legal counsel fee is satisfied in accordance with this chapter.

(h) The clerk of the court shall, within 60 days of appointment after [sic] counsel, report to the department of revenue and the registry of motor vehicles the amount of any legal counsel fee owed by the person for whom counsel was appointed under this chapter. The department of revenue shall intercept the fee from tax refunds due to persons who have not paid it. The registrar of motor vehicles shall place a lien in the amount of any portion of the legal counsel fee owed by the person for whom counsel was appointed upon the title of any motor vehicle owned in whole or in part by him. If the person for whom counsel was appointed does not own a motor vehicle the registry of motor vehicles shall not issue or renew such persons' [sic] driver's license or motor vehicle registration for any vehicle subsequently purchased by such person. The registry of motor vehicles shall not release the lien or issue or renew the license or motor vehicle registration until it receives notification from the clerk of the court that the fee has been collected or worked off in community service.

G.L. c.211D §2A ¶2: Any person provided counsel under the provisions of this chapter shall be assessed a counsel fee of \$150, which may be waived at the discretion of the court. Said fee shall be in addition to any reduced fee [Counsel Contribution] required pursuant to section two and shall be collected in accordance with said section.

The department of revenue shall be authorized to intercept said fee from tax refunds due to persons who have not paid said fee.

The department of public welfare shall be authorized to deduct said fee in weekly or monthly increments from persons who have not paid said fee.

DEFAULT WARRANT FEE

G.L. c.276 §30 ¶1: Notwithstanding any law, rule or regulation to the contrary, whenever a default warrant, issued in any jurisdiction in the commonwealth against any person, is recalled by a court, the court shall assess a fee of fifty dollars against the person in payment of the costs of recalling the warrant, except that upon a finding of good cause by the court the fee may be waived.

G.L. c.276 § 31: Whenever a court issues a default warrant solely due to the person's failure to pay a fine, assessment, court cost, restitution, support payment or other amount as ordered by the court or required by law, the court shall specify the amount owed, including an additional assessment of \$50 which assessment may be waived by the court upon a finding of good cause, with a statement that the warrant against the person may be discharged upon payment of the amount and the assessment, if any, and shall note the same in the warrant management system

G.L. c.276 § 32: Whenever a person, brought before a court, against whom an outstanding warrant was issued, solely due to the failure of the person brought before the court to pay a fine assessment, court cost, restitution, support payment, or other amount, the court may accept payment of such amount and assess an additional fifty dollars which assessment may be waived by the court upon a finding of good cause and if the person is not being held on other process, the court may direct that the person be released from custody and shall notify the jurisdiction in which the warrant was issued of the payment and the assessment, if any. Upon notice of the release the court that issued the warrant shall recall the warrant and cause such information to be entered in the warrant management system.

DEFAULT WARRANT ARREST FEE

G.L. c.276 §30 ¶2: Any person arrested on a warrant issued because such person has forfeited or defaulted on his bail bond or recognizance or has been surrendered by a probation officer shall be required by the court to pay a fee of \$75 payable to the city or town in which such arrest was effected, unless the judge finds that such person is indigent, in which case such person shall be required to perform one day of community service, unless the judge further finds that such person is physically or mentally unable to perform such service.

DRUG ANALYSIS FEE

G.L. c.280 §6B: The court shall impose an assessment of not less than thirty-five dollars nor more than one hundred dollars against any person who has attained the age of seventeen years and who is convicted of a misdemeanor or against whom a finding of sufficient facts for a conviction is made on a complaint charging a misdemeanor under sections thirty-two C [Distribute Class D Drug], thirty-two D [Distribute Class E Drug], and thirty-two G [Distribute Counterfeit Drug] and thirty-five [Being Present Where Heroin Kept] of chapter ninety-four C. The court shall impose an assessment of not less than one hundred and fifty

dollars nor more than five hundred dollars against any person who is convicted of a felony or against whom a finding of sufficient facts for a conviction is made on a complaint charging a felony under sections thirty-two [Distribute Class A Drug], thirty-two A [Distribute Class B Drug], thirty-two B [Distribute Class C Drug], thirty-two E, thirty-two F [there are no felonies under §§ 32E and 32F], and thirty-four [Possession of Heroin, second offense] of chapter ninety-four C. When multiple criminal offenses arising from a single incident are charged, the total assessment shall not exceed five hundred dollars. In the discretion of the court, any assessment imposed pursuant to this section which would cause the person against whom the assessment is made an undue hardship may be reduced or waived.

All such assessments made shall be collected by the court and shall be transmitted monthly to the state treasurer Assessments pursuant to this section shall be in addition to any other fines or restitution imposed in any disposition.

GPS FEE

G.L. c.265, §47: Any person who is placed on probation for any offense listed within the definition of “sex offense”, a “sex offense involving a child” or a “sexually violent offense”, as defined in section 178C of chapter 6, shall, as a requirement of any term of probation, wear a global positioning system device, or any comparable device, administered by the commissioner of probation, at all times for the length of his probation for any such offense. The commissioner of probation, in addition to any other conditions, shall establish defined geographic exclusion zones including, but not limited to, the areas in and around the victim's residence, place of employment and school and other areas defined to minimize the probationer's contact with children, if applicable. If the probationer enters an excluded zone, as defined by the terms of his probation, the probationer's location data shall be immediately transmitted to the police department in the municipality wherein the violation occurred and the commissioner of probation, by telephone, electronic beeper, paging device or other appropriate means. If the commissioner or the probationer's probation officer has probable cause to believe that the probationer has violated this term of his probation, the commissioner or the probationer's probation officer shall arrest the probationer pursuant to section 3 of chapter 279. Otherwise, the commissioner shall cause a notice of surrender to be issued to such probationer.

The fees incurred by installing, maintaining and operating the global positioning system device, or comparable device, shall be paid by the probationer. If an offender establishes his inability to pay such fees, the court may waive them.

HATE CRIMES SURFINE

G.L. c.265 §39(b) ¶2: There shall be a surcharge of one hundred dollars on a fine assessed against a defendant convicted of a violation of this section [Assault or A&B to intimidate because of race, color, religion, national origin, sexual orientation or disability] . . . and deposited in the Diversity Awareness Education Trust Fund [this fund was repealed by St. 2003, c. 26, § 38] In the case of convictions for multiple offenses, said surcharge shall be assessed for each such conviction.

HEAD INJURY ASSESSMENT FOR OUI OR OPERATING NEGLIGENTLY

G.L. c.90 §24(1)(a)(1) ¶2: There shall be an assessment of \$250 against a person who is convicted of, is placed on probation for, or is granted a continuance without a finding for or otherwise pleads guilty to or admits to a finding of sufficient facts of operating a motor vehicle while under the influence of intoxicating liquor, marijuana, narcotic drugs, depressants or stimulant substances under this section; provided, however, that but [sic] \$150 of the amount collected under this assessment shall be deposited by the court with the state treasurer for [sic] who shall deposit it into the Head Injury Treatment Services Trust Fund, and the remaining amount of the assessment shall be credited to the General Fund. The assessment shall not be subject to reduction or waiver by the court for any reason.

G.L. c.90 §24(2)(a) ¶2: There shall be an assessment of \$250 against a person who, by a court of the commonwealth, is convicted of, is placed on probation for or is granted a continuance without a finding for or otherwise pleads guilty to or admits to a finding of sufficient facts of operating a motor vehicle negligently so that the lives or safety of the public might be endangered under this section, but \$150 of the \$250 collected under this assessment shall be deposited monthly by the court with the state treasurer, who shall deposit it in the Head Injury Treatment Services Trust Fund, and the remaining amount of the assessment shall be credited to the General Fund. The assessment shall not be subject to reduction or waiver by the court for any reason.

G.L. c.90B §8(a)(4): There shall be an assessment of \$250 against a person who is convicted of, placed on probation for, or otherwise pleads guilty to or admits to a finding of sufficient facts of operating a vessel while under the influence of intoxicating liquor or marijuana, narcotic drugs, depressant or stimulant substances or the vapors of glue; provided, however, that \$150 of the \$250 collected under this assessment shall be deposited by the court with the state treasurer into the Head Injury Treatment Services Trust Fund, established by [G.L. c. 10, § 59], and the remaining amount of the assessment shall be credited to the General Fund. The assessment shall not be subject to reduction or waiver by the court for any reason.

G.L. c.90B, §34 ¶2: There shall be an assessment of \$250 against a person who is convicted of, placed on probation for, or granted a continuance without a finding for or otherwise pleads guilty to or admits to a finding of sufficient facts of operating a snow vehicle or recreation vehicle while under the influence of intoxicating liquor or narcotic drugs in violation of section 26; provided, however, that \$150 of the \$250

collected under this assessment shall be deposited by the court with the state treasurer into the Head Injury Treatment Services Trust Fund, established by section 59 of chapter 10, and the remaining amount of the assessment shall be credited to the General Fund. The assessment shall not be subject to reduction or waiver by the court for any reason.

OUI § 24D FEE

G.L. c.90 §24D ¶¶ 9-10: An additional fee of two hundred and fifty dollars shall be paid to the chief probation officer of each court by each person placed in a program of driver alcohol or controlled substance abuse education pursuant to this section and all such fees shall be deposited with the state treasurer, subject to appropriation, for the support of programs operated by the secretary of public safety, the alcohol beverage control commission, and the department of public health for the investigation, enforcement, treatment and rehabilitation of those persons convicted of or charged with driving under the influence of intoxicating liquor or drugs.

No such fee shall be collected from any person who, after the filing of an affidavit of indigency or inability to pay with the court within ten days of disposition and investigation by the probation officer confirming such indigency or establishing that the payment of such fee would cause a grave and serious hardship to such individual or to the family thereof, is determined by the court to be indigent, provided that the court enters a written finding thereof. In lieu of waiver of the entire amount of said fee, the court may direct such individual to make partial or installment payments of such fee when appropriate. Failure to pay the fees required under this section shall, unless excused, constitute sufficient basis for a finding by the court at a hearing held pursuant to section twenty-four E that the person has failed to satisfactorily comply with the program.

OUI VICTIMS ASSESSMENT

G.L. c.90 §24(1)(a)(1) ¶3 There shall be an assessment of \$50 against a person who is convicted, placed on probation or granted a continuance without a finding or who otherwise pleads guilty to or admits to a finding of sufficient facts for operating a motor vehicle while under the influence of intoxicating liquor or under the influence of marihuana, narcotic drugs, depressants or stimulant substances, all as defined by section 1 of chapter 94C, pursuant to this section or section 24D or 24E or subsection (a) or (b) of section 24G [Vehicular Homicide] or section 24L [OUI with Serious Injury]. The assessment shall not be subject to waiver by the court for any reason. If a person against whom a fine is assessed is sentenced to a correctional facility and the assessment has not been paid, the court shall note the assessment on the mittimus. The monies collected pursuant to the fees established by this paragraph shall be transmitted monthly by the courts to the state treasurer who shall then deposit, invest and transfer the monies, from time to time, into the Victims of Drunk Driving Trust Fund Fees paid by an individual into the Victims of Drunk Driving Trust Fund pursuant to this section shall be in addition to, and not in lieu of, any other fee imposed by the court pursuant to this chapter or any other chapter

PROBATION FEE & ADMINISTRATIVE PROBATION FEE

G.L. c.276 §87A ¶¶ 2-5: The court shall assess upon every person placed on supervised probation, including all persons placed on probation for offenses under section 24 of chapter 90, a monthly probation supervision fee, hereinafter referred to as "probation fee", in the amount of \$60 per month. Said person shall pay said probation fee once each month during such time as said person remains on supervised probation. The court shall assess upon every person placed on administrative supervised probation a monthly administrative probation supervision fee, hereinafter referred to as "administrative probation fee", in the amount of \$45 per month. Said person shall pay said administrative probation fee once each month during such time as said person remains on administrative supervised probation. Notwithstanding the foregoing, said fees shall not be assessed upon any person accused or convicted of a violation of section 1 or 15 of chapter 273, where compliance with an order of support for a spouse or minor child is a condition of probation.

The court may not waive payment of either or both of said fees unless it determines after a hearing and upon written finding that such payment would constitute an undue hardship on said person or his family due to limited income, employment status or any other factor. Following the hearing and upon such written finding that either or both of said fees would cause such undue hardship then: (1) in lieu of payment of said probation fee the court shall require said person to perform unpaid community work service at a public or nonprofit agency or facility, as approved and monitored by the probation department, for not less than one day per month and (2) in lieu of payment of said administrative probation fee the court shall require said person to perform unpaid community work service at a public or nonprofit agency or facility, as approved and monitored by the probation department, for not less than four hours per month. Such waiver shall be in effect only during the period of time that said person is unable to pay his monthly probation fee.

The court may waive payment of either or both of said fees in whole or in part if said person is assessed payment of restitution. In such cases, said fees may be waived only to the extent and during the period that restitution is paid in an amount equivalent to said fee.

Said probation fee shall be collected by the several probation offices of the trial court and transmitted to the state treasurer for deposit into the General Fund

PROBATION VICTIM SERVICES SURCHARGE

G.L. c.276 §87A ¶¶ 6-9: The court shall also assess upon every person placed on supervised probation, including all persons placed on probation for offenses under section 24 of chapter 90, a monthly probationers' victim services surcharge, hereinafter referred to as "victim services surcharge", in the amount of \$5 per month. Said person shall pay said victim services surcharge once each month during such time

as said person remains on supervised probation. The court shall assess upon every person placed on administrative supervised probation a monthly administrative probationer's victim services surcharge, hereinafter referred to as "administrative victim services surcharge" in the amount of \$5 per month.

Said person shall pay said administrative victim services surcharge once each month during such time as said person remains on administrative supervised probation. Notwithstanding the foregoing, said fees shall not be assessed upon any person accused or convicted of a violation of section 1 or 15 of chapter 273, where compliance with an order of support for a spouse or minor child is a condition of probation.

The court may not waive payment of either or both of said fees unless it has determined, after a hearing and upon written finding, that such payment would constitute an undue hardship on said person or his family due to limited income, employment status or any other factor. Such waiver shall be in effect only during the period of time that said person is unable to pay his monthly probation fee.

Said probation fee shall be collected by the several probation offices of the trial court and shall be transmitted to the state treasurer for deposit into the General Fund of the commonwealth

MANDATORY RESTITUTION

G.L. c.160 §225 [Malicious Injury to Railroad]: Whoever maliciously injures a railroad, or anything pertaining thereto, or any materials or implements for the construction or use thereof, or aids or abets in such trespass, shall be punished by a fine of not more than five thousand dollars or by imprisonment in jail for not more than one year, or both, and shall for each offense forfeit to the use of the corporation treble the amount of damages which it has sustained thereby.

G.L. c.175H §7 [False Health Care Claim; Health Care Kickback]: Any person convicted of a violation of sections two or three, in addition to any fines or sentences imposed, including any order of probation, shall be ordered to make restitution to a health care corporation or health care insurer for the full amount of the benefit or payment made, and for reasonable attorneys fees and costs, inclusive of costs of investigation.

G.L. c.266 §27A [Concealing Motor Vehicle to Defraud]: The court shall, after conviction, conduct an evidentiary hearing to ascertain the extent of the damages or financial loss suffered as a result of the defendant's crime. A person found guilty of violating this section shall, in all cases, upon conviction, in addition to any other punishment, be ordered to make restitution to the insurer for any financial loss sustained as a result of the commission of the crime; provided, however, that restitution shall not be ordered to a party whom the court determines to be aggrieved without that party's consent. Restitution shall be imposed in addition to incarceration or fine, and not in lieu thereof

G.L. c.266 §29 [Larceny of MV, Malicious Damage to MV, and Receiving Stolen MV]: The court shall, after a defendant is convicted of a violation of subsection (a) of section twenty-eight, conduct an evidentiary hearing to ascertain the extent of the damages or financial loss suffered as a result of the defendant's crime. A person found guilty of violating subsection (a) of section twenty-eight shall in all cases, upon conviction, in addition to any other punishment, be ordered to make restitution to the insurer for any financial loss sustained as a result of the commission of the crime; provided, however, that restitution shall not be ordered to a party whom the court determines to be aggrieved without that party's consent. Restitution shall be imposed in addition to incarceration or fine, and not in lieu thereof

In determining the amount, time and method of payment of restitution, the court shall consider the financial resources of the defendant and the burden restitution will impose on the defendant. Upon a real or impending change in financial circumstances, a defendant ordered to pay restitution may petition the court for a modification of the amount, time or method of payment of restitution. If the court finds that because of any such change the payment of restitution will impose an undue financial hardship on the defendant or his family, the court may modify the amount, time or method of payment, but may not grant complete remission from payment of restitution.

If a defendant who is required to make restitution defaults in any payment of restitution or installment thereof, the court shall hold him in contempt unless said defendant has made a good faith effort to pay such restitution. If said defendant has made a good faith effort to pay such restitution, the court may modify the amount, time or method of payment, but may not grant complete remission from payment of restitution.

G.L. c.266 §37E(d) [Identity Fraud]: A person found guilty of violating any provisions of this section shall, in addition to any other punishment, be ordered to make restitution for financial loss sustained by a victim as a result of such violation. Financial loss may include any costs incurred by such victim in correcting the credit history of such victim or any costs incurred in connection with any civil or administrative proceeding to satisfy any debt or other obligation of such victim, including lost wages and attorney's fees.

G.L. c.266 §87 [Concealing Leased Personalty]: A person found guilty of violating this section shall, in all cases upon conviction in addition to any other punishment, be ordered to make restitution to the owner for any financial loss.

G.L. c.266 §94 [Vandalizing Building, Sign, Light]: Any person convicted under the provisions of this section shall, in addition to any imprisonment or fine, make restitution.

G.L. c.266 §95-97 [Vandalizing Historical Monuments or Markers, or State or County Buildings]:

Any person convicted under the provisions of this section shall, in addition to any fine assessed, reimburse the [commonwealth or county] for the total amount of damage incurred.

G.L. c.266 §99A [Larceny of Library Materials]: Whoever willfully conceals on his person or among his belongings any library materials or property and removes said library materials or property, . . . if the value of the property stolen does not exceed two hundred and fifty dollars, shall be . . . ordered to pay the replacement value of such library materials or property, including all reasonable processing costs, as determined by the governing board of said library.

Any person who has properly charged out any library materials or property, and who, upon neglect to return the same within the time required and specified in the by-laws, rules or regulations of the library owning the property, after receiving notice from the librarian or other proper custodian of the property that the same is overdue, shall willfully fail to return the same within thirty days from the date of such notice . . . shall pay the replacement value of such library materials or property, including all reasonable processing costs, as determined by said governing board

G.L. c.266 §100 [Vandalizing Library Materials]: Whoever willfully, maliciously or wantonly writes upon, injures, defaces, tears, cuts, mutilates or destroys any library material or property, shall make restitution in full replacement value of the library materials or property

G.L. c.266 §102A½ [Hoax Explosive]: The court shall, after a conviction, conduct a hearing to ascertain the extent of costs incurred, damages and financial loss suffered by local, county or state public safety agencies and the amount of property damage caused as a result of the violation of this section. A person found guilty of violating this section shall, in all cases, upon conviction, in addition to any other punishment, be ordered to make restitution to the local, county or state government for any costs incurred, damages and financial loss sustained as a result of the commission of the offense. Restitution shall be imposed in addition to incarceration or fine; however, the court shall consider the defendant's present and future ability to pay in its determinations regarding a fine. In determining the amount, time and method of payment of restitution, the court shall consider the financial resources of the defendant and the burden restitution will impose on the defendant.

G.L. c.266 §108 [Destroying Boat]: A person found guilty of violating this section shall, in addition to any other punishment, be ordered to make restitution to the insurer or owner for any financial loss sustained as a result of the commission of the crime except as hereinafter provided. Restitution shall be imposed in addition to incarceration or fine. In the case of an indigent defendant, the court may determine that the interests of the victim and of justice would not be served by ordering such restitution. In such case, the court shall make specific written findings of the evidence presented which militated against the imposition of restitution.

The court shall, after conviction, conduct an evidentiary hearing to ascertain the extent of the damages or financial loss suffered as a result of the defendant's crime and may then determine the amount and method of restitution. In so determining, the court shall consider the financial resources of the defendant and the burden restitution will impose on the defendant. The defendant's present and future ability to make such restitution shall be considered.

A defendant ordered to make restitution may petition the court for remission from any payment of restitution or from any unpaid portion thereof. If the court finds that the payment of restitution due will impose an undue financial hardship on the defendant or his family, the court may grant remission from any payment of restitution or modify the time and method of payment.

G.L. c.266 §111B [False MV Insurance Claim]: The court shall, after conviction, conduct an evidentiary hearing to ascertain the extent of the damages or financial loss suffered as a result of the defendant's crime. A person found guilty of violating this section shall, in all cases, upon conviction, in addition to any other punishment, be ordered to make restitution to the insurer for any financial loss sustained as a result of the commission of the crime; provided, however, that restitution shall not be ordered to a party whom the court determines to be aggrieved without that party's consent. Restitution shall be imposed in addition to incarceration or fine, and not in lieu thereof

In determining the amount, time and method of payment of restitution, the court shall consider the financial resources of the defendant and the burden restitution will impose on the defendant. Upon a real or impending change in financial circumstances, a defendant ordered to pay restitution may petition the court for a modification of the amount, time or method of payment of restitution. If the court finds that because of any such change the payment of restitution will impose an undue financial hardship on the defendant or his family, the court may modify the amount, time or method of payment, but may not grant complete remission from payment of restitution.

If a defendant who is required to make restitution defaults in any payment of restitution or installment thereof, the court shall hold him in contempt unless said defendant has made a good faith effort to pay such restitution. If said defendant has made a good faith effort to pay such restitution, the court may modify the amount, time or method of payment, but may not grant complete remission from payment of restitution.

G.L. c.266 §126A [Vandalizing Property]: Whoever intentionally, willfully and maliciously or wantonly, paints, marks, scratches, etches or otherwise marks, injures, mars, defaces or destroys the real or personal property of another including but not limited to a wall, fence, building, sign, rock, monument, gravestone or tablet, . . . shall also be required to pay for the removal or obliteration of such painting, marking, scratching or etching, or to remove or obliterate such painting, marking, scratching or etching

G.L. c.266 §126B [Tagging Property]: Whoever sprays or applies paint or places a sticker upon a building, wall, fence, sign, tablet, gravestone, monument or other object or thing on a public way or adjoined to it, or in public view, or on private property, such person known or commonly known as “taggers” and such conduct or activity known or commonly known as “tagging”, or other words or phrases associated to such persons, conduct or activity, and either as an individual or in a group, joins together with said group, with the intent to deface, mar, damage, mark or destroy such property, . . . shall also be required to pay for the removal or obliteration of such “tagging” or to obliterate such “tagging”

G.L. c.269 §14B(b) [False/Silent 911 Call]: Upon any conviction of this section, the court shall conduct a hearing to ascertain the extent of costs incurred, and damages and financial loss sustained by any emergency response services provider as a result of the violation and shall order the defendant to make restitution to the emergency response services provider or providers for any such costs, damages or loss. Restitution shall not be waived and shall be imposed in addition to any imprisonment or fine, and not in lieu thereof, except that the court shall consider the defendant’s present and future ability to pay restitution in its determinations relative to the imposition of a fine. In determining the amount, time and method of payment of restitution, the court shall consider the financial resources of the defendant and the burden restitution will impose upon the defendant.

G.L. c.269 §14(d) [Bomb/Hijack Threat]: The court shall, after conviction, conduct a hearing to ascertain the extent of costs incurred, damages and financial loss suffered by an individual, public or private entity and the amount of property damage caused as a result of the defendant’s crime. A person found guilty of violating this section shall, in all cases, in addition to any other punishment, be ordered to make restitution to the individual, public or private entity for any costs incurred, damages and financial loss sustained as a result of the commission of the crime. Restitution shall be imposed in addition to incarceration or fine, and not in lieu thereof, however, the court shall consider the defendant’s present and future ability to pay in its determinations regarding a fine. In determining the amount, time and method of payment of restitution, the court shall consider the financial resources of the defendant and the burden restitution will impose on the defendant.

G.L. c.276 §92A [Larceny of Construction Tools; Larceny of MV; Malicious Damage to MV; Receiving Stolen MV; False MV Insurance Claim; Altered VIN]: A person found guilty of violating the provisions of sections twenty-seven, twenty-eight, one hundred and eleven B and one hundred and thirty-nine of chapter two hundred and sixty-six shall, in all cases, upon conviction, in addition to any other punishment, be ordered to make restitution to any person whom the court deems appropriate for any financial loss sustained by the victim of his crime, his dependents or an insurer as a result of the commission of the crime. The term “financial loss” shall be interpreted to include but shall not be limited to, loss of earnings, out-of-pocket expenses, and replacement costs. Losses due to pain and suffering are not financial loss. Restitution shall be interpreted to include monetary reimbursement, work or service, or a combination thereof, provided to any person, organization, corporation, or governmental entity, the court determines, has suffered said damage or financial loss, or to perform such work or service for any other person, organization, corporation or governmental entity as the court may determine. Restitution shall be imposed in addition to incarceration or fine, but not in lieu thereof. In an extraordinary case such as indigency, the court may determine that the interests of the victim and justice would not be served by ordering restitution. In such a case, the court shall make and enter specific written findings on the record concerning the extraordinary circumstances presented which militated against the imposition of restitution.

The court shall, after conviction, conduct an evidentiary hearing to ascertain the extent of the damages or financial loss suffered as a result of the defendant’s crime. The court may then determine the amount and method of restitution. In so determining, the court shall consider the financial resources of the defendant and the burden restitution will impose on the defendant. The defendant’s present and future ability to make such restitution shall be considered.

G.L. c.90 §20 ¶4: There shall be a surcharge of \$50 on a fine assessed against a person convicted or found responsible of a violation of section 17 [Speeding] or a violation of a special regulation lawfully made under the authority of section 18 [Speeding in Violation of Special Regulation]. The first \$30 of each surcharge shall be transferred by the registrar of motor vehicles to the state treasurer for deposit into the Head Injury Treatment Services Trust Fund. The remaining amount shall be transferred by the registrar to the state treasurer for deposit in the General Fund.

**SPEEDING
HEAD INJURY
SURFINE**

SURFINE

G.L. c.280 §6A: Before imposing a fine or forfeiture as a punishment or part punishment for a crime, the court or justice shall levy as a special cost assessment an amount equal to twenty-five per cent of the fine or forfeiture; provided however, that no special cost assessment shall be levied on fines or forfeitures for minor motor vehicle offenses, and juvenile offenses or acts of delinquency. Minor motor vehicle offenses shall be defined as those not punishable by incarceration.

When a fine is suspended, in whole or in part, the special cost assessment shall be computed on the fine remaining to be paid. In any case where a person convicted of any offense to which this section applies is imprisoned until the fine is satisfied, the court or justice may in his discretion waive all or any part of said cost assessment the payment of which would work a hardship on the person convicted or his immediate family

VICTIM/WITNESS ASSESSMENT

G.L. c.258B §8: The court shall impose an assessment of no less than \$90 against any person who has attained the age of seventeen years and who is convicted of a felony or against whom a finding of sufficient facts for a conviction is made on a complaint charging a felony. The court shall impose an assessment of \$50 against any person who has attained the age of seventeen and who is convicted of a misdemeanor or against whom a finding of sufficient facts for a conviction is made on a complaint charging a misdemeanor. The court shall impose an assessment of \$45 against any person who has attained the age of fourteen years and who is adjudicated a delinquent child or against whom a finding of sufficient facts for a finding of delinquency is made When multiple civil motor vehicle infractions arising from a single incident are charged, the total assessment shall not exceed \$75; provided, however, that the total assessment against a person who has not attained seventeen years shall not exceed thirty dollars. In the discretion of the court or the clerk magistrate in the case of a civil motor vehicle infraction that has not been heard by or brought before a justice, a civil motor vehicle assessment imposed pursuant to this section which would cause the person against whom the assessment is imposed severe financial hardship, may be reduced or waived. An assessment other than for a civil motor vehicle infraction imposed pursuant to this section may be reduced or waived only upon a written finding of fact that such payment would cause the person against whom the assessment is imposed severe financial hardship. Such a finding shall be made independently of a finding of indigency for purposes of appointing counsel. If the person is sentenced to a correctional facility in the commonwealth and the assessment has not been paid, the court shall note the assessment on the mittimus.

All such assessments made shall be collected by the court or by the registrar, as the case may be, and shall be transmitted monthly to the state treasurer. If the person convicted is sentenced to a correctional facility in the commonwealth, the superintendent or sheriff of the facility shall deduct any part or all of the monies earned or received by any inmate and held by the correctional facility, to satisfy the victim and witness assessment, and shall transmit such monies to the court monthly. The assessment from any conviction or adjudication of delinquency which is subsequently overturned on appeal shall be refunded by the court to the person whose conviction or adjudication of delinquency is overturned. Said court shall deduct such funds from the assessments transmitted to the state treasurer. Assessments pursuant to this section shall be in addition to any other fines or restitution imposed in any disposition.

When a determination of the order of priority for payments required of a defendant must be made by the court or other criminal justice system personnel required to assess and collect such fines, assessments or other payments, the victim and witness assessment mandated by this section shall be the defendant's first obligation.