

IN THE SUPREME COURT OF THE STATE OF ARIZONA

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In the Matter of:	)	
	)	
AMENDING ARIZONA CODE OF	)	Administrative Order
JUDICIAL ADMINISTRATION	)	No. 2023 - <u>190</u>
§ 4-301: PRIORITY OF OFFENDER	)	(Affecting Administrative
PAYMENTS	)	Order No. 2009-25)
	)	

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Pursuant to the Arizona Code of Judicial Administration (ACJA) § 1-201(E), the Chief Justice may adopt technical changes in existing administrative code sections by administrative order without prior distribution for comment and action by the Arizona Judicial Council.

Therefore, pursuant to Article VI, Section 3, of the Arizona Constitution,

IT IS ORDERED that the amendments to ACJA § 4-301 as indicated on the attached document are adopted. All other provisions of § 4-301 remain unchanged and in effect.

Dated this 8th day of November, 2023.

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ROBERT BRUTINEL  
Chief Justice

**ARIZONA CODE OF JUDICIAL ADMINISTRATION**  
**Part 4: Limited Jurisdiction Court**  
**Chapter 3: Administration**  
**Section 4-301: Priority of Offender Payments**

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

\* \* \*

“Category” means the type of obligation, such as restitution, time payment fee, fines and surcharges, prison construction and operations ~~fund~~-assessments, or driving under the influence (DUI) abatement ~~fees~~-assessments.

“Collections fee” means a percentage-based fee imposed on the offender for collection agency services to collect unpaid court obligations, including the “FARE Special Collections” fee.

\* \* \*

“Misdemeanor” means statute or local ordinance violations that are designated as a misdemeanor and include operating under the influence, criminal traffic, ~~or~~ and non-traffic criminal offenses.

\* \* \*

“Other fees or reimbursable costs” means any fees or reimbursable costs authorized by statute or local ordinance and imposed pursuant to court order, excluding collection fees. These include, but are not limited to: -non-sufficient fund fees, probation fees, process server costs, court-appointed attorney fees, default fees, warrant fees, local court/public safety enhancement ~~funds~~-fees, substance abuse screening fees, and jail costs.

\* \* \*

**B. and C. [No change]**

**D. Application of payments to cases and payment plans**

± 1. In the absence of a specific request by the offender or a judicial directive, the court shall apply a payment in the following order:

a. and b. [No change]

2. Whether the court applies the payment to a payment plan or to obligation(s) not associated with a payment plan, the court shall apply the payment as provided by subsection (E).

3. [No change in text]

- a. and b. [No change]
  - c. Associated with a specific case; or,
  - d. [No change]
4. On request by a payor, the court may allow:
- a. [No change]
  - b. Payment-in-full of all obligations taken into account for the Traffic Ticket Enforcement Assistance Program (TTEAP) in order to release a registration hold;
  - c. Payment-in-full of all defaulted civil traffic charges in order to obtain driver license reinstatement; or,
  - d. [No change]
5. and 6. [No change]

**E. Application of payments to obligations.** The court shall apply payments to the categories and subcategories of obligations in the order listed below, except as provided in subsections (F) and (G). If there are two or more unpaid obligations within a category or subcategory, the court shall apply the payment between or amongst the obligations in any reasonable manner consistent with statute, rules of court, local ordinance, administrative order, or local rule. If the unpaid obligations are equal in priority within a category or subcategory, the court shall establish policies to apply the payment either proportionately, oldest case first, or smallest unpaid balance.

- 1. Pursuant to A.R.S. § 13-809(A), “~~the~~ . . . payment and enforcement of restitution take priority over payments to the state.”
- 2. Pursuant to A.R.S. § 12-116(A), “the time payment fee shall be collected next after restitution”.
- 3. Pursuant to supreme court administrative orders, any FARE fees, excluding FARE Special Collections fees, shall be the next priority following the time payment fee pursuant to A.R.S. § 12-116(A). The FARE Advisory Committee shall recommend the priority of payment for each FARE fee subject to review and approval by the chief justice.
- 4. [No change]
- 5. Fines, sanctions, penalties, and surcharges imposed pursuant to court order shall be the next priority. The local jurisdiction may elect to apply payment to either criminal charges or civil traffic charges first. After criminal charges and civil traffic charges,

payment shall next be applied to obligations associated with violations of non-parking civil ordinances and only then to obligations associated with parking violations. Pursuant to A.R.S §§ 12-116.01 and 12-116.02, fines and penalties shall be paid proportionately with their associated surcharges.

6. and 7. [No change]
8. Any financial obligation not included in subsections ~~(E)(1)-E(7)~~ shall be paid after ~~(E)(1)-E(7)~~.
9. The DUI abatement ~~fee~~-assessment shall be the next priority pursuant to A.R.S. §§ 28-1382(D)(~~2-3~~), ~~(F)(3)~~, and (E)(3) and 28-1383(J)(2).

#### **F. Terminated Payment Plans**

1. If an offender does not comply with the terms of the payment plan, the payment plan shall be terminated and the obligation shall be eligible for collections efforts and payment applied in compliance with subsection ~~(D)(1)~~. The court shall have a written policy that states if it allows a period of time after the due date and prior to the actual termination of the payment plan. If the court does allow it, the court shall state the amount of time is allowed before terminating the payment plan. Payments received during this time period shall be applied as though received on or before the due date.
2. When a defendant mails in a partial payment on a terminated payment plan and a warrant or default has been issued, the payment is applied to the case in accordance with subsection ~~(E)~~, taking into account the additional fees, if any, attributed to the delinquency.

#### **G. Exceptions**

1. If the court has assessed a collections fee on a delinquent obligation, the fee is added to the unpaid court obligation and this amount becomes the total balance due. Any payment received shall be applied proportionately between the collections fee and the delinquent court obligation. The delinquent court obligation portion of the payment shall be applied as specified in subsection ~~(E)~~.
2. A court may elect to apply payment to all obligations arising from a given charge before applying payment to obligations arising from another charge associated with the same case. In doing so, the priority of payments for obligations on a given charge shall follow the priority specified in subsection ~~(E)~~.

#### **H. [No change]**