

Penalty Assessment and Surcharge Guide

Effective January 01, 2015

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INTRODUCTION

The passage of Laws 2014, Chapter 158 levies a new penalty assessment of \$2 under A.R.S. § 12-116.09 on every fine, penalty and forfeiture imposed and collected by the courts for criminal offenses and civil penalties for a civil traffic violation and fine, penalty or forfeiture for a violation of the motor vehicle statutes, for any local ordinance relating to the stopping, standing or operation of a vehicle, including parking violations, or for a violation of the game and fish statutes in Title 17. The new assessment is referred to as the “\$2 Victims’ Rights Enhancement Assessment” in the surcharge guide. The bill does require that the courts impose the assessment where applicable but does not specifically prohibit the court from waiving or reducing the amount of the assessment. The assessment is also subject to the 5% set-aside collected by the superior court, including the clerk of the court and the justice courts in each county. The assessment is effective January 1, 2015.

The prior surcharge percentages and their effective dates are:

<i>83%</i>	<i>1/1/2012-</i>
<i>84%</i>	<i>9/19/07-12/31/11</i>
<i>80%</i>	<i>8/22/02-9/18/07</i>
<i>77%</i>	<i>9/01/99-8/21/02</i>
<i>70%</i>	<i>2/17/99-8/31/99</i>
<i>60%</i>	<i>9/01/96-2/16/99</i>
<i>59%</i>	<i>9/01/95-8/31/96</i>
<i>57%</i>	<i>1/01/94-8/31/95</i>

Historical Information on these surcharges is available from AOC, Court Services Division.

PART I
83% SURCHARGE AND ASSESSMENTS

1. *Are all surcharges percentage based?*

Yes, Laws 2011, Chapter 260, First Regular Session changed the terminology used from penalty assessment to surcharges in A.R.S. §§ 12-116.01 and -116.02. The surcharges apply in addition to any other penalty assessments imposed for persons convicted of a criminal offense, found responsible for a civil traffic offense, found to have violated any local ordinance relating to stopping, standing or operating a vehicle, including parking violations, or for a violation of the game and fish statutes in title 17. The legislature added the 2011 Additional Assessment of \$13 and in 2014 the \$2 Victims' Rights Enhancement (effective January 1, 2015) that are applied in the same manner as surcharges. Other assessments include a Probation Assessment, a flat fee that increased to \$20 effective November 24, 2009 for all courts, except Maricopa County. The Probation Assessment within Maricopa County increased to \$20 effective July 1, 2008 by resolution of the Maricopa County Board of Supervisors at their meeting on May 7, 2008, pursuant to A.R.S. § 12-269(C). The Probation Assessment does not apply to parking violations.

2. *Are the penalty assessments and surcharges imposed based on violation date or adjudication date?*

Penalty assessments and surcharges are imposed based on date of the violation. The time payment fee is imposed on the date the sentence is imposed if the fine is not paid in full on that date.

3. *What surcharges are imposed and of those, which are percentage based and which are flat dollar amount?*

If the violation occurred on or after January 1, 2015, assess the following surcharges:

Percentages

- 47% Criminal Justice Enhancement Fund (CJEF), A.R.S. § 12-116.01(A)
- 13% Medical Services Enhancement Fund (MSEF), A.R.S. § 12-116.02(A)
- 10% Clean Elections Fund (CEF), A.R.S. § 16-954(A)
- 7% Fill The Gap Fund (FTG), A.R.S. § 12-116.01(B)

- 6% DNA Fund (DNA), A.R.S. § 12-116.01(C)

Flat dollar amount

- \$20.00 Probation Assessment, A.R.S. § 12-114.01(A)
- \$13.00 for the 2011 Additional Assessment, A.R.S. § 12-116.04(A)
- \$2.00 for the Victims' Rights Enforcement Assessment, A.R.S. § 12-116.09(A)

4. Per A.R.S. § 41-2421(C), 5% of all collections from superior court and justice courts are to be set aside to be potentially used for local Fill the Gap. Is the 83% percent surcharge, \$13 for the 2011 Additional Assessment, \$2 for the Victims' Rights Enforcement Assessment and the \$20 Probation Assessment subject to the 5% set aside?

Yes, per A.R.S. § 41-2421, the only monies not subject to the 5% set aside are the 10% CEF surcharge, restitution, child support and bonds. The Supreme Court adopted guidelines regarding the collection of revenues pursuant to subsections A and C of the statute in the [Arizona Code of Judicial Administration, § 5-103: Enhanced Collections](#).

5a. What type of violations are the surcharges, the 2011 Additional Assessment, Victims' Rights Enforcement Assessment and Probation Assessment imposed on?

Surcharges and assessments shall be levied on every fine, penalty, and forfeiture, imposed and collected by the courts for:

- Criminal offenses,
- Civil penalties for violations of motor vehicle statutes,
- Violations of local ordinances relating to stopping, standing or operation of a vehicle
- Violations of game and fish statutes in Title 17

5b. Are there any exceptions?

Yes, there is an exception. The \$20 Probation Assessment is **NOT** imposed on violations of local parking ordinances.

6. How is the 83% surcharge calculated? How is the total, including the \$20 Probation Assessment, calculated?

Multiply the base fine amount by each percentage surcharge, the .47 (47% CJEF), the .13 (13% MSEF), the .10 (10% CEF), the .07 (7% FTG) and the .06 (6%DNA). Add these amounts together. Then add the \$20 Probation Assessment, \$13 2011 Additional Assessment and \$2 Victims' Rights Enforcement Assessment.

EXAMPLE: The judge orders a \$100 fine, plus surcharges and assessments.

\$ 100.00	Base fine
\$ 47.00	CJEF (\$100 base fine x 47%)
\$ 13.00	MSEF (\$100 base fine x 13%)
\$ 10.00	CEF (\$100 base fine x 10%)
\$ 7.00	FTG (\$100 base fine x 7%)
\$ 6.00	DNA (\$100 base fine x 6%)
<u>\$ 183.00</u>	TOTAL FINE AND 83% SURCHARGE

Then add the \$20 Probation Assessment, the \$13 2011 Additional Assessment and \$2 Victims' Rights Enforcement Assessment

\$ 183.00	Total fine and 83% surcharges
\$ 20.00	Probation Assessment
\$ 13.00	2011 Additional Assessment
\$ 2.00	Victims' Rights Enforcement Assessment
<u>\$ 218.00</u>	TOTAL FINE

7. Can the 47% CJEF, 13% MSEF, 10% CEF, 7% FTG and 6% DNA be treated as one 83% surcharge?

Yes, until the court distributes money collected to the city or county treasurer. If the court chooses to order the full 83% surcharge (the 47%, 13%, 10%, 7% & 6% surcharges combined), the 83% surcharge amount must be divided proportionately into the five separate surcharges before monies are remitted or reported to the city or county treasurer. The court's automation system should be able to allocate the surcharges for remittance to the city or county treasurer. (Refer to question # 24 for an example of allocating funds manually.)

8. Can the Probation Assessment, the 2011 Additional Assessment and the Victims' Rights Enforcement Assessment be included with the 83% surcharge?

No, the Probation Assessment, 2011 Additional Assessment and the Victims' Rights Enforcement Assessment may not be included with the 83% surcharge. These assessments are flat dollar amounts not a percentage of the base fine; therefore, are added and accounted for separately.

9. What proportion of the 83% surcharge are the 47% CJEF, 13% MSEF, 10% CEF, 7% FTG and 6% DNA surcharges?

Regardless of the fine amount, for fines or sanctions imposed for violations occurring on or after January 1, 2012:

- the 47% CJEF surcharge is 56.63% of the 83% surcharges
- the 13% MSEF surcharge is 15.66% of the 83% surcharges
- the 10% CEF surcharge is 12.05% of the 83% surcharges
- the 7% FTG surcharge is 8.43% of the 83% surcharges
- the 6% DNA surcharge is 7.23% of the 83% surcharges

These proportions are derived by dividing the individual surcharge percentage by the total surcharge of 83%, as illustrated below:

$$\frac{47\%}{83\%} \quad \text{CJEF surcharge} \\ \text{divided by the 83\% surcharges} = 56.63\%$$

$$\frac{13\%}{83\%} \quad \text{MSEF surcharge} \\ \text{divided by the 83\% surcharges} = 15.66\%$$

$$\frac{10\%}{83\%} \quad \text{CEF surcharge} \\ \text{divided by the 83\% surcharges} = 12.05\%$$

$$\frac{7\%}{83\%} \quad \text{FTG surcharge} \\ \text{divided by the 83\% surcharges} = 8.43\%$$

$$\frac{6\%}{83\%} \quad \text{DNA surcharge} \\ \text{divided by the 83\% surcharges} = 7.23\%$$

10. What percent are each of the surcharges and assessments relative to the total due?

The percent each surcharge is to the total due varies from case to case. In order to determine what the percent is, the base fine amount has to be determined.

Multiply the base fine by .83 to determine the amount of the 83% surcharges. Add the base fine, 83% surcharges, \$13 for the 2011 Additional Assessment, \$2 Victims' Rights Enforcement Assessment and the \$20 Probation Assessment, to determine the total due. See the example below:

Example: \$100 Base fine

\$ 100.00	Base fine
\$ 83.00	83% surcharges
\$ 20.00	Probation surcharge
\$ 2.00	Victims' Rights Enhancement Assessment
\$ 13.00	2011 Additional assessment
<u>\$ 218.00</u>	Total fine and 83% surcharges

After the total due is calculated, divide the amount of the base fine by the total due to determine the percent the base fine is to the total due. Follow the same steps to calculate the percent that the 83% surcharges are to the total due. The same applies to each assessment. The percentage of the total due changes each time the base fine amount changes. No matter how the proportions change per case, the method for calculating the proportion remains the same.

Example:

$\frac{\text{Base Fine}}{\text{Total Due}}$	The base fine % equals the Base Fine amount divided by the Total Amount Due
$\frac{83\%}{\text{Total Due}}$	The 83% surcharge % equals the 83% Surcharge amount divided by the Total Amount Due
$\frac{\$20}{\text{Total due}}$	The \$20 Probation Assessment % equals the \$20 Probation Assessment amount divided by the Total Amount Due
$\frac{\$13}{\text{Total due}}$	The \$13 2011 Additional Assessment % equals the \$13 2011 Additional Assessment amount divided by the Total Amount Due
$\frac{\$2}{\text{Total due}}$	The \$2 Victims' Rights Enhancement Assessment % equals the \$2 Victims' Rights Enhancement Assessment amount divided by the Total Amount Due

<u>\$ 100.00</u>	45.87%	Base fine is 45.87% of the Total Amount Due
\$ 218.00		
<u>\$ 83.00</u>	38.07%	83% surcharge is 38.07% of the Total Amount Due
\$ 218.00		
<u>\$ 20.00</u>	9.17%	\$20 Probation Assessment is 9.17% of the Total Amount Due
\$ 218.00		
<u>\$ 13.00</u>	5.96%	\$13 2011 Additional Assessment is 5.96% of the Total Amount
\$ 218.00		
<u>\$ 2.00</u>	0.92%	\$2 Victims' Rights Enhancement Fund is .92% of the Total
\$ 218.00		

11. If the judge ordered an amount due which includes both fine and surcharges how are the fines and surcharges determined?

If the court is assessing only one total including the 83% combined surcharge amount along with \$13 for the 2011 Additional Assessment, \$2 for the Victims' Rights Enhancement Fund and \$20 for the Probation Assessment, first subtract the \$13 Additional Assessment, the \$2 Victims' Rights Enhancement Assessment and the \$20 Probation Assessment from the total amount ordered, then divide the remainder by 1.83 to determine the fine amount due. The balance is the surcharges.

Example: The judge orders a \$207.00 fine including surcharges.

\$ 207.00	TOTAL DUE
\$ (20.00)	Less \$20 probation surcharge
\$ (2.00)	Less \$2 victims' rights enhancement assessment
\$ (13.00)	Less \$13 2011 additional assessment
<u>\$ 172.00</u>	Total fine and 83% surcharges
\$ 172.00	TOTAL FINE including 83% Surcharge
\$ 1.83	divided by 1.83
<u>\$ 93.99</u>	Base Fine Amount
\$ 172.00	TOTAL FINE including 83% Surcharge
\$ (93.99)	Less Fine
<u>\$ 78.01</u>	83% Surcharge

The 83% surcharge amount must be divided proportionately into the five separate surcharges before monies are remitted or reported to the city or county treasurer. (Refer to question # 24 for an example of allocating funds manually.)

If the court assesses the 47% CJEF, 13% MSEF, 10% CEF, 7% FTG and 6% DNA along with the fine, \$13 for the 2011 Additional Assessment, \$2 for the Victims' Rights Enhancement Assessment and \$20 Probation Assessment as one amount, but posts them separately, the following example shows the steps that are used to determine how much goes to the fine, the 2011 Additional Assessment, the Victims' Rights Enhancement Assessment, the Probation Assessment and each surcharge that comprises the 83%. Subtract \$13 for the 2011 Additional Assessment, \$2 for the Victims' Rights Enhancement Assessment and \$20 for the Probation Assessment from the total amount ordered. Divide the remainder of total amount ordered by 1.83 to determine the fine amount due. Multiply the fine by each of the five surcharge percentages to determine the dollar amount for each surcharge.

Example: The judge orders a \$103.00 fine, including surcharges.

\$ 103.00	TOTAL DUE
\$ (20.00)	Less \$20 probation surcharge
\$ (2.00)	Less \$2 victims' rights enhancement assessment
<u>\$ (13.00)</u>	Less \$13 2011 additional assessment
\$ 68.00	Total fine and 83% surcharges

<u>\$ 68.00</u>	TOTAL FINE AND 83% SURCHARGE
1.83	divided by 1.83 = Fine of \$37.16

\$ 37.16	Base fine
\$ 17.46	MSEF (\$37.16 base fine x 47%)
\$ 4.83	CJEF (\$37.16 base fine x 13%)
\$ 3.72	CEF (\$37.16 base fine x 10%)
\$ 2.60	FTG (\$37.16 base fine x 7%)
\$ 2.23	DNA (\$37.16 base fine x 6%)
<u>\$ 68.00</u>	TOTAL FINE AND 83% SURCHARGE DUE

12. *May the total amount due be rounded?*

Yes, pursuant to A.R.S. § 12-116.01(C) and 12-116.02(C), after the surcharges are added, the total amount may be rounded up or down to the nearest quarter-dollar. For the convenience of court operations, judges can make the total of fine and surcharges whole dollars, which alleviates the need to round to the quarter dollar.

However, if the total due is in dollars and cents, there are three alternatives for distributing the increase or decrease. The court must select one of the following options and use this option consistently for every case:

The first step in any of the options is to subtract out the \$13 for the 2011 Additional Assessment, \$2 for the Victims' Rights Enhancement Assessment and the \$20 for the Probation Assessment. Then:

- 1) Add or subtract, to or from the fine, the difference between the actual remaining total amount due and the rounded total.
- 2) Add or subtract, to or from the 83% surcharge, the difference between the actual remaining total amount due and the rounded total.
- 3) When **rounding up**, take the difference between the actual remaining total amount due and the rounded total and divide it by 1.83. Add that amount to the base fine and add the rest to the 83% surcharge.

When **rounding down**, take the difference between the actual remaining total amount due and the rounded total and divide it by 1.83. Subtract that amount from the base fine and subtract the rest from the surcharges.

Divide the 83% surcharge into CJEF, MSEF, CEF, FTG and DNA portions before sending monies collected to the city or county treasurer. (Refer to question # 24 for an example of allocating funds manually.)

13. Does the time payment fee still exist?

Yes. The time payment fee is still a mandatory assessment on each defendant that does not pay his/her penalty, fine or sanction on the day it was imposed. (Refer to [A.C.J.A. §§ 3-401](#) and [4-301](#) for information on the Priority of Offender Payments including the time payment fee and [§ 5-103 for Enhanced Collections](#), also known as the Fill the Gap 5% set aside.)

14. Is the time payment fee added before or after the surcharges have been imposed?

The time payment fee is added after the surcharges have been imposed on the base fine. The time payment fee is imposed after it has been determined the defendant has not or will not pay his/her penalty, fine or sanction on the day imposed. The time payment fee is mandatory and cannot be waived.

- For sentences imposed for offenses committed on or after January 1, 1998 the time payment fee is \$20.
- For sentences imposed for offenses committed on or after April 22, 1993

through December 31, 1997, the time payment fee is \$12.

- For sentences imposed for offenses on or after June 28, 1989 through April 21, 1993, the time payment fee is \$8.

Part II
PROPORTIONAL REDUCTION

15. *May the judge reduce the total amount of fine and surcharges if the payment would work a hardship on a person?*

Yes. If a reduction is made, the fine and surcharges must be reduced proportionately. However, if a mandatory fine or sanction is included, the amount may not be reduced to an amount less than the mandatory minimum fine or sanction. The 2011 Additional Assessment and the Victims' Rights Enhancement Assessment requires the courts impose the assessment where applicable but does not specifically prohibit the court from waiving or reducing the amount of the assessment.

However, there are exceptions to the provisions of A.R.S. §§ 12-116.01 and 12-116.02 allowing reduction of surcharges. Effective March 13, 2004, the additions to the operating under the influence statutes of A.R.S. §§ 5-395.01, 28-1389 and 28-8292 **prohibit** the court from waiving a fine or assessment pursuant to those articles or a surcharge imposed pursuant to section 12-116.01 or 12-116.02. This means that the court **cannot** reduce the total fines, surcharges, civil assessments and PCOF for any conviction for operating under the influence statutes.

16. *How are non-mandatory fines or sanctions and surcharges proportionately reduced?*

To proportionately reduce a non-mandatory fine or sanction and surcharges for a violation occurring on or after September 19, 2007, the original assessment must be determined first. In this example, the original assessment is:

- If the judge waives one-half the base fine or total amount due the new totals are:

\$ 50.00	Original Base Fine
\$ 41.50	83% surcharge (\$50 base fine x .83)
\$ 10.00	Half of the \$20 Probation Assessment
\$ 1.00	Half of the \$2 Victims' Rights Enhancement
<u>\$ 6.50</u>	Half of the \$13 2011 Additional Assessment
\$ 109.00	NEW TOTAL AMOUNT DUE

- If the judge reduces the original total amount due to a total of \$35, first determine the percentage of the fine, the 83% surcharge, \$20 Probation Assessment, \$2 Victims' Rights Enhancement Assessment and \$13 2011

Additional Assessment are to the total amount due. Then multiply the \$35 by those percentages to determine the amount of the fine and surcharges.

Example: Original Total Due: \$218.00

<u>\$ 100.00</u>	45.87% =	Base fine to total
\$ 218.00		
 <u>\$ 83.00</u>	 38.07% =	 83% surcharge to total
\$ 218.00		
 <u>\$ 20.00</u>	 9.17% =	 \$20 probation assessment
\$ 218.00		
 <u>\$ 13.00</u>	 5.96% =	 \$13 2011 additional assessment
\$ 218.00		
 <u>\$ 2.00</u>	 0.92% =	 \$2 victims' rights enhancement assessment
\$ 218.00		
 \$ 35.00	 NEW TOTAL FINE AND SURCHARGES DUE	
 \$ 35.00 X	 45.87% =	 \$ 16.06 New base fine
\$ 35.00 X	38.07% =	\$ 13.33 83% surcharge
\$ 35.00 X	9.17% =	\$ 3.21 Probation Assessment
\$ 35.00 X	5.96% =	\$ 2.09 2011 Additional Assessment
\$ 35.00 X	0.92% =	\$ 0.32 Victims' Rights Enhancement Assessment

17. How are MANDATORY fines or sanctions and surcharges reduced?

If an amount which includes a mandatory minimum fine or sanction is reduced, the base fine amount may not be reduced to an amount less than the mandatory minimum. The percentage surcharges and the Probation Assessment must be reduced proportionately. The statute does not permit you to reduce or waive one percentage surcharge and not the other one. The \$13 2011 Additional Assessment and \$2 Victims' Rights Enhancement Assessment may be reduced in the same manner.

The additions to the Operating Under the Influence statutes of A.R.S. §§ 5-395.01, 28-1389 and 28-8292 **prohibit** the court from waiving a fine or assessment pursuant to those articles or a surcharge imposed pursuant to section 12-116.01 or 12-116.02.

The following information does not apply to violations of A.R.S. §§ 5-395.01, 5-395, 5-396, 5-397, 28-1381, 28-1382, 28-1383, 28-8282, 28-8284, 28-8286, 13-8287 and 28-8288.

For violations that occur on or after January 1, 2015:

To proportionately reduce an amount which includes a mandatory minimum fine or sanction for a violation, which occurs on or after September 19, 2007, the original assessment must be determined first. In this example, the original assessment is:

\$ 300.00	Original Mandatory Base Fine
\$ 249.00	83% surcharge (\$300 base fine x .83)
\$ 20.00	\$20 Probation Assessment
\$ 2.00	\$2 Victims' Rights Enhancement Assessment
<u>\$ 13.00</u>	\$13 Additional Assessment
\$ 584.00	ORIGINAL TOTAL AMOUNT DUE

If the judge reduces the original total amount due to \$400.00:

- 1) Determine the percentage the 83% surcharges, \$13 2011 Additional Assessment, \$2 Victims' Rights Enhancement Assessment and \$20 Probation Assessment are to the total surcharges.

\$ 584.00	Original total amount due
<u>\$ (300.00)</u>	Mandatory minimum base fine
\$ 284.00	Total surcharges and assessments due
\$ 284.00	Total surcharges and assessments due
<u>\$ (20.00)</u>	\$20 Probation Assessment
\$ 264.00	
\$ 264.00	
<u>\$ (13.00)</u>	\$13 2011 Additional Assessment
\$ 251.00	
\$ 251.00	
<u>\$ (2.00)</u>	\$2 Victims' Rights Enhancement Assessment
\$ 249.00	
<u>\$ 249.00 =</u>	87.68%
\$ 284.00	Total surcharges and assessments due
<u>\$ 20.00 =</u>	7.04%
\$ 284.00	Total surcharges and assessments due
<u>\$ 13.00 =</u>	4.58%
\$ 284.00	Total surcharges and assessments due
<u>\$ 2.00 =</u>	0.70%
\$ 284.00	Total surcharges and assessments due

2) Subtract the mandatory base fine or sanction from the new total amount due:

\$ 400.00	New total amount due
<u>\$ (300.00)</u>	Mandatory base fine (may not be reduced)
\$ 100.00	Amount to be divided proportionately between the 83% surcharge, \$13 Additional Assessment, \$2 Victims' Rights Enhancement Assessment and \$20 Probation Assessment

3) Multiply the \$100.00 by the proportion for each of the three assessments and add the new surcharge amounts to the mandatory base fine:

\$ 87.68	83% surcharges (\$100 x 87.68%)
\$ 7.04	\$20 Probation Assessment (\$100 x 7.04%)
\$ 4.58	\$13 2011 Additional Assessment (\$100 x 4.58%)
\$ 0.70	\$2 Victims' Rights Enhancement Assessment (\$100 x .70%)
<u>\$ 100.00</u>	
\$ 100.00	Total Surcharges and Assessments
\$ 300.00	Mandatory Base Fine
<u>\$ 400.00</u>	Total Amount Due

18. *May the judge waive or reduce the surcharges if the payment would work a hardship on a person?*

Yes, if the total amount due includes a **mandatory** minimum fine or sanction. Only the surcharges are waived or reduced proportionately in this case. (Refer to question #17 for example.) The court may waive all or part of the Probation Assessment in the same manner and subject to the same limitations provided for the waiver of surcharges in section 12-116.01, subsection F and section 12-116.02, subsection D.

Effective March 13, 2004, there are **exceptions** to the provisions of A.R.S. §§ 12-116.01 and 12-116.02 allowing reduction of surcharges. The additions to the Operating Under the Influence statutes of A.R.S. §§ 5-395.01, 28-1389 and 28-8292 **prohibit** the court from waiving a fine or assessment pursuant to those articles or a surcharge imposed pursuant to section 12-116.01 or 12-116.02.

No, if the total amount due includes a **non-mandatory** minimum fine or sanction. The fine and surcharges must be reduced proportionately¹ in this case. (Refer to question #16 for example.)

¹ A.R.S. § 12.116.01(F). The judge may waive all or part of the civil penalty, fine, forfeiture and surcharge, except for mandatory civil penalties and fines, the payment of which would work a hardship on the persons convicted or adjudicated or on their immediate families. If a fine or civil penalty is mandatory, the judge may waive only all or part of the surcharges prescribed by subsections A, B and C of this section and section 12-116.02. If a fine or civil penalty is not mandatory and if a portion of the civil penalty, fine, forfeiture and surcharge is waived or suspended, the amount assessed must be divided according to the proportion that the civil penalty, fine, bail or bond and the surcharge represent of the total amount due.

Part III

PAYMENT DISTRIBUTION

19. *How are partial payments applied to fines or sanctions and surcharges?*

Partial payments received on amounts imposed for violations that occur from and after January 1, 1994 are applied proportionately to the fine and surcharges. There are several ways of doing this. Each court should use the method that works best based on its operations. Below are examples showing partial payments received for violations occurring on and after January 1, 2015.

The following fine and surcharge proportions are used when applying payments to fines and surcharges imposed for violations occurring on or after September 19, 2007, unless the amount due includes surcharges which were reduced or waived on a mandatory fine or sanction. If the amount due includes a mandatory fine or sanction and the surcharges were reduced or waived, new proportions would need to be calculated. (Refer to question #17 for examples on how payments are applied.)

First, the total amount due (fine + 83% surcharge + \$13 for the 2011 Additional Assessment + \$20 for the Probation Assessment + \$2 Victims' Rights Enhancement Assessment) needs to be calculated. Then the percent each component is to the total amount due needs to be calculated. The percent varies from case to case (Refer to question # 10 for examples on how to perform these calculations)

These proportions are found by dividing the fines, assessments and surcharges individually by the combined total of fines, assessments and surcharges (Refer to question #11 for additional information).

To demonstrate, in this example, payments are applied to an account established for an individual who was convicted of a violation, which occurred on or after January 1, 2015. The court imposed a \$250 fine + \$207.50 83% surcharge + \$20 Probation Assessment + \$13 for the 2011 Additional Assessment + \$2 Victims' Rights Enhancement Assessment + \$20 time payment fee, for a total due of \$512.50.

REMEMBER: Payments are **always** applied to restitution first, then to the JCEF time payment fee, pursuant to A.R.S. § 12-116, and then to fines and surcharges. Note that in this example, no restitution is due. Payment of \$200 was collected the same day the fine was imposed. First, apply \$20 to the time payment fee. Then, apply the remaining \$180 proportionately to the fine and surcharges. To determine how to proportionally divide the payment, the fine and the surcharges must be calculated as a percentage of the \$180 payment.

Example:

\$ 250.00	Base fine
\$ 207.50	83% surcharge
\$ 20.00	\$20 probation surcharge
\$ 2.00	\$2 Victims' Rights Enhancement Assessment
\$ 13.00	\$13 Additional Assessment
<u>\$ 492.50</u>	Total fine and surcharges due
\$ 250.00	Base fine = 50.76%
<u>\$ 492.50</u>	Total due
\$ 207.50	83% surcharge = 42.13%
<u>\$ 492.50</u>	Total due
\$ 20.00	\$20 Probation Assessment =4.06%
<u>\$ 492.50</u>	
\$ 2.00	\$2 Victims' Rights Enhancement Assessment=0.41%
<u>\$ 492.50</u>	
\$ 13.00	\$13 Additional Assessment =2.64%
<u>\$ 492.50</u>	

Multiply the \$180 by the resulting proportions identified above

\$ 180.00	x	50.76%	=	\$91.37	Base fine
\$ 180.00	x	42.13%	=	\$75.84	83% surcharge
\$ 180.00	x	4.06%	=	\$7.31	\$20 probation assessment
\$ 180.00	x	0.41%	=	\$0.73	\$2 victims' rights enhancement assessment
\$ 180.00	x	2.64%	=	\$4.75	\$13 additional assessment

Case Financial Record

Distribution		Time Payment	Base Fine	83% State Surcharges	Probation Assess't	2011 Add'l Assess't	Victims' Enhan. Assess't	Total
Total Judgment		\$20.00	\$250.00	\$207.50	\$20.00	\$13.00	\$2.00	\$512.50
Payment #1	\$200.00	-\$20.00	-\$91.37	-\$75.84	-\$7.31	-\$4.75	-\$0.73	-\$200.00
New Balance Due		\$0.00	\$158.63	\$131.66	\$12.69	\$8.25	\$1.27	\$312.50

The person makes a \$200 payment. Multiply the \$200 by 50.76% to determine the amount to be applied to the fine. Multiply the \$200 by 42.13% to determine the amount to be applied to the 83% surcharges. Multiply the \$200 by 4.06% to determine the amount to be applied to the Probation Assessment. Multiply the \$200 by 0.41% to determine the amount to be applied to the \$2 Victims' Rights Enhancement Assessment. Multiply the \$200 by 2.64% to determine the amount to be applied to the 2011 Additional Assessment.

Distribution		Time Payment	Base Fine	83% State Surcharges	Probation Assess't	2011 Add'l Assess't	Victims' Enhan. Assess't	Total
Total Judgment		\$0.00	\$158.63	\$131.66	\$12.69	\$8.25	\$1.27	\$312.50
Payment #2	\$200.00	\$0.00	-\$101.52	-\$84.26	-\$8.12	-\$5.28	-\$0.81	-\$200.00
New Balance Due		\$0.00	\$57.11	\$47.40	\$4.57	\$2.97	\$0.46	\$112.50

The person makes a final payment. Apply it to the outstanding balance.

Distribution		Time Payment	Base Fine	83% State Surcharges	Probation Assess't	2011 Add'l Assess't	Victims' Enhan. Assess't	Total
Total Judgment		\$0.00	\$57.11	\$47.40	\$4.57	\$2.97	\$0.46	\$112.50
Payment #3	\$112.50	\$0.00	-\$57.11	-\$47.40	-\$4.57	-\$2.97	-\$0.46	-\$112.50
New Balance Due		\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00

20. When partial payments are applied proportionately, does that mean 50% of the payment goes to the fine, and 50% goes to the surcharges?

No. When applying a partial payment proportionately, divide the payment in proportion to what the unpaid components represent to the total unpaid balance. Include restitution, time payments fee, fines, 83% surcharges, \$13 for the 2011 Additional Assessment, \$2 Victims' Enhancement Assessment, \$20 Probation Assessment and local assessments. The percentages vary from case to case. (Refer to number #16).

21. How are payments applied to fines or sanctions and surcharges imposed if the amount due includes a MANDATORY fine or sanction AND the surcharges were reduced?

When surcharges are reduced on mandatory fines, the proportions will be different

from one case to the next. The method for determining the proportions will be the same no matter when the violation occurred. To determine the proportions of fine and surcharges, divide the fine amount by the total of the fines and surcharges. Then divide the surcharge amount by the total of fine and surcharges. (Refer to number 17).

22. *How are partial payments applied on and after January 1, 1994, for violations that occurred prior to January 1, 1994?*

Payment are applied proportionally according to A.R.S. §§ 12-116.01 and 12-116.02. (Refer to # 26)

23. *How are payments applied if other amounts are imposed in addition to restitution, time payment fee, fine or surcharges (example: public defender reimbursement fee, jail cost reimbursement fee, default fee, warrant fee, etc.)?*

Pursuant to A.R.S. § 13-809, payments are applied first to restitution and then the time payment fee, A.R.S. § 12-116, then according to A.R.S. §§ 12-116.01 and 12-116.02 to fines, sanctions, assessments and the 83% surcharges. For additional guidance refer to A.C.J.A. §§ [3-401](#) and [4-301](#) for priority of payments and § [5-103](#) for enhanced collections, Fill the Gap.

Part IV
REMITTANCE REPORTS

24. If I have used the 83% total surcharge amount for assessment purposes, how do I divide the amount collected into the CJEF, MSEF, CEF, FTG, and DNA proportions?

These proportions are found by dividing the 47% CJEF surcharge by the total of 83% surcharges, by dividing the 13% MSEF surcharge by the total of 83% surcharges, by dividing the 10% CEF surcharge by the total of 83% surcharges, by dividing the 7% FTG surcharge by the total of 83% surcharges and by dividing the 6% DNA surcharge by the total of 83% surcharges:

$\frac{47\%}{83\%}$	CJEF surcharge divided by 83% surcharges	=	56.63%
$\frac{13\%}{83\%}$	MSEF surcharge divided by 83% surcharges	=	15.66%
$\frac{10\%}{83\%}$	CEF surcharge divided by 83% surcharges	=	12.05%
$\frac{7\%}{83\%}$	FTG surcharge divided by 83% surcharges	=	8.43%
$\frac{6\%}{83\%}$	DNA surcharge divided by 83% surcharges	=	7.23%

EXAMPLE: Assume you have collected \$1,000 in the 83% surcharges [1]

\$1,000	x	56.63%	=	\$566.27	portion to remit to CJEF
\$1,000	x	15.66%	=	\$156.63	portion to remit to MSEF
\$1,000	x	12.05%	=	\$120.48	portion to remit to CEF
\$1,000	x	8.43%	=	\$84.34	portion to remit to FTG
\$1,000	x	7.23%	=	\$72.29	portion to remit to DNA

25. Does the city or county treasurer transmit these old surcharges collected by the court to individual state treasurer accounts?

OLD SURCHARGES (Before January 1, 1994):

- 37% & 40% Criminal Justice Enhancement Fund (CJEF) A.R.S. § 41-2403
- \$10 Emergency Medical Services Operating Fund (EMSOF), A.R.S. § 36-2219
- \$35 Emergency Medical Services Operating Fund (EMSOF), A.R.S. § 36-2219
- \$10 additional EMSOF on seat belt violations, A.R.S. § 36-2219
- \$10 Crime Laboratory Assessment Fund (CLAF), A.R.S. § 13-813
- \$40 Alcohol Abuse and Treatment Fund (AATF), A.R.S. § 36-2219
- \$25 Victims' Rights Implementation Fund (VRIF), A.R.S. § 13-812
- \$2/mph Spinal and Head Injuries Trust Fund (SHIF), A.R.S. § 28-1076.01
- \$100/\$500 Victim Compensation Fund (VCF), A.R.S. § 13-812
- 15% DUI surcharge repealed by Laws 1982, A.R.S. § 36-142
- \$2/10% Peace Officers Training fund surcharge repealed by Laws 1982, A.R.S. § 41-1826
- Prosecuting Attorneys' Advisory Council Training Fund surcharge repealed by Laws 1982, A.R.S. § 41-1830.04

No. On January 1, 1994, all of the surcharges above were consolidated into two assessments: 46% Criminal Justice Enhancement Fund (CJEF), A.R.S. § 12-116.01, and 11% Medical Services Enhancement Fund (MSEF), A.R.S. § 12-116.02. Laws 1993, Chapter 243, § 17, required that penalty assessments imposed but unpaid as of January 1, 1994 shall be divided proportionally and transmitted pursuant to A.R.S. §§ 12-116.01 and 12-116.02.

After the city or county treasurer receives these monies from the courts, the treasurer should use the newest version of the State Remittance Report to transmit the monies to the state treasurer on or before the 15th day of each month for deposit in the Criminal Justice Enhancement Fund and Medical Services Enhancement Fund.

Some treasurers use a computer-generated remittance report and may continue to do so as long as it is revised per the new [State Treasurer Remittance Report form](#). The State Treasurer will distribute the monies to the various individual accounts.

REMEMBER: For violations occurring on or after January 1, 2015, the total surcharge

is 83% made up of the following: 47% Criminal Justice Enhancement Fund (CJEF), A.R.S. § 12-116.01A, 13% Medical Services Enhancement Fund (MSEF), A.R.S. § 12-116.02, 10 %_Clean Elections Fund (CEF), A.R.S. § 16-954C, 7% Fill The Gap (FTG), A.R.S. § 12-116.01B, and 6% DNA, A.R.S. § 12-116.01C. The Probation Assessment is \$20, A.R.S. § 12-114.01, the 2011 Additional Assessment is \$13, A.R.S. § 12-116.04 and the Victims' Rights Enhancement Assessment is \$2, A.R.S. § 12-116.09.

26. *To what accounts do I transmit surcharges since I cannot deposit monies collected for old surcharges into all the old individual surcharge accounts as of January 1, 1994?*

Add all surcharges imposed on fines and sanctions which are collected for violations occurring prior to September 1, 1995, and divide them proportionally to the funds that were in existence at that time: 80.7% to Criminal Justice Enhancement Fund and 19.3% to Medical Services Enhancement Fund before reporting the collections to your city or county treasurer. Do not report or remit funds to any of the other old surcharges for violations that occurred prior to January 1, 1994².

² Laws 1993, Chapter 243, § 17, consolidated surcharges as a 47% Criminal Justice Enhancement fund and a 11% Medical Services Enhancement Fund beginning January 1, 1994.