

IN THE SUPREME COURT OF THE STATE OF ARIZONA

In the Matter of:)	
)	
ARIZONA CODE OF JUDICIAL)	Administrative Order
ADMINISTRATION § 5-205:)	<u>No. 2009 - 29</u>
COLLECTIONS)	
)	
)	
)	

The above captioned provision having come before the Arizona Judicial Council on March 19, 2009, 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 25th day of March, 2009.

RUTH V. MCGREGOR
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 program” means a program to reduce the amount of outstanding civil traffic 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. Purpose. This section is intended to result in the effective administration of statewide collection programs with the goals of compliance with and enforcement of court orders and the law, enhanced customer service, increased revenues, consistency and uniformity in case processing and efficiencies in the collection process.

C. Applicability. This section applies to all superior courts and limited jurisdiction courts.

D. Administration. The AOC shall oversee the FARE program including:

- a. Provision of local collection services to include: reminder notices, web and telephone based credit and debit card payment options, delinquency notices, installment payment plan services, referral to the DSO/TIP program, referral to the TTEAP program, electronic skip tracing, case record data enhancement, and advanced collection services including credit bureau reporting, skip tracing, outbound calling, and wage garnishment when authorized by the court.
- b. Processing of existing delinquent court cases.
- c. Provision of staff support for the FARE Advisory Committee established by Administrative Order No. 2007-39.
- d. Managing and directing of the FARE vendor in the provision of contracted services including all current and future program maintenance and enhancement.
- e. Administering the DSO/TIP program.
- f. Preparing fiscal projections and creating a budget based on those projections to fund the FARE and DSO/TIP programs.
- g. Establishing a FARE fee schedule to provide for the services of the FARE and DSO/TIP programs.
- h. Administering the FARE fund and expending revenues in the fund to pay the operational expenses incurred in the FARE and DSO/TIP programs.

- i. Recommending allocation of excess FARE revenues in the FARE fund to the Arizona Judicial Council (AJC).
- j. Maintaining operational oversight over all FARE and DSO/TIP software.
- k. Maintaining oversight of data interface with the FARE vendor, the Motor Vehicle Division (MVD) the Department of Revenue (DOR) and the Arizona Lottery (AZL).
- l. Overseeing the receipt of moneys from the DOR and AZL in response to finalized court claims and shall distribute those monies to the courts proportionately to the court claims processed.
- m. Providing user training for the FARE and DSO/TIP programs to the courts.
- n. Assisting the courts in resolving identity and data related discrepancies between the courts, the FARE vendor, MVD, DOR and AZL.
- o. Ensuring connectivity between the FARE vendor, the administrative office, MVD and the local courts. The AOC shall also ensure connectivity between the administrative office and DOR.

E. General Provisions for FARE Participants. FARE participants shall:

- 1. Comply with the business and technical specifications established by the FARE court pioneers, available on the FARE web site.
- 2. Submit a court participation information form to the AOC on forms provided by the AOC when preparing to join the FARE program.
- 3. Be responsible for entering all applicable data into the case management system.
- 4. Be responsible for receipting all payments into the case management system.
- 5. Establish an account with a financial institution for the acceptance of funds received from Internet and telephone payments.
- 6. Refer all delinquent cases to the FARE vendor for special collection services, unless the court has an approved local collection plan and these cases are assigned to a vendor pursuant to the plan. The AOC shall determine which delinquent debt qualifies for special collection services according to criteria established by the AOC.
- 7. Transmit all FARE fees through the city or county treasurer, as appropriate, to the state treasurer. All fees collected/accumulated during the previous month shall be transmitted to the state treasurer by the fifteenth of the succeeding month.

F. General Provisions for DSO/TIP Participants. DSO/TIP participants shall:

1. Submit a DSO/TIP participant's agreement in the form provided by the AOC.
2. Ensure that all social security number, case, person, and balance information submitted to the DSO/TIP program has been reviewed for accuracy and shall make all necessary corrections to ensure accurate and complete data is submitted timely.
3. Review interceptions by the DOR for validity within ten days of receipt. Erroneous interceptions shall be released immediately. DSO/TIP participants are responsible for all applicable DOR fees, penalties and interest per A.R.S. § 42-1122(O).
4. Finalize all interceptions within 30 days of receipt from DOR. DSO/TIP participants that do not comply with the 30-day finalization limit shall refund to the debtor any applicable DOR fees, penalties and interest incurred.
5. Receipt all valid interceptions into the case management system.
6. Remit to the AOC the DOR intercept fees upon receipt of the fee invoice.

G. Local Collection Services.

1. Courts planning expansion of existing collection services, independent of or separate from the FARE program, shall submit such plan to the AJC for approval prior to proceeding with development and implementation.
2. Courts that did not have collection services prior to August 12, 2003, shall not develop a program or contract with a private vendor for collection services without approval of the plan by the AJC.
3. Courts planning development or expansion of a collection program shall provide the AJC a report that describes the following information, at a minimum:
 - a. A comparison of the court's existing collection program (if any) versus expansion.
 - b. Consistency of the local court plan with the goals of FARE.
 - c. Replication of the current services offered by FARE.
 - d. Replication of future services planned for FARE.
 - e. Ability of FARE to timely provide the needed services.
 - f. Time line for implementation of the local court plan.
 - g. Impact of subsequent transition of the court to FARE.

- h. Resource investment (personnel and financial) to implement the local court program.
 - i. Efficiency of resources of local court plan.
 - j. Opportunity for the FARE vendor to compete with other vendors for the court's collection services needs.
 - k. Compare the local court plan cost of collection with FARE.
4. Approval of court development or expansion plans is delegated to the administrative director in periods between AJC meetings.

H. FARE Collection Fees.

1. The FARE fees shall be set as follows:
 - a. A \$7 general services fee shall be assessed by a court participating in the FARE program on all charges where a sentence or judgment with a financial sanction is imposed on or after the effective date of implementation. This fee applies even if the defendant pays in full at the time of the citation. The fee does not apply if the judge orders the defendant to satisfy the full financial sanction through community service, time served, or some other non-monetary satisfaction of the sanction. The fee is not subject to any surcharge authorized by statute or city or county ordinance.
 - b. A \$35 delinquency fee shall be assessed when a case is identified as being delinquent.
 - c. A 19% special collections fee shall be assessed to all cases submitted to the FARE vendor for special collections by courts that are participating in the FARE program.
 - d. A \$10 installment payment plan fee shall be assessed if the court chooses to have the FARE vendor manage installment payment plans when all services of FARE are implemented in the court. This fee is in addition to the time payment fee imposed pursuant to A.R.S. § 12-116(A).
2. The general services fee, the delinquency fee, the special collections fee and the installment payment plan fee shall cover the provision of additional services and costs to operate the FARE program.
3. The FARE fees shall be assessed on court fees and costs reduced to judgment under A.R.S. § 12-302, and for each violation of a local ordinance, civil traffic violation, boating violation, petty offense, misdemeanor, and felony charge where a financial sanction is imposed. The FARE fees shall be added to existing cases on the date agreed for implementation of the FARE program in the court. Imposition of the FARE fees on new cases shall occur as the cases are added to the program.

4. The FARE fees shall be in addition to any fines, fees or surcharges authorized by statute or local, or city, or county ordinance.
5. The FARE fees shall be in the next category of priority for payment following the time payment fee established pursuant to A.R.S. § 12-116(A); ACJA §§ 3-401(E) and 4-301(E).
6. The FARE fees shall not apply to parking violations except for default parking violations.
7. The FARE fees shall not be waived or suspended by a judge unless the judge waives or suspends all monetary obligations.
8. The delinquency may be waived if the judge states on the record that extraordinary circumstances exist which would prevent the defendant from responding timely to the notices and satisfying the court obligation.

I. Amnesty Programs

1. The presiding judge of any court may periodically conduct a program for the purpose of reducing the amount of outstanding civil 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 program the court shall have exhausted all available collection opportunities including utilization of the FARE program.
3. Proposed amnesty programs must meet all the following criteria:
 - a. The purpose of the program shall be to reduce outstanding civil traffic penalties and surcharges which are at least twelve months delinquent.
 - b. The proposed 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, and the FARE general services fee and FARE delinquency fee shall not be reduced or waived.
 - c. The proposed program shall apply exclusively to penalties and surcharges resulting from civil traffic violations.
4. Any proposed amnesty programs shall include the following elements:
 - a. Identification of the last time the court conducted an amnesty 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 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 and surcharges as a result of A.R.S. § 28-1381(DUI) or other criminal or traffic offense statutes shall not be eligible for the program.
 - e. A defined schedule of how 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 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 proposals.

- 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 shall 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 programs achievements to the stated goals and objectives.