

Arizona Judicial Council

October 2017 Legislative Update

2018-01 driver license; sanctions; civil traffic violations

Permits the court to restrict, in addition to suspend, a person's driver license or permit to drive as a sanction for non-major traffic offenses, and Failure to pay a civil traffic penalty. Defines the scope of restrictions that may be placed on a license and makes consistent the scope of restrictions throughout the code.

Adds assessments to the list of financial obligations the Supreme Court may include in the current statutorily authorized program intended to reduce the amount of outstanding fines, penalties and surcharges.

The court may employ alternative sanctions to community restitution ordered upon a DUI conviction if the court determines that education, treatment or other alternative sanctions are more appropriate.

Permits the court to mitigate, though not completely waive, any mandatory civil penalty if the payment would cause a hardship on the person convicted or on the person's immediate family. Outlines factors for the court to consider when determining whether to mitigate a civil penalty.

Reclassifies Driving on a license suspended for Failure to appear or pay a civil traffic violation and Driving without corrective lenses, to a civil traffic violation.

Removes the requirement that law enforcement impound a vehicle if a person is driving on a suspended license. Retains the requirement if the person is driving on a revoked license.

Provides for a delayed effective date of January 1, 2019.

Titles affected: 25, 28

2018-02: Criminal offenses; monetary obligations

Permits a judge to mitigate, though not completely waive, any fine if the payment would cause a hardship on the person convicted or on the person's immediate family. Outlines factors for the court to consider when determining whether to mitigate a fine. Permits a judge to waive all or part of mandatory community restitution due to the medical condition of the defendant unless the community restitution is ordered in lieu of incarceration.

Adds civil penalties and surcharges to the list of financial obligations for which a court may order community restitution in lieu of payment after a finding that the defendant is unable to pay all or part of the monetary obligation. Expands the community restitution program to superior court. The community restitution program does not apply to the Clean Elections surcharge.

Reduces the annual interest that accrues on a criminal restitution order in favor of the state from 10% to 4%. Interest on a criminal restitution order in favor of the victim or the state on behalf of the victim remains at 10%.

Permits an Order to Show Cause hearing and resulting consequences and garnishment if a defendant fails to pay a surcharge or assessment ordered by the court. Current law provides for such a hearing and garnishment for failure to pay other court ordered monetary obligations.

Allows a probationer to be eligible for the earned time credit if restitution payments are current and the probationer is in compliance with all other nonmonetary obligations.

Removes the ability to revoke probation at a civil contempt hearing and substitutes the ability to refer for revocation as provided by law. Transfers the portions of statute authorizing revocation to the appropriate criminal code.

Provides for a delayed effective date of January 1, 2019

Titles affected: 12, 13, 31, 41

2018-03 sentencing; misdemeanors

Authorizes a court to impose a term of community restitution, education or treatment in addition to any other authorized for misdemeanor offenses. Directs the court to determine and fix the number of community restitution hours that must be performed and the program of education or treatment, however, limits the length of time a person may be sentenced to education or treatment to the term of probation permitted under law. Does not preclude the imposition of any other sentence permitted by law.

Title affected: 13

2018-04 Release procedures; bail

Withdrawn

2018-05 Employment; monitoring of wages

Repeals antiquated language requiring chief adult probation officers to collect, deposit, and distribute wages payed by paycheck to a probationer and then parse out for court ordered financial obligations. Requires a person's probation officer monitor the person's income to ensure compliance with court ordered financial obligations. Many paychecks are direct deposited.

Title affected: 13

2018-06 probate practice; procedure

Makes a conforming change to the probate code, replacing a reference to the Rules of Civil Procedure with a reference to the Rules of Probate Procedure.

Titles affected: 14

2018-07: mitigation of fine; community restitution waiver

Withdrawn

2018-08: juvenile court facilities; use

Allows the presiding judge of the superior court, if appropriate facilities are available to the juvenile court, to authorize court staff to provide services within the facility.

Title affected: 8