

IN THE SUPREME COURT OF THE STATE OF ARIZONA

FILED

NOV 15 2002

NOEL K. DESSAINT
CLERK SUPREME COURT
BY

In the Matter of:)

ARIZONA CODE OF JUDICIAL)
ADMINISTRATION §3-401:)
PRIORITY OF OFFENDER PAYMENTS)

Administrative Order
No. 2002- 103

The above captioned provision having come before the Arizona Judicial Council on October 17, 2002, and having been approved and recommended for adoption,

Now, therefore, pursuant to Article VI, Section 3, of the Arizona Constitution,

IT IS ORDERED that the above captioned provision, attached hereto, is adopted as a section of the Arizona Code of Judicial Administration.

Dated this 15th day of November, 2002.



CHARLES E. JONES
Chief Justice

ARIZONA CODE OF JUDICIAL ADMINISTRATION
Part 3: Superior Court
Chapter 4: Administration
Section 3-401: Priority of Offender Payments

A. Definitions. The following definitions apply to this section:

“Account” means a composite of an individual’s or legal entity’s court obligations for one case.

“Allocation” means the association of a payment to a recipient. For example, restitution is allocated to victims.

“Application” means the association of a payment to a receivable or court-ordered obligation.

“Arrearage” means an amount owed the court that is past due.

“Category” means the type of obligation, such as restitution, time payment fee, probation service fees, fines and surcharges, juvenile monetary assessments, parental assessments and surcharges or driving under the influence (DUI) abatement fee.

“Clerk” means the clerk’s office of the superior court.

“Court” means the superior court in Arizona.

“Current” means all scheduled payments have been paid on or before the due dates and the defendant’s account is up-to-date.

“Defendant” means the adult or juvenile offender or the juvenile’s parent, guardian or estate against whom a financial obligation has been assessed.

“Department” means either the adult or juvenile probation departments of the court.

“Obligation” means the amount per category the defendant is ordered to pay.

“Past due” means a payment that has not been received on or before the due date.

“Payment plan” means a signed agreement between the defendant and the court for obligations not paid in full the day of sentencing or for a schedule of periodic payments.

“Payment” means any amount received, or scheduled to be received, by the clerk on behalf of the defendant.

“Pre-payment” means a partial or full payment received in advance of a due date, other than the next scheduled payment.

B. Applicability. Article VI, Section 3 of the Arizona Constitution authorizes the supreme court to provide for the priority of payments ordered by superior court for financial obligations.

C. Purpose. This section establishes procedures and forms for ordering, assessing, collecting and allocating payments in criminal cases involving adult and juvenile offenders sentenced or adjudicated in the superior court.

D. Use of Forms. The supreme court shall develop uniform forms for payment plans, contracts and final judgments and orders. Courts, clerks and departments shall use these forms.

E. Application of payments.

1. The clerk shall apply payments to the following categories in the order shown:

a. As required by this code, monies received from the defendant each month for each case shall be applied first to satisfy any ordered periodic restitution payment and any restitution payments in arrears in that case.

b. Pursuant to A.R.S. §12-116(A), the time payment fee shall be collected next after restitution.

c. Probation service fees including;

- (1) Monthly supervision fees;
- (2) Interstate processing fees;
- (3) Transfer fees; and
- (4) Parental assessments:
 - (a) Probation service fee;
 - (b) Partial or treatment payment fees; and
 - (c) Juvenile detention fees.

d. Attorney fees per judge’s order or prorated if multiple attorney fees are assessed which include:

- (1) Indigent defense;
- (2) Public defender;
- (3) \$25 public defender fee; and
- (4) Prosecutor cost.

e. Fines and surcharges per judge’s order which include, but are not limited to:

- (1) Juvenile monetary assessments;
 - (2) Surcharges as applicable;
 - (3) Victim compensation; and
 - (4) Assistance fund sanctions.
 - f. Pursuant to A.R.S. §28-1382(D)(2), incarceration costs shall be paid before the DUI abatement fee.
 - g. DUI abatement fee.
 - h. Other reimbursable fees or assessments ordered by the court.
2. In allocating the payments as required by subsection E.1., the clerk shall:
- a. Apply payments proportionately within the same category unless specifically ordered differently by the court.
 - b. Apply payments to arrearages in the highest priority first until current through the next payment due date. At that point the next category will be paid until current through the next payment due date and continue in that manner until:
 - (1) Either the payment is fully applied, or
 - (2) The account is current through the next payment due date.
 - c. Apply partial payments, when the defendant is current, to each category in priority order until the obligations in the category are paid through the next payment due date. Within a payment category, the payment is applied proportionately to obligations unless otherwise ordered by the court.
 - d. Apply any partial or full pre-payment as if it were the next periodic payment, unless the payor directs the clerk to apply the pre-payment to the highest priority.
3. Pursuant to State v. Pennington, 178 Ariz. 301 (1994), only one time payment fee should be imposed on each count or case in which a time payment plan is approved, even though that plan may include, for example, a fine, a felony assessment, and restitution.