



Board of Supervisors Memorandum

January 20, 2015

Ordinance Establishing a Deferred Prosecution Fund and Deferred Prosecution Fees

Background/Purpose

The Pima County Attorney's Office maintains a Deferred Prosecution Program pursuant to A.R.S. sections 11-361 et seq. That program allows for certain nonviolent offenders to enter into the program as an alternative to prosecution. Upon successful completion of the program, the charges against the offender are dismissed.

In the 2014 legislative session, the Arizona Legislature added a new statute, A.R.S. section 11-363, authorizing the establishment of a Deferred Prosecution Fund consisting of county general fund monies, federal monies, and grants, gifts, devises or donations from any public or private source to be used at the discretion of the County Attorney for the administration of deferred prosecution programs pursuant to A.R.S. sections 11-361 et seq.

The Pima County Attorney is requesting the Board of Supervisors adopt the attached Ordinance No. 2015-_____ to establish the Deferred Prosecution Fund authorized by A.R.S. section 11-363 and adopt deferred prosecution fees pursuant to A.R.S. section 11-251.08 consisting of \$50 per month for felony, domestic violence or repeat offender cases; a \$185 one-time program fee for possession of marijuana cases; and a one-time program fee of \$80 for all other first-time offender, non-domestic violence misdemeanor cases.

These fees will be assessed against participants in the Deferred Prosecution Program and deposited into the Deferred Prosecution Fund to offset, in part, the costs of administering the Pima County Attorney's Office Deferred Prosecution Program. The proposed ordinance will also authorize the Pima County Attorney to assess the deferred prosecution fees and to direct, control and administer the Deferred Prosecution Fund to support the Pima County Attorney's Office Deferred Prosecution Program.

Benefits

The Deferred Prosecution Program provides an opportunity for those charged with a crime to defer prosecution by meeting certain terms and conditions of deferral and then having the charges or violations of law dismissed by the County Attorney.

The Ordinance will reduce the overall cost of administering the criminal justice system by the County. The County Attorney will not have to incur the costs associated with prosecution; and more costly elements such as criminal defense, a trial and, if found guilty,

The Honorable Chairman and Members, Pima County Board of Supervisors
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a sentence resulting in confinement at the Pima County Adult Detention Center. There is an opportunity to realize significant cost savings as a result of implementation of this ordinance.

Recommendation

I recommend the Board of Supervisors adopt Ordinance No. 2015-_____ to establish the Deferred Prosecution Fund authorized by A.R.S. section 11-363 and adopt deferred prosecution fees pursuant to A.R.S. section 11-251.08 consisting of \$50 per month for felony, domestic violence or repeat offender cases; a \$185 one-time program fee for possession of marijuana cases; and a one-time program fee of \$80 for all other first-time offender, non-domestic violence misdemeanor cases.

Respectfully submitted,



C.H. Huckelberry
County Administrator

CHH/anc – January 8, 2015

Attachment

c: The Honorable Barbara LaWall, County Attorney
Chris Straub, Chief Civil Deputy County Attorney
Tobin Rosen, Deputy County Attorney

ORDINANCE NUMBER 2015-___

AN ORDINANCE OF THE BOARD OF SUPERVISORS OF PIMA COUNTY, ARIZONA RELATING TO DEFERRED PROSECUTION; ESTABLISHING A DEFERRED PROSECUTION FUND PURSUANT TO A.R.S. SECTION 11-363; ESTABLISHING DEFERRED PROSECUTION FEES PURSUANT TO A.R.S. SECTION 11-251.08; AUTHORIZING THE PIMA COUNTY ATTORNEY TO DEPOSIT DEFERRED PROSECUTION FEES INTO THE DEFERRED PROSECUTION FUND AND TO CONTROL AND USE MONEYS IN THE DEFERRED PROSECUTION FUND IN THE ADMINISTRATION OF THE PIMA COUNTY ATTORNEY'S DEFERRED PROSECUTION PROGRAM.

The Board of Supervisors of Pima County, Arizona finds that:

1. The Pima County Attorney maintains a Deferred Prosecution Program pursuant to A.R.S. sections 11-361 et seq.
2. In the 2014 legislative session, the Arizona Legislature added A.R.S. section 11-363 authorizing the establishment of a Deferred Prosecution Fund consisting of county general fund monies, federal monies, and grants, gifts, devises or donations from any public or private source to be used at the discretion of the County Attorney for the administration of deferred prosecution programs pursuant to A.R.S. sections 11-361 et seq.
3. The Board of Supervisors desires to establish the Deferred Prosecution Fund authorized by A.R.S. section 11-363 and to adopt deferred prosecution fees pursuant to A.R.S. section 11-251.08 to be deposited into the Deferred Prosecution Fund to offset the costs of the Pima County Attorney's Deferred Prosecution Program.
4. The Board of Supervisors desires to authorize the Pima County Attorney to assess deferred prosecution fees and to direct, control and administer the Deferred Prosecution Fund to support the Pima County Attorney's Deferred Prosecution Program.

BE IT ORDAINED BY THE BOARD OF SUPERVISORS OF PIMA COUNTY, ARIZONA:

Section 1. The Deferred Prosecution Fund is hereby authorized and established, consisting of county general fund monies, federal monies, and grants, gifts, devises or donations from any public or private source to be used at the discretion of the Pima County Attorney for the administration of deferred prosecution programs pursuant to A.R.S. sections 11-361 et seq.

Section 2. The schedule of deferred prosecution fees attached to this Ordinance as Exhibit A is authorized and approved pursuant to A.R.S. section 11-251.08. The Pima County Attorney is authorized to assess deferred prosecution fees as specified in Exhibit A and to deposit the proceeds into the Deferred Prosecution Fund.

Section 3. The Pima County Attorney is authorized to direct, control and administer the Deferred Prosecution Fund for use in support of the Pima County Attorney's Deferred Prosecution Program.

Section 4. The various County officers and employees are authorized and directed to perform all acts necessary or desirable to give effect to this Ordinance.

PASSED AND ADOPTED by the Board of Supervisors, Pima County, Arizona, this
_____ day of _____, 2015

Chair of the Board of Supervisors

ATTEST:

Clerk of Board

APPROVED AS TO FORM:


TOBIN ROSEN

Deputy County Attorney

Exhibit A

Pima County Attorney's Office Adult Diversion Program Fees Schedule

**Felony, Domestic Violence and Repeat Offender Cases:
Program fee of \$50 per month**

**Misdemeanor Cases (first-time offender, non-domestic violence):
Possession of marijuana cases, a one-time \$185 program fee
All cases except possession of marijuana cases, a one-time \$80 program fee**