
2009-2010

Surcharge Guide

Effective November 24, 2009

Prepared By:

**Administrative Office of the Courts
Court Services Division
1501 W. Washington, Suite 410
Phoenix, Arizona 85007
(602) 452-9358 / Fax (602) 452-9480**

TABLE OF CONTENTS

INTRODUCTION	3
84% and \$20 PROBATION SURCHARGES	4
PROPORTIONAL REDUCTION	13
PAYMENT DISTRIBUTION	17
REMITTANCE REPORTS	21

INTRODUCTION

*The passage of Laws 2009, Chapter 5, First Special Session, **effective May 2, 2009**, increased the minimum monthly probation fee to an amount of not less than \$65. The passage of Laws 2009, Chapter 6, Third Special Session, **effective November 24, 2009**, increased the probation surcharge to \$20. The court retains the ability to waive all or part of the civil penalty or fine the payment of which would work a hardship on the persons convicted or adjudicated or on their immediate families including the probation surcharge and monthly probation fee.*

Surcharges remain at 84% and are assessed per charge, plus a \$20 probation surcharge¹.

The 84% surcharge and \$20 probation surcharge will be assessed on cases with violations from and after November 24, 2009. Surcharges also apply to local fees that are uniformly assessed when there is a determination of guilt or a finding of responsibility. Parking violations established by local ordinance are exempt from the probation surcharge.

The prior surcharges and effective violation dates are:

80%	8/22/02-9/18/07
77%	9/01/99-8/21/02
70%	2/17/99-8/31/99
60%	9/01/96-2/16/99
59%	9/01/95-8/31/96
57%	1/01/94-8/31/95

Historical Information on these surcharges is available from AOC, Court Services Division.

¹ Pursuant to A.R.S. § 12-269(C), the Maricopa County Board of Supervisors at their meeting on May 7, 2008 approved a resolution that the probation surcharge within Maricopa County be increased to \$20 effective July 1, 2008.

PART I
84% and \$20 PROBATION SURCHARGES

1. *Are all surcharges percentages based?*

No, only the probation surcharge is a flat fee, effective September 19, 2007, the surcharge percentage increased to 84% as the result of a 4% increase in the DNA surcharge. The probation surcharge increased to \$20 effective November 24, 2009 for all courts, except Maricopa County. The probation surcharge within Maricopa County increased to \$20 effective July 1, 2008 by resolution of the Maricopa County Board of Supervisors at their meeting on May 7, 2008, pursuant to A.R.S. § 12-269(C).

2. *Are the surcharges assessed based on violation date or adjudication date?*

Surcharges are assessed based on date of the violation. The time payment fee is assessed on the date the sentence is imposed if the fine is not paid in full on that date.

3. *Beginning November 24, 2009, what surcharges are assessed and of those, which are percentage based and which is a flat dollar amount?*

If the violation occurred on or after November 24, 2009, assess the following surcharges:

Percentages

- 47% Criminal Justice Enhancement Fund (CJEF), A.R.S. § 12-116.01(A)
- 13% Medical Services Enhancement Fund (MSEF), A.R.S. § 12-116.02(A)
- 10% Clean Elections Fund (CEF), A.R.S. § 16-954(C)
- 7% Fill The Gap Fund (FTG), A.R.S. § 12-116.01(B)
- 7% DNA Fund (DNA), A.R.S. § 12-116.01(C)

Flat dollar amount

- \$20 probation surcharge, A.R.S. § 12-114.01(A)

NOTE: In this document, the percentage surcharges will be referred to as the

84% surcharge and the flat dollar surcharge will be referred to as the \$20 probation surcharge.

4. Per ARS § 41-2421(C), 5% of all collections from superior court and justice courts are to be set aside to be potentially used for local Fill the Gap. Is the 84% percent surcharge and the \$20 probation surcharge subject to the 5% set aside?

Yes, per ARS § 41-2421, monies collected that are specifically not subject to the 5% set aside are the 10% CEF surcharge, restitution, child support and bonds. The Supreme Court adopted guidelines regarding the collection of revenues pursuant to subsections A and C of the statute in the [Arizona Code of Judicial Administration, § 5-103: Enhanced Collections](#).

5a. What are the percentage surcharges and probation surcharge assessed on?

A penalty assessment shall be levied on every fine, penalty, and forfeiture, imposed and collected by the courts for:

- Criminal offenses,
- Civil penalties for violations of motor vehicle statutes,
- Violation of local ordinances relating to stopping, standing or operation of a vehicle
- Violation of game and fish statutes in Title 17

5b. Are there any exceptions?

Yes, there is an exception. The \$20 probation surcharge is **NOT** assessed on violations of local parking ordinances.

6. How is the 84% surcharge calculated? How is the total, including the \$20 probation surcharge, calculated?

Multiply the base fine amount by each percentage surcharge, the .47 (47% CJEF), the .13 (13% MSEF), the .10 (10% CEF), the .07 (7% FTG) and the .07 (7%DNA). Add these amounts together.

EXAMPLE: The judge orders a \$100 fine, plus surcharges.

\$100.00	Base fine
\$47.00	CJEF (\$100 base fine x 47%)
\$13.00	MSEF (\$100 base fine x 13%)
\$10.00	CEF (\$100 base fine x 10%)
\$7.00	FTG (\$100 base fine x 7%)
\$7.00	DNA (\$100 base fine x .7%)
	TOTAL FINE AND 84%
\$184.00	SURCHARGE DUE

Then add the \$20 probation surcharge.

\$184.00	Total fine and 84% surcharges
\$20.00	Probation surcharge
<hr/>	
\$204.00	TOTAL FINE PLUS SURCHARGES

7. Can the 47% CJEF, 13% MSEF, 10% CEF, 7% FTG and 7% DNA be treated as one 84% surcharge?

Yes, until the court distributes money collected to the city or county treasurer. If the court chooses to order the full 84% surcharge (the 47%, 13%, 10%, 7% & 7% surcharges combined), the 84% surcharge amount must be divided proportionately into the five separate surcharges before monies are remitted or reported to the city or county treasurer. The court's automation system should be able allocate the surcharges for remittance to the city or county treasurer.
(Refer to question #24 for an example of allocating funds manually.)

8. Can the \$20 probation surcharge be included with the 84% surcharge?

No, the \$20 probation surcharge may not be included with the 84% surcharge. The probation surcharge is a flat dollar amount not a percentage of the base fine; therefore, it is added and accounted for separately.

9. What proportion of the 84% surcharge are the 47% CJEF, 13% MSEF, 10% CEF, 7% FTG and 7% DNA surcharges?

Regardless of the fine amount, for fines or sanctions imposed for violations occurring on or after September 19, 2007:

- the 47% CJEF surcharge is 55.95% of the 84% surcharges
- the 13% MSEF surcharge is 15.48% of the 84% surcharges
- the 10% CEF surcharge is 11.90% of the 84% surcharges
- the 7% FTG surcharge is 8.33% of the 84% surcharges
- the 7% DNA surcharge is 8.33% of the 84% surcharges

These proportions are derived by dividing the individual surcharge percentage by the total surcharge of 84%, as illustrated below:

$$\frac{47\%}{84\%} \text{ CJEF surcharge} \\ \text{divided by the 84\% surcharges} = 55.95\%$$

$$\frac{13\%}{84\%} \text{ MSEF surcharge} \\ \text{divided by the 84\% surcharges} = 15.48\%$$

$$\frac{10\%}{84\%} \text{ CEF surcharge} \\ \text{divided by the 84\% surcharges} = 11.90\%$$

$$\frac{7\%}{84\%} \text{ FTG surcharge} \\ \text{divided by the 84\% surcharges} = 8.33\%$$

$$\frac{7\%}{84\%} \text{ DNA surcharge} \\ \text{divided by the 84\% surcharges} = 8.33\%$$

10. What percent are each of the two surcharges relative to the total due?

The percent each surcharge is to the total due varies from case to case. In order to determine what the percent is, the base fine amount has to be determined. Multiply the base fine by .84 to determine the amount of the 84% surcharge. Add the base fine, 84% surcharge and the \$20 probation surcharge, to determine the total due. See the example below:

Base fine x .84 = 84% surcharge
 Base fine
 + 84% surcharge
 + \$20 probation surcharge
 = Total due

Example: \$100 Base fine x .84 = \$84 (84% surcharge)

\$100.00 Base fine
 + \$84.00 84% surcharges
 + \$20.00 Probation surcharge
 \$204.00 Total fine and 84% surcharges

After the total due is calculated, divide the amount of the base fine by the total due to determine the percent the base fine is to the total due. Follow the same steps to calculate the percent the 84% surcharge is to the total due. The same applies to the \$20 probation surcharge. The percentage of the total due changes each time the base fine amount changes. However, the proportions change per case, the method for calculating the proportion remains the same.

Base Fine Total Due The base fine % equals the Base Fine amount divided by the Total Amount Due

84% Surcharge Total Due The 84% surcharge % equals the 84% Surcharge amount divided by the Total Amount Due

\$20 Probation Surcharge Total Due The probation surcharge % equals the \$20 Probation Surcharge amount divided by the Total Amount Due

Example:

$\frac{100}{204}$	49.02%	Base fine is 49.02% of total due
$\frac{84}{204}$	41.18%	84% surcharge is 43.30% of total due
$\frac{20}{204}$	9.80%	\$20 probation surcharge is 9.80% of total due

11. How are the fine and surcharges determined if the judge orders an amount due which includes both fine and surcharges?

If the court is assessing the 84% combined surcharge amount along with the \$20 probation surcharge, subtract the \$20 from the total amount ordered, then divide the remainder by 1.84 to determine the fine amount due. The balance is the surcharges.

Example: The judge orders a \$194.00 fine including surcharges.

\$194.00	TOTAL DUE
- \$20.00	Less \$20 probation surcharge
$\frac{\$174.00}{1.84}$	Total fine and 84% surcharges
\$94.57	TOTAL FINE including 84% Surcharge divided by 1.84 = Base Fine Amount
\$174.00	TOTAL FINE including 84% Surcharge
- \$94.57	Less Fine
$\frac{\$79.43}{1.84}$	84% Surcharge

The 84% surcharge amount must be divided proportionately into the five separate surcharges before monies are remitted or reported to the city or county treasurer.

(Refer to question # 24 for an example of allocating funds manually.)

If the court assesses the 47% CJEF, 13% MSEF, 10% CEF, 7% FTG and 7% DNA along with the fine and \$20 probation surcharge as one amount, but posts them separately, the following example shows the steps that are used to determine how much goes to fine, \$20 probation surcharge and each percent surcharge that comprise the 84%. Subtract the \$20 probation surcharge from the total amount ordered. Divide the remainder of total amount ordered by 1.84 to determine the fine amount due. Multiply the fine by each of the five percent surcharge amounts to determine the percent surcharges.

Example: The judge orders a \$90.00 fine, including surcharges.

\$90.00	TOTAL DUE
-\$20.00	Less \$20 probation surcharge
\$70.00	Total fine and 84% surcharges
\$70.00	TOTAL FINE AND 84% SURCHARGE
1.84	Divided by 1.84 = Fine of \$38.04

\$38.04	Base fine
+	\$17.88 MSEF (\$38.04 base fine x 47%)
+	\$4.95 CJEF (\$38.04 base fine x 13%)
+	\$3.80 CEF (\$38.04 base fine x 10%)
+	\$2.66 FTG (\$38.04 base fine x 7%)
+	\$2.66 DNA (\$38.04 base fine x .7%)
\$70.00	TOTAL FINE AND 84% SURCHARGE DUE

Then add the \$20 probation surcharge.

\$70.00	Total fine and 84% surcharges
\$20.00	Probation surcharge
<hr/>	
\$90.00	TOTAL FINE PLUS SURCHARGES

12. May the total amount due be rounded?

Yes, pursuant to A.R.S. § 12-116.01(C) and 12-116.02(C), after the surcharges are added, the total amount may be rounded up or down to the nearest quarter-dollar. For the convenience of court operations, judges can make the total of fine and surcharges

whole dollars, which alleviates the need to round to the quarter dollar.

However, if the total due is in dollars and cents, there are three alternatives for distributing the increase or decrease. The court must select one of the following options and use this option consistently for every case:

The first step in any of the options is to subtract out the \$20 probation surcharge. Then:

- 1) Add or subtract, to or from the fine, the difference between the actual remaining total amount due and the rounded total.
- 2) Add or subtract, to or from the 84% surcharge, the difference between the actual remaining total amount due and the rounded total.
- 3) When **rounding up**, take the difference between the actual remaining total amount due and the rounded total and divide it by 1.84. Add that amount to the base fine and add the rest to the 84% surcharge.

When **rounding down**, take the difference between the actual remaining total amount due and the rounded total and divide it by 1.84. Subtract that amount from the base fine and subtract the rest from the surcharges.

Divide the 84% surcharge into CJEF, MSEF, CEF, FTG and DNA portions before sending monies collected to the city or county treasurer. (Refer to question # 24 for an example of allocating funds manually.)

13. Does the time payment fee still exist?

Yes. The time payment fee is still a mandatory assessment on each defendant that does not pay his/her penalty, fine or sanction on the day it was imposed. (Refer to ACJA §§ 3-401 and 4-301 for information on the Priority of Offender Payments including the time payment fee and § 5-103 for Enhanced Collections, also known as the 5% set aside for Fill the Gap.)

14. Is the time payment fee added before or after the surcharges have been assessed?

The time payment fee is added after the surcharges have been assessed on the base fine. The time payment fee is imposed after it has been determined the defendant has not or will not pay his/her penalty, fine or sanction on the day imposed. The time payment fee is mandatory and cannot be waived.

- For sentences imposed on or after January 1, 1998 the time payment fee is \$20.
- For sentences imposed on or after April 22, 1993 through December 31, 1997, the time payment fee is \$12.
- For sentences imposed on or after June 28, 1989 through April 21, 1993, the time payment fee is \$8.

Part II
PROPORTIONAL REDUCTION

15. *May the judge reduce the total amount of fine and surcharges if the payment would work a hardship on a person?*

Yes. If a reduction is made, the fine and surcharges must be reduced proportionately. However, if a mandatory fine or sanction is included, the amount may not be reduced to an amount less than the mandatory minimum fine or sanction.

However, effective March 13, 2004, there are exceptions to the provisions of A.R.S. §§ 12-116.01 and 12-116.02 allowing reduction of surcharges. The additions to the Operating Under the Influence statutes of ARS §§ 5-395.01, 28-1389 and 28-8292 **prohibit** the court from waiving a fine or assessment pursuant to those articles or a surcharge imposed pursuant to section 12-116.01 or 12-116.02. This means that the court **cannot** reduce the total fines, surcharges, civil assessments and PCOF for any conviction for operating under the influence statutes.

16. *How are non-mandatory fines or sanctions and surcharges proportionately reduced?*

To proportionately reduce a non-mandatory fine or sanction and surcharges for a violation occurring on or after September 19, 2007, the original assessment must be determined first. In this example, the original assessment is:

\$100.00	Original base fine
+ 84.00	84% surcharge (\$100 base fine x .84)
+ <u>20.00</u>	\$20 probation surcharge
\$204.00	ORIGINAL TOTAL AMOUNT DUE

- If the judge waives one-half the base fine or total amount due:

\$ 50.00	New base fine (half of \$100.00 original base fine)
+ 42.00	84% surcharge (\$50.00 new base fine x .84)
+ <u>10.00</u>	Probation surcharge (half of \$20)
\$ 102.00	TOTAL AMOUNT DUE IF ONE-HALF WAIVED

- If the judge reduces the original total amount due to a total of \$35 first determine the percent the fine and the 84% surcharge and \$20 probation surcharge are to the total amount due. Then multiply the \$35 by those percentages to determine the amount of the fine and surcharges.

Example:

<u>\$100.00</u>	49.02%	= Base fine to total
204		
<u>\$84.00</u>	41.18%	= 84% surcharge to total
204		
<u>\$20.00</u>	9.80%	= \$20 probation surcharge
204		
\$35.00		NEW TOTAL FINE AND SURCHARGES DUE
\$35	X 49.02%	= Fine of \$17.16
\$35	X 41.18%	= 84% surcharge of \$14.41
\$35	X 09.80%	= \$20 probation surcharge of \$3.43
\$17.16		New base fine (\$35 new total x .49.02)
\$14.41		84% surcharge (\$35 new total x .41.18)
<u>\$3.43</u>		\$20 probation surcharge (\$35 new total x 09.80)
\$35.00		TOTAL AMOUNT DUE

17. How are MANDATORY fines or sanctions and surcharges reduced?

If an amount which includes a mandatory minimum fine or sanction is reduced, the base fine amount may not be reduced to an amount less than the mandatory minimum. The percentage surcharges and the probation surcharge must be reduced proportionately. The statute does not permit you to reduce or waive one surcharge and not the other one.

The additions to the Operating Under the Influence statutes of ARS §§ 5-395.01, 28-1389 and 28-8292 **prohibit** the court from waiving a fine or assessment pursuant to those articles or a surcharge imposed pursuant to section 12-116.01 or 12-116.02.

The following information does not apply to violations of A.R.S. §§ 5-395.01, 5-395, 5-396, 5-397, 28-1381, 28-1382, 28-1383, 28-8282, 28-8284, 28-8286, 13-8287 and 28-8288.

For violations that occur on or after September 19, 2007:

To proportionately reduce an amount which includes a mandatory minimum fine or sanction for a violation, which occurs on or after September 19, 2007, the original assessment must be determined first. In this example, the original assessment is:

	\$250.00	Original MANDATORY Base fine
+	\$210.00	84% surcharge (\$250 base fine x .84)
+	<u>\$20.00</u>	\$20 probation surcharge
	\$480.00	ORIGINAL TOTAL AMOUNT DUE

If the judge reduces the original total amount due to \$280.00:

- 1) Determine the percent the 84% and \$20 surcharges are to the total surcharges.

\$480	Original total amount due
<u>- 250</u>	Mandatory minimum base fine
\$230	Total surcharges due

\$230	Total surcharges due
<u>- 20</u>	\$20 probation surcharge
\$210	84% surcharge

<u>\$210</u>	84% surcharge = 91.30%
\$230	Total surcharges due

<u>\$20</u>	\$20 probation surcharge = 8.70%
\$230	Total surcharges due

- 2) Subtract the mandatory base fine or sanction from the new total amount due:

\$280.00	New total amount due
<u>- 250.00</u>	Mandatory base fine (may not be reduced)
\$ 30.00	Amount to be divided proportionately between the 84% and \$20 probation surcharges

- 3) Multiply the \$30.00 by the proportion for each of the two surcharges and add the new surcharge amounts to the mandatory base fine:

\$27.39	84% surcharge (\$30 total surcharges x .9130)
<u>\$ 2.61</u>	\$20 surcharge (\$30 total surcharges x .0870)
\$30.00	Total surcharges
<u>+250.00</u>	Mandatory base fine
\$280.00	Total amount due

18. *May the judge waive or reduce the surcharges if the payment would work a hardship on a person?*

Yes, if the total amount due includes a **mandatory** minimum fine or sanction. Only the surcharges are waived or reduced proportionately in this case. (Refer to question #17 for example.)

Effective March 13, 2004, there are **exceptions** to the provisions of A.R.S. §§ 12-116.01 and 12-116.02 allowing reduction of surcharges. The additions to the Operating Under the Influence statutes of ARS §§ 5-395.01, 28-1389 and 28-8292 **prohibit** the court from waiving a fine or assessment pursuant to those articles or a surcharge imposed pursuant to section 12-116.01 or 12-116.02.

No, if the total amount due includes a **non-mandatory** minimum fine or sanction. The fine and surcharges must be reduced proportionately in this case. (Refer to question #16 for example.)

Part III
PAYMENT DISTRIBUTION

19. How are partial payments applied to fines or sanctions and surcharges?

Partial payments received on amounts imposed for violations that occur from and after January 1, 1994 must be applied proportionately to the fine and surcharges. There are several ways of doing this. Each court should use the method that works best based on its operations. Below are examples showing partial payments received for violations occurring on and after September 19, 2007.

For violations that occur on and after September 19, 2007:

The following fine and surcharge proportions are used when applying payments to fines and surcharges imposed for violations occurring on or after September 19, 2007, unless the amount due includes surcharges which were reduced or waived on a MANDATORY fine or sanction. If the amount due includes a mandatory fine or sanction and the surcharges were reduced or waived, new proportions would need to be calculated. (Refer to question #17 for examples on how payments are applied.)

First, the total amount due (fine + 84% surcharge + \$20 probation surcharge) needs to be calculated. Then the percent each component is to the total amount due needs to be calculated. The percent varies from case to case (Refer to question # 10 for examples on how to perform these calculations)

These proportions are found by dividing the fine and surcharges individually by the total of fine and surcharges (Refer to question #11 for additional information):

	\$100.00	Base fine
+	<u>\$84.00</u>	84% surcharge
	\$184.00	Fine plus 84% Surcharges
+	<u>\$20.00</u>	\$20 probation surcharge
	\$204.00	Total fine and surcharges due

To demonstrate, in this example, payments are applied to an account established for an individual who was convicted of a violation, which occurred on or after September 19, 2007. The court imposed a \$250 fine + \$210 84% surcharge + \$20 probation surcharge + \$20 time payment fee, for a total due of \$500.

REMEMBER: Payments are ALWAYS applied to restitution first, then to the JCEF time payment fee, pursuant to A.R.S. § 12-116, and then to fines and surcharges. Note that in this example, no restitution is due. Payment of \$200 was collected the same day the fine was imposed. First, apply \$20 to the time payment fee. Then, apply the remaining \$180 proportionately to the fine and surcharges. To determine how to proportionally divide the payment, the fine and the surcharges must be calculated as a percentage of the \$180 payment.

Example:

\$250.00	Base fine
\$210.00	84% surcharge
<u>\$20.00</u>	\$20 probation surcharge
\$480.00	Total fine and surcharges due

<u>\$250.00</u>	Base fine = 52.08%
\$480.00	Total due

<u>\$210.00</u>	84% surcharge = 43.75%
\$480.00	Total due

<u>\$20.00</u>	\$20 probation surcharge = 4.17%
\$480.00	

Multiply the \$180 by the three proportions identified above.

\$180.00	x	52.08%	=	\$93.75	Base fine
\$180.00	x	43.75%	=	\$78.75	84% surcharge
\$180.00	x	4.17%	=	\$7.50	\$20 probation surcharge

Case Financial Record

Distribution		Time Payment	Base Fine	84% State Surcharges	Probation Surcharge	Total
Total Judgment		\$20.00	\$250.00	\$210.00	\$20.00	\$500.00
Payment # 1	\$200.00	-\$20.00	-\$93.75	-\$78.75	-\$7.50	-\$200.00
New Balance Due		\$0.00	\$156.25	\$131.25	\$12.50	\$300.00

The person makes a second \$200 payment. Multiply the 200 by .5435 to determine the amount to be applied to the fine. Multiply the 200 by .4348 to determine the amount to be applied to the 84% surcharge. The remainder is applied to the probation surcharge.

Distribution		Time Payment	Base Fine	84% State Surcharges	Probation Surcharge	Total
Total Judgment		\$0.00	\$156.25	\$131.25	\$12.50	\$300.00
Payment # 2	\$200.00	\$0.00	-\$104.17	-\$87.50	-\$8.33	-\$200.00
New Balance Due		\$0.00	\$52.08	\$43.75	\$4.17	\$100.00

The person makes a final \$100.00 payment. Apply it to the outstanding balance.

Distribution		Time Payment	Base Fine	84% State Surcharges	Probation Surcharge	Total
Total Judgment		\$0.00	\$52.08	\$43.75	\$4.17	\$100.00
Payment # 3	\$100.00	\$0.00	-\$52.08	-\$43.75	-\$4.17	-\$100.00
New Balance Due		\$0.00	\$0.00	\$0.00	\$0.00	\$0.00

20. When partial payments are applied proportionately, does that mean 50% of the payment goes to the fine, and 50% goes to the surcharges?

No. When applying a partial payment proportionately, divide the payment into the percentage of the total that the fine and the 84% and \$20 probation surcharges represent. The percentages vary from case to case. (Refer to number 16).

21. How are payments applied to fines or sanctions and surcharges imposed if the amount due includes a MANDATORY fine or sanction AND the surcharges were reduced?

When surcharges are reduced on mandatory fines, the proportions will be different from one case to the next. The method for determining the proportions will be the same no matter when the violation occurred. To determine the proportions of fine and surcharges, divide the fine amount by the total of the fine and surcharges. Then divide the surcharge amount by the total of fine and surcharges. (Refer to number 17).

22. How are partial payments applied on and after January 1, 1994, for violations that occurred prior to January 1, 1994?

First, determine the total amount of fines and surcharges each person owes. Next, divide the fine amount by the total of fines and surcharges. This is the proportion (percentage) of the payment to apply to the fine. The balance of the payment is applied proportionally according to A.R.S. §§ 12-116.01 and 12-116.02 to the surcharges.

23. How are payments applied if other amounts are imposed in addition to restitution, time payment fee, fine or surcharges (example: public defender reimbursement fee, jail cost reimbursement fee, default fee, warrant fee, etc.)?

Pursuant to A.R.S. § 13-809 12-116, payments are applied to restitution first and then the time payment fee, A.R.S. § 12-116 then to fines, sanctions, and the 84% surcharges. For additional guidance refer to ACJA §§ 3-401 and 4-301 for priority of payments and § 5-103 for enhanced collections, Fill the Gap.

Part IV

REMITTANCE REPORTS

24. If I have used the 84% total surcharge amount for assessment purposes, how do I divide the amount collected into the CJEF, MSEF, CEF, FTG, and DNA proportions? The \$20 probation surcharge is assessed separately.

These proportions are found by dividing the 47% CJEF surcharge by the total of 84% surcharges, by dividing the 13% MSEF surcharge by the total of 84% surcharges, by dividing the 10% CEF surcharge by the total of 84% surcharges, by dividing the 7% FTG surcharge by the total of 84% surcharges and by dividing the 7% DNA surcharge by the total of 84% surcharges:

$$\frac{47\%}{84\%} \text{ CJEF surcharge} \\ \text{divided by 80\% surcharges} = 55.95\%$$

$$\frac{13\%}{84\%} \text{ MSEF surcharge} \\ \text{divided by 80\% surcharges} = 15.48\%$$

$$\frac{10\%}{84\%} \text{ CEF surcharge} \\ \text{divided by 80\% surcharges} = 11.90\%$$

$$\frac{7\%}{84\%} \text{ FTG surcharge} \\ \text{divided by 80\% surcharges} = 8.33\%$$

$$\frac{7\%}{84\%} \text{ DNA surcharge} \\ \text{divided by 80\% surcharges} = 8.33\%$$

EXAMPLE: Assume you have collected \$1,000 in the 84% surcharges ²

$$\$1,000 \times .55.95 = \$559.52 \text{ portion to remit to CJEF}$$

$$\$1,000 \times .15.48 = \$154.76 \text{ portion to remit to MSEF}$$

$$\$1,000 \times .11.90 = \$119.05 \text{ portion to remit to CEF}$$

$$\$1,000 \times .0833 = \$83.33 \text{ portion to remit to FTG}$$

$$\$1,000 \times .0833 = \$83.33 \text{ portion to remit to DNA}$$

² Using a spreadsheet like Excel extends the decimals, creating a more accurate calculation.

25. Does the city or county treasurer transmit these old surcharges collected by the court to individual state treasurer accounts?

OLD SURCHARGES (Before January 1, 1994):

- 37% & 40% Criminal Justice Enhancement Fund (CJEF) A.R.S. § 41-2403
- \$10 Emergency Medical Services Operating Fund (EMSOF), A.R.S. § 36-2219
- \$35 Emergency Medical Services Operating Fund (EMSOF), A.R.S. § 36-2219
- \$10 additional EMSOF on seat belt violations, A.R.S. § 36-2219
- \$10 Crime Laboratory Assessment Fund (CLAF), A.R.S. § 13-813
- \$40 Alcohol Abuse and Treatment Fund (AATF), A.R.S. § 36-2219
- \$25 Victims' Rights Implementation Fund (VRIF), A.R.S. § 13-812
- \$2/mph Spinal and Head Injuries Trust Fund (SHIF), A.R.S. § 28-1076.01
- \$100/\$500 Victim Compensation Fund (VCF), A.R.S. § 13-812
- 15% DUI surcharge repealed by Laws 1982, A.R.S. § 36-142
- \$2/10% Peace Officers Training fund surcharge repealed by Laws 1982, A.R.S. § 41-1826
- Prosecuting Attorneys' Advisory Council Training Fund surcharge repealed by Laws 1982, A.R.S. § 41-1830.04

No. On January 1, 1994, all of the surcharges above were consolidated into two assessments: 46% Criminal Justice Enhancement Fund (CJEF), A.R.S. §12-116.01, and 11% Medical Services Enhancement Fund (MSEF), A.R.S. § 12-116.02.

After the city or county treasurer receives these monies from the courts, the treasurer should use the newest version of the State Remittance Report to transmit the monies to the state treasurer on or before the 15th day of each month for deposit in the Criminal Justice Enhancement Fund and Medical Services Enhancement Fund.

Some treasurers use a computer-generated remittance report and may continue to do so as long as it is revised per the new State Remittance Report form. The state treasurer will distribute the monies to the various individual accounts.

REMEMBER: For violations occurring on or after September 19, 2007, the current 84% surcharge is made up of the following: 47% Criminal Justice Enhancement Fund (CJEF), A.R.S. ' 12-116.01A, 13% Medical Services Enhancement Fund (MSEF), A.R.S. ' 12-116.02, 10 % Clean Elections Fund (CEF), A.R.S. ' 16-954C, 7% Fill The

Gap (FTG), A.R.S. § 12-116.01B, and 7% DNA, A.R.S. §12-116.01C. The probation surcharge is \$20 A.R.S. §12-114.01.

You may want to revise the forms the court uses to transmit monies to the city or county treasurer.

26. *To what accounts do I transmit surcharges since I cannot deposit monies collected for old surcharges into all the old individual surcharge accounts as of January 1, 1994?*

Add all surcharges assessed on fines and sanctions which are collected for violations occurring prior to September 1, 1995, and divide them proportionally to the funds that were in existence at that time: 80.7% to Criminal Justice Enhancement Fund and 19.3% to Medical Services Enhancement Fund before reporting the collections to your city or county treasurer. Do not report or remit funds to any of the other old surcharges for violations that occurred prior to January 1, 1994³.

³ Laws 1993, Chapter 243, §17, consolidated surcharges as a 47% Criminal Justice Enhancement fund and a 11% Medical Services Enhancement Fund beginning January 1, 1994.