

ARIZONA CODE OF JUDICIAL ADMINISTRATION
Part 3: Superior Court
Chapter 4: Administration
Section 3-401: Priority of Offender Payments

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

“Account” means a composite of an individual or assessed party’s financial obligations ordered by the court or administrative assessments ordered by the probation department.

“Active case” means a case in which the offender’s criminal sentence, including a sentence to probation, has not expired.

“Allocation” means the association of a payment to a recipient. For example, restitution is allocated to victims.

“Application” means the association of a payment to a receivable account.

“Arrearage” means an amount owed the court that is past the payment due date.

“Assessed party” means a person or entity that has not been adjudicated or convicted but has been ordered to pay a financial obligation to the court or probation department.

“Category” means one of the following receivable types: restitution, time payment fee, probation service fees, attorney fees, reimbursement fees, fines and surcharges, driving under the influence (DUI) abatement fee, and other assessments.

“Clerk” means the clerk’s office of the superior court.

“Court” means the superior court in Arizona.

“Current” means all scheduled payments have been paid on or before the due dates and the offender’s or assessed party’s account is up-to-date.

“Department” means either the adult or juvenile probation departments of the court.

“FARE fee” means any fee established by the supreme court for services provided to enhance enforcement of court orders.

“Inactive case” means a case in which the criminal sentence, including any probation term, has expired.

“Offender” means a person or entity convicted or adjudicated of an offense.

“Past due” means a payment that has not been received on or before the due date.

“Payment plan” means a schedule of payments ordered by the court or a probation department.

“Payment” means any amount received, or scheduled to be received, on behalf of the offender or assessed party.

“Payor” means the individual, including the offender or entity, making the offender’s payment.

“Pre-payment” means a partial or full payment received in advance of a due date, other than the next scheduled payment.

“Receivable” means the amount the offender or assessed party is ordered to pay.

B. Purpose. Az. Const. Art. 6, § 3 authorizes the supreme court to exercise administrative supervision of all the courts of the state. This section establishes procedures for collecting and allocating payments in superior court criminal cases involving adult and juvenile offenders or assessed parties.

C. Application of Payments to Cases and Payment Plans. In the absence of a specific judicial order, the clerk shall apply payment to cases and payment plans as follows:

1. First to the assessed party or offender’s court ordered monthly obligation on an active case in the highest priority order identified in subsection (D) and (E) until current through the next payment due date.
2. Then to arrearages in the assessed party or offender’s court ordered monthly obligation on an active case in the highest priority order identified in subsection (D) and (E) until current through the next payment due date. 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.
3. When the assessed party or offender is current through the next payment due date on the court ordered monthly obligation on an active case, apply additional payments in the following order:
 - a. To the oldest inactive cases according to sentencing date, where restitution was ordered until restitution is paid in full;
 - b. To the active cases where restitution was ordered until restitution is paid in full;
 - c. When restitution is paid in full for all active and inactive cases, apply payment to the oldest inactive case first in the highest priority order identified in subsection (D) and (E).

4. If a non-offender payor requests a payment application that is inconsistent with this section, return the payment to the non-offender payor.
5. Payment in full of monetary obligations on date of sentence shall take precedence over prior obligations.
6. From an outside entity that provided services to a juvenile only to the receivable for which the claim or invoice was submitted, or to the receivable designated by the payor or required by statute.

D. Application of Payments to Obligations for an Adult Offender. The clerk shall apply payments to the categories and subcategories in the following order:

1. Restitution shall be applied proportionately first to private victims and second to institutional victims, unless specifically ordered differently by the court. Any monies received for each case shall be applied first to any restitution payments in arrears in that case and next to any ordered periodic restitution payment.
2. Pursuant to A.R.S. § 12-116(A), the time payment fee shall be collected next after restitution. Only one time payment fee should be imposed on each count or case in which a time payment plan is approved, even though that plan may include, for example, a fine, a felony assessment, and restitution.
3. Any FARE fees approved by the supreme court, excluding FARE special collections fees, shall be the next priority following the time payment fee.
4. Probation service fees including monthly supervision fees, interstate processing and transfer fees.
5. Reimbursable fees such as attorney fees, (prorated per judge's order if multiple attorney fees are assessed) including indigent defense, public defender fees and prosecutor costs.
6. Fines and surcharges per judge's order including, but not limited to, surcharges as applicable, victim compensation and assistance fund sanctions.
7. The prison construction and operations assessment.
8. The public safety equipment assessment.
9. Any financial obligation not included in subsections (D)(1) - (D)(8) shall be paid after (D)(1) - (D)(8).
10. DUI abatement fee.

E. Application of Payments to Obligations for a Juvenile Offender or Assessed Party. The clerk shall apply payments to the categories and subcategories in the following order:

1. Restitution shall be applied proportionately first to private victims and second to institutional victims, unless specifically ordered differently by the court. Any monies received for each case shall be applied first to any restitution payments in arrears in that case and then next to any ordered periodic restitution payment.
2. Pursuant to A.R.S. § 12-116(A), the time payment fee shall be collected next after restitution. Only one time payment fee should be imposed on each count or case in which a time payment plan is approved, even though that plan may include, for example, a fine, a felony assessment, and restitution.
3. Any FARE fees approved by the supreme court, excluding FARE special collections fees, shall be the next priority following the time payment fee.
4. Probation service fees including monthly probation supervision fees, diversion fees, diversion citation fees and “pic-act” fees.
5. Reimbursable fees including, but not limited to:
 - a. Administrative assessment for appointment of counsel;
 - b. Attorney fees;
 - c. Detention fees;
 - d. Treatment fees, including but not limited to, family counseling, diversion treatment, and placement.
 - e. Community restitution; and
 - f. Victim fees.
6. Fines and surcharges per judge’s order including, but not limited to, juvenile monetary penalties, citation fines and applicable surcharges.
7. DUI abatement fee.

F. General Administration. If a court is unable to immediately comply with subsection (C)(3) due to programming or other automation changes, a request for an extension for implementation of this subsection may be made to the AOC and the administrative director may grant a reasonable extension.

Adopted by Administrative Order 2002-103, effective November 15, 2002. Amended by Administrative Order 2008-15, effective February 13, 2008 (effective as described in

Administrative Order 2008-15). Amended by Administrative Order 2009-24, effective February 25, 2009. Amended by Administrative Order 2011-68, effective June 15, 2011.