

IN THE SUPREME COURT OF THE STATE OF ARIZONA

In the Matter of:)	
)	
AMENDING ARIZONA CODE OF)	Administrative Order
JUDICIAL ADMINISTRATION)	No. 2017 - <u>89</u>
§ 5-205: COLLECTIONS)	(Replacing Administrative
)	Order No. 2017-76)
)	

Pursuant to the Arizona Code of Judicial Administration § 1-201(E), the Chief Justice may adopt emergency administrative code proposals and technical changes in existing code sections by administrative order without prior distribution for comment and action by the Arizona Judicial Council. Technical changes are needed to properly integrate the new changes adopted by Administrative Order 2017-76 with the existing language.

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

IT IS ORDERED that Arizona Code of Judicial Administration § 5-205 is amended as indicated on the attached document. All other provisions of § 5-205 remain unchanged and in effect.

Dated this 19th day of July, 2017.

SCOTT BALES
Chief Justice

ARIZONA CODE OF JUDICIAL ADMINISTRATION
Part 5: Court Operations
Chapter 2: Programs and Standards
Section 5-205: Collections

A. Definitions. In this section, the following definitions apply:

“~~Amnesty~~ Fine reduction program” means a program to reduce the amount of outstanding criminal and civil traffic fines, penalties, and surcharges pursuant to A.R.S. § 28-1601.

“Court” or “courts” means the limited jurisdiction courts or superior court in each county.

“Delinquent cases” means all cases for which court ordered financial obligations have not been paid and not been otherwise assigned to private collection services, or actively worked by a warrant officer or other governmental collection activity.

“DSO/TIP program” means the debt setoff/tax intercept program established by A.R.S. § 42-1122.

“DSO/TIP participants” means the limited jurisdiction courts, the superior court, county attorney’s office, and probation departments in each county participating in the DSO/TIP program.

“Excess FARE revenue” means the remaining balance of any revenues in the FARE fund after payment of the FARE vendor, other governmental agencies and the Administrative Office of the Courts (AOC) for costs incurred.

“Expansion” means any activity that requires capital fund expenditures, binding contractual obligations or technology development or enhancement, including web related services. It does not include maintenance of existing collection services or renewal of an existing contract.

“Extraordinary circumstances” means incarceration, deployment for military service, hospitalization, a serious medical illness or a death in the immediate family that would prevent payment of any fines, fees or restitution.

“FARE” means the fines/fees and restitution enforcement program established to collect delinquent court ordered restitution, fines, fees, and surcharges.

“FARE fund” means an account established by the supreme court with the state treasurer and the General Accounting Office.

“FARE participant” means a court participating in the FARE program.

“FARE vendor” means the vendor contracted with the AOC to provide FARE program services.

“State tax intercept” means the interception of a state tax refund through the Arizona Department of Revenue for the payment of delinquent restitution, fines, fees, and surcharges.

“TTEAP” means the Traffic Ticket Enforcement Assistance Program established by A.R.S. §§ 28-1630 et seq., where a hold is placed on the registration of all vehicles registered to the defendant until all delinquent restitution fines, fees, and surcharges have been paid or a waiver has been issued.

“Vendor” means a contracted vendor to provide collection services to a court.

B. through H. [no changes]

I. ~~Amnesty~~ Fine Reduction Programs

1. The presiding judge of any court may periodically conduct a program for the purpose of reducing the amount of outstanding criminal and civil traffic fines, penalties, and surcharges with the prior approval of the supreme court, in accordance with A.R.S. §28-1601, and Administrative Order No. 97-57.
2. Prior to conducting ~~an amnesty~~ a fine reduction program, the court shall have exhausted all available collection opportunities including utilization of the FARE program.
3. Proposed ~~amnesty~~ fine reduction programs must meet all the following criteria:
 - a. The purpose of the program shall be to reduce outstanding criminal and civil traffic fines, penalties, and surcharges which are at least twelve months delinquent.
 - b. The program shall provide for reduction of the outstanding amounts due up to 50%. All categories of receivables due (fines, penalties, sanctions, and surcharges), including the FARE special collections fee, shall be reduced proportionately. The time payment fee imposed pursuant to A.R.S. § 12-116, the FARE general services fee, and the FARE delinquency fee shall not be reduced or waived.
 - c. The proposed program shall apply exclusively to penalties and surcharges resulting from criminal and civil traffic violations, except a fine ordered as a result of a violation of A.R.S. §§ 28-1381 or -1382.
4. ~~Any proposed amnesty~~ A fine reduction program shall include the following elements:
 - a. Identification of the last time the court conducted ~~an amnesty~~ a fine reduction program. ~~Amnesty programs shall not be conducted more than once every five years.~~
 - b. A description of existing in-house collection efforts or efforts with a vendor or the FARE program, including results of those efforts. If no collection activity has taken

place, then an explanation of why these cases should not be forwarded first to the FARE program.

- c. The beginning and ending date of the proposed ~~amnesty~~ fine reduction program. The program duration shall not exceed 60 days.
 - d. A defined schedule of which violations/violators shall be eligible for the program. Delinquent amounts shall be at least twelve months delinquent. The program shall note that ~~penalties~~ fines and surcharges as a result of A.R.S. §§ 28-1381(~~DUI~~) and - 1382 ~~or~~ and other non-traffic related criminal ~~or traffic~~-offense statutes shall not be eligible for the program.
 - e. A defined schedule of how fines, penalties, and surcharges shall be reduced. The schedule shall state the amount of the reduction, the criteria which determine the amount of reduction, how the deduction will be applied consistently across all eligible violations and procedures the violators will follow to receive the reduction.
 - f. The procedure that shall be used to notify violators eligible to participate in the program.
 - g. A plan for court staff, judges and facilities that shall be used to handle increased workload as a result of the program.
 - h. A plan that shall measure the program goals and objectives. Suggested measurements include:
 - (1) Outstanding receivables at the beginning of the program, planned percentage reduction in receivables and actual percentage of reduction at the end of the program.
 - (2) Number of cases with delinquent receivables at the beginning of the program.
 - (3) Estimated cost to run the program and the actual cost to run the program in excess of normal operating costs.
 - (4) Cost per dollar collected compared to actual program costs.
 - i. A plan for increased enforcement efforts for those cases/penalties not closed during the program and the expected results.
 - j. A plan for involvement of other agencies or departments in the program including a resource impact statement and what contacts have been made to involve them.
5. ~~Amnesty~~ Fine reduction program proposals shall be reviewed according to the following:
- a. The presiding judge of the court and the presiding judge of the county shall sign the proposal.

- b. The presiding judge of the court shall submit the proposal to the AOC court services division director 60 days prior to the anticipated start date for the program.
 - c. The AOC court services director shall send recommendations for program approval to the administrative director for final approval.
 - d. The AOC court services director shall notify the court within 30 days of the approval or disapproval, or if additional information is required.
6. Within 30 days of program completion the court shall forward an “end-of-project” report to the AOC court services director which shall include a description of the program implementation and the statistical measures of the program’s achievements to the stated goals and objectives.