



GEORGIA DEPARTMENT OF LAW

40 Capitol Square SW
Atlanta, Georgia 30334-1300

CHRISTOPHER M. CARR
ATTORNEY GENERAL

www.law.ga.gov
(404) 458-3600

Writer's Direct Dial:
404-458-3434
Fax 404-657-3239

February 1, 2021

Via U.S. Mail & eMail

Ms. Rachel Rice
Project Manager
Georgia Superior Court Clerks' Cooperative Authority
1875 Century Boulevard, Suite 100
Atlanta, GA 30345

Re: Crime Lab Fee Assessment

Dear Ms. Rice:

This letter responds to your request for informal advice regarding the Crime Lab Fee ("CLF") assessed upon probationers pursuant to O.C.G.A. § 42-8-34. Specifically, you asked for guidance concerning that section's use of the term "one-time fee" and whether multiple CLF fees may be assessed against a single probationer when he also receives fines.

With regard to the CLF and probationers, O.C.G.A. § 42-8-34(d) provides, in pertinent part (emphasis added):

(1) ***In every case*** that a court of this state or any other state sentences a defendant to probation or any pretrial release or diversion program under the supervision of DCS, in addition to any fine or order of restitution imposed by the court, ***there shall be imposed*** a probation fee as a condition of probation, release, or diversion in the amount equivalent to \$23.00 per each month under supervision, ***and in addition, a one-time fee of \$50.00*** if such defendant was convicted of any felony.

...

(2) ***In addition to any other provision of law***, any person convicted of a violation of Code Section 40-6-391 or subsection (b) of Code Section 16-13-2 who is sentenced to probation or a suspended sentence by a municipal, magistrate, probate, recorder's, mayor's, state, or superior court ***shall also be required by the court to pay a one-time fee of \$25.00.***

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The highlighted language in subsection (1), above, provides for the assessment of the CLF “in every case” in which a defendant is sentenced to probation or any pretrial release or division program under supervision of DCS. In those instances where a fine is assessed, the CLF shall be assessed “in addition” to that fine. Because the statutory text is plain and capable of only one reasonable reading, we must interpret it in accordance with this plain meaning. *Amazing Amusements Group v. Wilson*, 353 Ga. App. 256, 257-258 (2019).

You inquired whether the CLF may be assessed more than once in a given “case” against a single probationer guilty of multiple counts. The answer to this question must incorporate GSCCCA Rule 1.15, which provides as follows:

The term “case” shall mean, for the purposes of applying statutory fine and fee surcharges and statutory fine and fee deductions, each offense or count on a charging document where a fine is assessed and applied against an individual for the violation of a crime, traffic offense or ordinance violation by a court of competent jurisdiction, unless otherwise specified by law.

In this instance, the CLF is a “fee surcharge” within the meaning of this Rule, which defines the word “case” such that fees may be imposed more than one time per case number where a fine or fines are imposed on multiple counts against a single probationer.

Thus, under subsection (d)(1), where a single case number has multiple felony counts and fines are imposed on each of those multiple counts, then the \$50 CLF would apply to each count where a fine is imposed and the individual is sentenced to felony probation. Conversely, where a single case number has multiple felony counts but fines are *not* imposed on any of those multiple counts, then the \$50.00 CLF would be assessed only once per case number because Rule 1.15’s definition of “case” would not apply.

As for subsection (d)(2), similar logic would apply. That subsection instructs us to apply the \$25 CLF fee to any probationer guilty of a violation of O.C.G.A. § 40-6-391 (D.U.I.) or O.C.G.A. § 16-13-2(b) (marijuana). Thus, if a case has two counts, one for violation of section 40-6-391 and the other for violation of section 16-13-2(b), and a fine is assessed on each count, then per Rule 1.15, the \$25 CLF would apply to each count. Otherwise, there would be only a single \$25 CLF assessed.

These interpretations do not conflict with the use of the term “one-time fee” in the statute. A reasonable interpretation of the term “one-time fee” is a fee assessed a single time, rather than a repeating fee over time. While other interpretations are possible, this reasonable interpretation is preferable as it harmonizes the statute and the enabling rule. *See Hartley v. Agnes Scott College*, 295 Ga. 458, 462 (2014). Interpreting “one-time fee” to mean only one CLF per case in all

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circumstances would effectively contradict Rule 1.15. Such interpretations should be avoided when possible.

I hope this letter is helpful. Please keep in mind this letter is informal advice and does not constitute the official or unofficial opinion of the attorney general. If you have any questions, please let me know.

Sincerely,

A handwritten signature in black ink, appearing to read "R. Stay", written over a light blue horizontal line.

Ronald J. Stay
Assistant Attorney General

RJS/rjs

cc: Logan B. Winkles, Esq. (via email)