House Engrossed

State of Arizona
House of Representatives
Forty-ninth Legislature
Third Special Session
2009

HOUSE BILL 2010

AN ACT

AMENDING SECTIONS 8-358, 12-114.01, 12-251, 12-299.03, 12-2456, 13-901.02, 13-914, 13-916, 21-222, 25-323.01, 25-323.02, 28-3396, 31-466, 31-467.06, 38-842 AND 38-902, ARIZONA REVISED STATUTES; AMENDING TITLE 41, CHAPTER 11, ARTICLE 1, ARIZONA REVISED STATUTES, BY ADDING SECTION 41-1608; AMENDING SECTION 41-1722, ARIZONA REVISED STATUTES; AMENDING TITLE 41, CHAPTER 12, ARTICLE 5, ARIZONA REVISED STATUTES, BY ADDING SECTION 41-1772; AMENDING SECTION 41-2401, ARIZONA REVISED STATUTES; AMENDING LAWS 2007, CHAPTER 261, SECTION 16; MAKING APPROPRIATIONS; RELATING TO CRIMINAL JUSTICE BUDGET RECONCILIATION.

(TEXT OF BILL BEGINS ON NEXT PAGE)

Be it enacted by the Legislature of the State of Arizona:

Section 1. Section 8-358, Arizona Revised Statutes, is amended to read:

8-358. Juvenile intensive probation guidelines; report

A. The supreme court shall establish juvenile intensive probation guidelines. In establishing these guidelines, the supreme court shall ensure that both:

1. Juveniles who are granted intensive probation meet the requirements of section 8-352.

2. Based on the nature of the offense and the delinquent history of the juvenile, there are reasonable grounds to believe that the juvenile is able to remain at liberty without posing a substantial risk to the community.

B. The supreme court shall annually submit a report stating the number of juveniles supervised on intensive probation during the prior year, the nature of the offense and the delinquent history of each of these juveniles to the governor, the speaker of the house of representatives and the president of the senate at the time of its annual budget request. BEGINNING JULY 1, 2011, THE REPORT SHALL BE SUBMITTED ELECTRONICALLY.

C. The supreme court shall contract for an evaluation to determine if the provisions of this article reduce the number of serious repetitive offenses committed by juveniles on intensive probation supervision and shall submit the results of the study to the governor, the speaker of the house of representatives and the president of the senate.

Sec. 2. Section 12-114.01, Arizona Revised Statutes, is amended to read:

12-114.01. Probation surcharge; deposit

A. Except as provided in section 12-269, in addition to any other penalty assessment provided by law, a probation surcharge of ~~ten~~ TWENTY dollars shall be levied on every fine, penalty and forfeiture imposed and collected by the superior, justice and municipal courts for criminal offenses and any civil penalty imposed and collected for a civil traffic violation and fine, penalty or forfeiture for a violation of the motor vehicle statutes, for a violation of any local ordinance relating to the stopping, standing or operation of a vehicle, except parking violations, or for a violation of the game and fish statutes in title 17.

B. The monies collected pursuant to this section shall be deposited, pursuant to sections 35-146 and 35-147, in the judicial collection enhancement fund established by section 12-113 to be used to supplement monies currently used for the salaries of adult and juvenile probation and surveillance officers and for support of programs and services of the superior court adult and juvenile probation departments.

C. The court may waive all or part of a probation surcharge in the same manner and subject to the same limitations provided for the waiver of penalty assessments in section 12-116.01, subsection ~~E~~ F and section 12-116.02, subsection D.

Sec. 3. Section 12-251, Arizona Revised Statutes, is amended to read:

12-251. Adult probation officers and support staff; appointment; qualifications

A. The presiding judge of the superior court in each county shall appoint a chief adult probation officer who shall serve at the pleasure of the presiding judge. Such chief adult probation officer, with the approval of the presiding judge of the superior court, shall appoint such deputy adult probation officers and support staff as are necessary to provide presentence investigations and supervision services to the court. Presentence investigations and probation services may be provided to the justice courts in each county for persons who are convicted of violating section 28-1381 or 28-1382 or title 13, chapter 14, 35.1 or 36 and who are placed on supervised probation by the court. Presentence investigations and supervised probation services may be provided by a county probation office to a municipal court through an intergovernmental agreement entered into by the respective county and municipality. On approval of the presiding judge and in accordance with policies and procedures developed by the supreme court, the presiding judge of the superior court may direct that presentence investigations and supervised probation services be provided for other persons if a risk of violence exists or if it would be in the best interest of justice. Those deputy adult probation officers engaged in case supervision shall supervise no more than an average of ~~sixty~~ SIXTY-FIVE adults who reside in the county on probation to the court. Such deputy adult probation officers shall hold office under rules and procedures established by the supreme court.

B. Each adult probation officer appointed pursuant to subsection A of this section shall give bond in the principal amount to be fixed by the court and approved by the judge making the appointment, conditioned upon the faithful performance by such officer of the officer's official duties and the payment of all monies coming into the officer's possession as such officer to the person, officer or body entitled to receive the monies. Any adult probation officer covered by a blanket faithful performance bond payable to the county or covered by state risk management shall be deemed to be in compliance with this section.

C. Probation department personnel shall qualify under minimum standards of experience and education established by the supreme court. Such standards may differ for counties of less than three hundred thousand persons from counties with three hundred thousand persons or more. Notwithstanding section 12-265, any additional salary costs that might be required as a result of the adoption of minimum salary standards by the supreme court may be paid by funds made available to the probation department pursuant to sections 12-267 and 12-268 or by the supreme court.

D. Presently appointed adult probation officers who qualify under ~~the provisions of~~ subsection C of this section shall be retained in their position as long as they are qualified.

Sec. 4. Section 12-299.03, Arizona Revised Statutes, is amended to read:

12-299.03. Duties of the supreme court; evaluation

A. The supreme court shall:

1. Implement and administer the community punishment program.

2. Adopt necessary guidelines, rules, standards and policies to implement this article.

3. Facilitate the development of local plans.

4. Develop and implement an application process and procedures.

5. Review and approve plans and budgets.

6. Allocate funding.

7. Provide statewide training and technical assistance to the superior court, adult probation departments and advisory committees regarding community punishment.

8. Conduct an evaluation of all programs on a periodic basis to ensure program accountability. The evaluation report shall include information for the superior court in each participating county on the number of offenders serving suspended sentences on probation and intensive probation, the average cost per offender, the amount of restitution, fines and fees paid, the number of community restitution hours contributed by offenders and the number of offenders who have successfully completed terms of probation. The report shall be submitted to the governor, the speaker of the house of representatives and the president of the senate. The supreme court may contract with a private consultant to prepare this evaluation report. BEGINNING JULY 1, 2011, THE REPORT SHALL BE SUBMITTED ELECTRONICALLY.

B. The supreme court may contract directly with private human service agencies to develop, implement and operate community punishment programs.

Sec. 5. Section 12-2456, Arizona Revised Statutes, is amended to read:

12-2456. Emancipation administrative costs fund; purpose; report; collection of information

A. Each county treasurer shall establish an emancipation administrative costs fund consisting of monies received pursuant to section 12-284, subsection J.

B. The presiding judge of the juvenile court shall use fund monies for administrative costs associated with this article.

C. On notice of the presiding judge, the county treasurer shall invest monies in the fund and monies earned from investment shall be credited to the fund.

D. On or before November 15 of each year, the county treasurer shall submit a report to the presiding judge that shows the amount of monies in the fund. BEGINNING JULY 1, 2011, THE REPORT SHALL BE SUBMITTED ELECTRONICALLY.

E. Beginning October 1, 2005, the administrative office of the courts shall collect information relating to emancipation of minors pursuant to this ~~title~~ CHAPTER, including the following:

1. The number of petitions filed, by age and county of residence.
2. The number of petitions granted, by age and county of residence.
F. The administrative office of the courts shall include the information collected pursuant to subsection E of this section in the annual report of the judicial department.
Sec. 6. Section 13-901.02, Arizona Revised Statutes, is amended to read:
13-901.02. Drug treatment and education fund
A. The drug treatment and education fund is established. The administrative office of the supreme court shall administer the fund.
B. Fifty per cent of the monies deposited in the drug treatment and education fund shall be distributed by the administrative office of the supreme court to the superior court probation departments to cover the costs of placing persons in drug education and treatment programs administered by a qualified agency or organization that provides such programs to persons who abuse controlled substances. Such monies shall be allocated to superior court probation departments according to a formula based on probation caseload to be established by the administrative office of the supreme court.
C. Fifty per cent of the monies deposited in the drug treatment and education fund shall be distributed to the Arizona parents commission on drug education and prevention established by section 41-1604.17.
D. The administrative office of the supreme court shall cause to be prepared at the end of each fiscal year after 1997 an accountability report card that details the cost savings realized from the diversion of persons from prisons to probation. A copy of the report shall be submitted to the governor and the legislature, and a copy of the report shall be sent to each public library in the state. BEGINNING JULY 1, 2011, THE REPORT SHALL BE SUBMITTED ELECTRONICALLY. The administrative office of the supreme court shall receive reimbursement from the drug treatment and education fund for any administrative costs it incurs in the implementation of this section.
Sec. 7. Section 13-914, Arizona Revised Statutes, is amended to read:
13-914. Intensive probation; evaluation; sentence; criteria; limit; conditions
A. An adult probation officer shall prepare a presentence report for every offender who has either:
1. Been convicted of a felony and for whom the granting of probation is not prohibited by law.
2. Violated probation by commission of a technical violation that was not chargeable or indictable as a criminal offense.
B. The adult probation officer shall evaluate the needs of the offender and the offender's risk to the community, including the nature of the offense and criminal history of the offender. If the nature of the offense and the prior criminal history of the offender indicate that the offender should be included in an intensive probation program pursuant to

supreme court guidelines for intensive probation, the adult probation officer may recommend to the court that the offender be granted intensive probation.

C. The court may suspend the imposition or execution of the sentence and grant the offender a period of intensive probation in accordance with this chapter. Except for sentences that are imposed pursuant to section 13-3601, the sentence is tentative to the extent that it may be altered or revoked pursuant to this chapter, but for all other purposes it is a final judgment of conviction. This subsection does not preclude the court from imposing a term of intensive probation pursuant to section 13-3601.

D. When granting intensive probation the court shall set forth on the record the factual and legal reasons in support of the sentence.

E. Intensive probation shall be conditioned on the offender:

1. Maintaining employment or maintaining full-time student status at a school subject to title 15 or title 32, chapter 30 and making progress deemed satisfactory to the probation officer, or both, or being involved in supervised job searches and community restitution work at least six days a week throughout the offender's term of intensive probation.

2. Paying restitution and probation fees of not less than ~~fifty~~ SEVENTY-FIVE dollars unless, after determining the inability of the offender to pay the fee, the court assesses a lesser fee. Probation fees shall be deposited in the adult probation services fund established by section 12-267. Any amount ~~greater than forty dollars of the fee~~ assessed pursuant to this ~~subsection~~ PARAGRAPH shall ~~only~~ be used to supplement monies ~~currently~~ used for the salaries of adult probation and surveillance officers and for support of programs and services of the superior court adult probation departments.

3. Establishing a residence at a place approved by the intensive probation team and not changing the offender's residence without the team's prior approval.

4. Remaining at the offender's place of residence at all times except to go to work, to attend school, to perform community restitution and as specifically allowed in each instance by the adult probation officer.

5. Allowing administration of drug and alcohol tests if requested by a member of the intensive probation team.

6. Performing not less than forty hours of community restitution each month. Full-time students may be exempted or required to perform fewer hours of community restitution. For good cause, the court may reduce the number of community restitution hours performed to not less than twenty hours each month.

7. Meeting any other conditions imposed by the court to meet the needs of the offender and limit the risks to the community, including participation in a program of community punishment authorized in title 12, chapter 2, article 11.

Sec. 8. Section 13-916, Arizona Revised Statutes, is amended to read:

13-916. Intensive probation teams; adult probation officer qualifications; duties; case load limit

A. The chief adult probation officer in each county, with approval of the presiding judge of the superior court, shall appoint intensive probation teams consisting of one adult probation officer and one surveillance officer, TWO ADULT PROBATION OFFICERS or one adult probation officer and two surveillance officers.

B. A two person intensive probation team shall supervise no more than twenty-five persons at one time, and a three person intensive probation team shall supervise no more than forty persons at one time.

C. The adult probation officers shall meet the bonding requirements and experience and education standards established pursuant to section 12-251.

D. The intensive probation team may serve warrants on, make arrests of and bring before the court persons who have violated the terms of intensive probation.

E. The adult probation and surveillance officers both have the authority of a peace officer in the performance of their duties but are not eligible to participate in the public safety personnel retirement system.

F. The intensive probation team shall:

1. Secure and keep a complete identification record of each person supervised by the team and a written statement of the conditions of the probation.

2. Exercise close supervision and observation over persons sentenced to intensive probation including both of the following:

(a) Visual contact with each probationer at least four times per week.

(b) Weekly contact with the employer of the probationer.

3. Obtain and assemble information concerning the conduct of persons sentenced to intensive probation, including weekly arrest records, and report the information to the court.

4. Report to the court if the probationer engages in conduct constituting an offense.

5. Bring a defaulting probationer into court if, in the judgment of the adult probation officer, the probationer's conduct justifies revoking the intensive probation.

6. Monitor the payment of restitution and probation fees and bring into court any probationer who fails to pay restitution or fees.

7. Perform any other responsibilities required by the terms and conditions imposed by the court.

Sec. 9. Section 21-222, Arizona Revised Statutes, is amended to read:

21-222. Arizona lengthy trial fund

A. The Arizona lengthy trial fund is established consisting of monies received from the additional fees paid on all filings, appearances, responses

and answers pursuant to section 12-115. The monies in the fund shall not be used for any purpose other than as prescribed in this section.

B. The supreme court shall administer the fund and shall adopt rules for the administration of the fund. Not more than three per cent of the monies in the fund shall be used for the reasonable and necessary costs of administering the fund. On or before the fifteenth day of each month, on receipt of a request for reimbursement the supreme court shall transmit monies from the fund to a jury commissioner for monies paid to a juror under this section, together with a fee of not less than the amount prescribed in section 12-284, subsection A, class E for each application for payment of replacement or supplemental earnings by a juror.

C. Subject to the availability of monies, monies in the fund shall be used to pay full or partial earnings replacement or supplementation to jurors who serve as petit jurors for more than five days and who receive less than full compensation. The amount of replacement or supplemental earnings shall be at least forty dollars but not more than three hundred dollars per day per juror beginning on the fourth day of jury service.

D. A juror whose jury service lasts more than five days may submit a request for payment from the fund. The amount a juror receives from the fund is limited to the difference between the jury fee prescribed in section 21-221 and the actual amount of earnings a juror earns, not less than forty dollars, up to the maximum level payable under subsection C of this section, minus any amount the juror actually received from the juror's employer during the same time period. A juror who requests payment from the fund:

1. Shall disclose on the form the juror's regular earnings, the amount the juror's employer will pay during the term of jury service starting on the fourth day and thereafter, the amount of replacement or supplemental earnings being requested and any other information that the jury commissioner deems necessary.

2. Before receiving payment from the fund, shall submit verification from the juror's employer, if any, regarding the earnings information that is provided under paragraph 1. This verification may include the employee's most recent earnings statement or a similar document.

3. In order to verify the weekly income if the juror is self-employed or receives compensation other than wages, shall provide a sworn affidavit attesting to the juror's approximate gross weekly income, together with any other information that the supreme court requires.

E. Jurors who are unemployed and are not eligible for payment pursuant to subsections C and D of this section are eligible to be paid forty dollars per day, even if they receive income in the form of spousal maintenance, pensions, retirement, unemployment compensation, disability benefits or other similar income. Commissioners shall not deduct these other forms of income in calculating the amount these jurors are to be paid from the fund.

F. The supreme court shall annually report to the joint legislative budget committee on the amount of monies collected and disbursed from the

fund and the number of jurors who received monies from the fund. BEGINNING JULY 1, 2011, THE REPORT SHALL BE SUBMITTED ELECTRONICALLY.

Sec. 10. Section 25-323.01, Arizona Revised Statutes, is amended to read:

25-323.01. Child support committee; membership; duties; report

A. The child support committee is established consisting of the following members:

1. The director of the department of economic security or the director's designee.

2. The assistant director of the division of child support enforcement of the department of economic security.

3. A division or section chief from the office of the attorney general who has knowledge of or experience in child support enforcement and related issues and who is appointed by the attorney general.

4. The director of the administrative office of the supreme court or the director's designee.

5. Two presiding judges from the domestic relations division of the superior court who are appointed by the chief justice of the supreme court. One judge shall be from an urban county and one judge shall be from a rural county.

6. A title IV-D court commissioner who is appointed by the chief justice of the supreme court.

7. A clerk of the superior court who is appointed by the chief justice of the supreme court.

8. One county attorney who is appointed by the director of the department of economic security and who is from a county that is currently contracting with the state to provide child support enforcement services.

9. An executive assistant from the office of the governor who is appointed by the governor.

10. One person who is knowledgeable in child support issues and who is a noncustodial parent and one person who is knowledgeable in child support issues and who is a custodial parent. The president of the senate shall appoint these members.

11. One person who is knowledgeable in child support issues and who is a noncustodial parent and one person who is knowledgeable in child support issues and who is a custodial parent. The speaker of the house of representatives shall appoint these members.

12. One parent who is knowledgeable in child support issues, who has joint custody and who is appointed jointly by the president of the senate and the speaker of the house of representatives.

13. One person from the executive committee of the family law section of the state bar of Arizona who is appointed by the chief justice of the supreme court.

14. One person from the business community who is appointed jointly by the president of the senate and the speaker of the house of representatives.

15. Two members of the senate from different political parties. The president of the senate shall appoint the members and designate one of the members as the cochairperson.

16. Two members of the house of representatives from different political parties. The speaker of the house of representatives shall appoint the members and designate one of the members as the cochairperson.

B. The committee shall prepare an annual written report on its work, findings and recommendations regarding child support guidelines, enforcement and related issues. The committee shall submit this report to the governor, the president of the senate, the speaker of the house of representatives and the chief justice of the supreme court on or before December 31 of each year and shall provide a copy of this report to the secretary of state and the director of the Arizona state library, archives and public records. BEGINNING JULY 1, 2011, THE REPORT SHALL BE SUBMITTED ELECTRONICALLY.

C. Nonlegislative members of the committee are not eligible to receive compensation but are eligible for reimbursement of expenses pursuant to title 38, chapter 4, article 2.

Sec. 11. Section 25-323.02, Arizona Revised Statutes, is amended to read:

25-323.02. <u>Domestic relations committee; membership; duties; pilot programs; report</u>

A. The domestic relations committee is established consisting of the following members:

1. Two noncustodial parents who are knowledgeable in domestic relations issues and who are not judges or commissioners. The president of the senate and the speaker of the house of representatives shall each appoint one of these members.

2. Two custodial parents who are knowledgeable in domestic relations issues and who are not judges or commissioners. The president of the senate and the speaker of the house of representatives shall each appoint one of these members.

3. Two parents who have joint custody, who are knowledgeable in domestic relations issues and who are not judges or commissioners. The president of the senate and the speaker of the house of representatives shall each appoint one of these members.

4. Two parents who are knowledgeable in domestic relations issues, who are not judges or commissioners and who are appointed by the governor.

5. Two active or retired judges or commissioners, or both, from the domestic relations department of the superior court who are appointed by the chief justice of the supreme court. One of these members shall be from an urban county and one member shall be from a rural county.

6. One domestic relations attorney who is appointed by the governor.

7. One clerk of the superior court who is appointed by the chief justice of the supreme court.

8. A professional domestic relations mediator who is appointed by the president of the senate.

9. A psychologist who is experienced in performing child custody evaluations and who is appointed by the speaker of the house of representatives.

10. A domestic relations educator who is experienced in matters relating to parenting or divorce classes and who is appointed by the governor.

11. A representative of a statewide domestic violence coalition who is appointed by the president of the senate.

12. A representative of a conciliation court who is appointed by the chief justice of the supreme court.

13. A marriage and family therapist who is knowledgeable in domestic relations issues and who is appointed by the speaker of the house of representatives.

14. A representative from a faith-based organization who is knowledgeable in domestic relations issues and who is appointed by the governor.

15. An administrative officer of the supreme court who is appointed by the chief justice of the supreme court or the officer's designee.

16. A member of a law enforcement agency in this state who is appointed by the speaker of the house of representatives.

17. A member of an agency that advocates for children who is appointed by the president of the senate.

18. One member of the family law section of the state bar of Arizona who is appointed by the chief justice of the supreme court.

19. Four members of the senate, not more than two of whom are members of the same political party. The president of the senate shall appoint these members and shall designate one of them as the cochairperson.

20. Four members of the house of representatives, not more than two of whom are members of the same political party. The speaker of the house of representatives shall appoint these members and designate one of them as the cochairperson.

B. The committee shall prepare a statewide plan for an integrated family court with comprehensive subject matter jurisdiction over all matters involving the family and submit this plan to the governor, the president of the senate, the speaker of the house of representatives and the chief justice of the supreme court on or before December 31, 2002. Based on this plan or on other formal recommendations from the committee, beginning July 1, 2006, the supreme court shall implement a two year integrated family court pilot program in one county with a population of less than five hundred thousand persons. The supreme court shall submit quarterly reports on the pilot program to the committee. The committee shall include information from these reports in its annual report prepared pursuant to subsection C of this section.

C. The committee shall prepare an annual written report regarding recommended changes to the domestic relations statutes, rules and procedures and other related issues designed to lead to a reform of the state's domestic relations statutes. The committee shall submit this report to the governor, the president of the senate, the speaker of the house of representatives and the chief justice of the supreme court on or before December 31 of each year and shall provide a copy of the report to the secretary of state and the director of the Arizona state library, archives and public records. BEGINNING JULY 1, 2011, THE REPORT SHALL BE SUBMITTED ELECTRONICALLY.

D. The committee shall develop minimum training standards on domestic violence and child abuse issues for persons conducting an investigation or preparing a report concerning child custodial arrangements pursuant to section 25-406. The committee shall approve the standards on or before December 31, 2004. The committee may modify the standards on or before December 31 of each year.

E. Nonlegislative members of the committee are not eligible to receive compensation but are eligible for reimbursement of expenses pursuant to title 38, chapter 4, article 2.

Sec. 12. Section 28-3396, Arizona Revised Statutes, is amended to read:

28-3396. Court diversion fee

A. The presiding judge of each court shall:

1. Set the amount of the court diversion fee that an individual who attends a defensive driving school may be assessed.

2. Charge an individual a forty-five dollar surcharge if the individual attends a defensive driving school.

3. Immediately inform the supreme court in writing of the amount of the court diversion fee that is established for the court and the total cost to attend a defensive driving school.

4. Immediately inform the supreme court in writing of any changes in the total cost to attend a defensive driving school.

B. Payment of the court diversion fee and surcharge is in lieu of payment of a civil penalty or criminal fine and any surcharge that are imposed for a traffic violation.

C. The driving school shall collect the court diversion fee and surcharge before or at the time an individual attends the school. On receipt of the diversion fee, the defensive driving school shall transmit the fee promptly to the appropriate court pursuant to procedures prescribed by the supreme court. On receipt of the surcharge, the defensive driving school shall transmit the surcharge promptly to the state treasurer for deposit, pursuant to sections 35-146 and 35-147, AS FOLLOWS:

1. THE FIRST TEN MILLION FOUR HUNDRED THOUSAND DOLLARS IN REVENUE ANNUALLY IN THE CRIME LABORATORY OPERATIONS FUND ESTABLISHED BY SECTION 41-1772.

2. ALL REMAINING MONEY in the state general fund.

Sec. 13. Section 31-466, Arizona Revised Statutes, is amended to read:

31-466. Supervision fee; deposit

A. A person being supervised in this state pursuant to this article shall pay, as a condition of probation or parole, a monthly supervision fee of not less than fifty dollars IF THE PERSON IS ON PAROLE AND NOT LESS THAN SIXTY-FIVE DOLLARS IF THE PERSON IS ON STANDARD PROBATION OR NOT LESS THAN SEVENTY-FIVE DOLLARS IF THE PERSON IS ON INTENSIVE PROBATION, unless, after determining the inability of the person to pay the fee, the supervising agency requires payment of a lesser amount. The supervising parole or probation officer shall monitor the collection of the fee.

B. Seventy per cent of the monies collected pursuant to subsection A of this section shall be deposited, pursuant to sections 35-146 and 35-147, in the victim compensation and assistance fund established by section 41-2407 and thirty per cent shall be deposited in the adult probation services fund established by section 12-267.

Sec. 14. Section 31-467.06, Arizona Revised Statutes, is amended to read:

31-467.06. Supervision fee; deposit

A. A person being supervised in this state pursuant to this article shall pay, as a condition of probation or parole, a monthly supervision fee of ~~at least~~ NOT LESS THAN fifty dollars IF THE PERSON IS ON PAROLE AND NOT LESS THAN SIXTY-FIVE DOLLARS IF THE PERSON IS ON STANDARD PROBATION OR NOT LESS THAN SEVENTY-FIVE DOLLARS IF THE PERSON IS ON INTENSIVE PROBATION, unless, after determining the inability of the person to pay the fee, the supervising agency requires payment of a lesser amount. The supervising parole or probation officer shall monitor the collection of the fee.

B. Seventy per cent of the monies collected pursuant to this section shall be deposited, pursuant to sections 35-146 and 35-147, in the victim compensation and assistance fund established by section 41-2407 and thirty per cent shall be deposited in the adult probation services fund established by section 12-267.

Sec. 15. Section 38-842, Arizona Revised Statutes, is amended to read:

38-842. Definitions

In this article, unless the context otherwise requires:

1. "Accidental disability" means a physical or mental condition that the local board finds totally and permanently prevents an employee from performing a reasonable range of duties within the employee's job classification and that was incurred in the performance of the employee's duty.

2. "Accumulated contributions" means, for each member, the sum of the amount of the member's aggregate contributions made to the fund and the amount, if any, attributable to the employee's contributions prior to the member's effective date under another public retirement system, other than the federal social security act, and transferred to the fund minus the benefits paid to or on behalf of the member.

3. "Actuarial equivalent" means equality in present value of the aggregate amounts expected to be received under two different forms of payment, based on mortality and interest assumptions adopted by the fund manager. The fund manager may from time to time change the mortality and interest assumptions.

4. "Alternate payee" means the spouse or former spouse of a participant as designated in a domestic relations order.

5. "Alternate payee's portion" means benefits that are payable to an alternate payee pursuant to a plan approved domestic relations order.

6. "Average monthly benefit compensation" means the result obtained by dividing the total compensation paid to an employee during a considered period by the number of months, including fractional months, in which such compensation was received. The considered period shall be the three consecutive years within the last twenty completed years of credited service that yield the highest average. In the computation under this paragraph a period of nonpaid or partially paid industrial leave shall be considered based on the compensation the employee would have received in the employee's job classification if the employee was not on industrial leave.

7. "Catastrophic disability" means a physical and not a psychological condition that the local board determines prevents the employee from totally and permanently engaging in any gainful employment and that results from a physical injury incurred in the performance of the employee's duty.

8. "Certified peace officer" means a peace officer certified by the Arizona peace officers standards and training board.

9. "Claimant" means any member or beneficiary who files an application for benefits pursuant to this article.

10. "Compensation" means, for the purpose of computing retirement benefits, base salary, overtime pay, shift differential pay and holiday pay paid to an employee by the employer on a regular monthly, semimonthly or biweekly payroll basis and longevity pay paid to an employee at least every six months for which contributions are made to the system pursuant to section 38-843, subsection D. Compensation does not include, for the purpose of computing retirement benefits, payment for unused sick leave, payment in lieu of vacation, payment for compensatory time or payment for any fringe benefits. IN ADDITION, COMPENSATION DOES NOT INCLUDE, FOR THE PURPOSE OF COMPUTING RETIREMENT BENEFITS, PAYMENTS MADE DIRECTLY OR INDIRECTLY BY THE EMPLOYER TO THE EMPLOYEE FOR WORK PERFORMED FOR A THIRD PARTY ON A CONTRACTED BASIS OR ANY OTHER TYPE OF AGREEMENT UNDER WHICH THE THIRD PARTY PAYS OR REIMBURSES THE EMPLOYER FOR THE WORK PERFORMED BY THE EMPLOYEE FOR THAT THIRD PARTY, EXCEPT FOR THIRD PARTY CONTRACTS BETWEEN PUBLIC AGENCIES FOR LAW ENFORCEMENT, TRAINING, WILDFIRE AND EMERGENCY MANAGEMENT ACTIVITIES. For the purposes of this paragraph, "base salary" means the amount of compensation each employee is regularly paid for personal services rendered to an employer before the addition of any extra monies, including overtime pay, shift

differential pay, holiday pay, longevity pay, fringe benefit pay and similar extra payments.

11. "Credited service" means the member's total period of service prior to the member's effective date of participation, plus those compensated periods of the member's service thereafter for which the member made contributions to the fund.

12. "Cure period" means the ninety-day period in which a participant or alternate payee may submit an amended domestic relations order and request a determination, calculated from the time the system issues a determination finding that a previously submitted domestic relations order did not qualify as a plan approved domestic relations order.

13. "Depository" means a bank in which all monies of the system are deposited and held and from which all expenditures for benefits, expenses and investments are disbursed.

14. "Determination" means a written document that indicates to a participant and alternate payee whether a domestic relations order qualifies as a plan approved domestic relations order.

15. "Determination period" means the ninety-day period in which the system must review a domestic relations order that is submitted by a participant or alternate payee to determine whether the domestic relations order qualifies as a plan approved domestic relations order, calculated from the time the system mails a notice of receipt to the participant and alternate payee.

16. "Domestic relations order" means an order of a court of this state that is made pursuant to the domestic relations laws of this state and that creates or recognizes the existence of an alternate payee's right to, or assigns to an alternate payee the right to, receive a portion of the benefits payable to a participant.

17. "Effective date of participation" means July 1, 1968, except with respect to employers and their covered employees whose contributions to the fund commence thereafter, the effective date of their participation in the system is as specified in the applicable joinder agreement.

18. "Effective date of vesting" means the date a member's rights to benefits vest pursuant to section 38-844.01.

19. "Eligible child" means the unmarried child of a deceased member who is under the age of eighteen or a full-time student who is under the age of twenty-three or under a disability that began before the child attained the age of twenty-three and who remains a dependent of the surviving spouse or guardian.

20. "Eligible groups" means only the following who are regularly assigned to hazardous duty:

(a) Municipal police officers who are certified peace officers.

(b) Municipal fire fighters.

(c) Paid full-time fire fighters employed directly by a fire district organized pursuant to section 48-803 or 48-804 with three or more full-time

fire fighters, but not including fire fighters employed by a fire district pursuant to a contract with a corporation.

(d) State highway patrol officers who are certified peace officers.

(e) State fire fighters.

(f) County sheriffs and deputies who are certified peace officers.

(g) Game and fish wardens who are certified peace officers.

(h) Police officers who are certified peace officers and fire fighters of a nonprofit corporation operating a public airport pursuant to sections 28-8423 and 28-8424. A police officer shall be designated pursuant to section 28-8426 to aid and supplement state and local law enforcement agencies and a fire fighter's sole duty shall be to perform fire fighting services, including services required by federal regulations.

(i) Police officers who are certified peace officers and who are appointed by the Arizona board of regents.

(j) Police officers who are certified peace officers and who are appointed by a community college district governing board.

(k) State attorney general investigators who are certified peace officers.

(l) County attorney investigators who are certified peace officers.

(m) Police officers who are certified peace officers and who are employed by an Indian reservation police agency.

(n) Fire fighters who are employed by an Indian reservation fire fighting agency.

(o) Police officers who are certified peace officers and who are appointed by the department of administration.

(p) Department of liquor licenses and control investigators who are certified peace officers.

(q) Arizona department of agriculture officers who are certified peace officers.

(r) Arizona state parks board rangers and managers who are certified peace officers.

(s) County park rangers who are certified peace officers.

21. "Employee" means any person who is employed by a participating employer and who is a member of an eligible group but does not include any persons compensated on a contractual or fee basis. If an eligible group requires certified peace officer status and at the option of the local board, employee may include a person who is training to become a certified peace officer.

22. "Employers" means:

(a) Cities contributing to the fire fighters' relief and pension fund as provided in sections 9-951 through 9-971 or statutes amended thereby and antecedent thereto, as of June 30, 1968 on behalf of their full-time paid fire fighters.

(b) Cities contributing under the state police pension laws as provided in sections 9-911 through 9-934 or statutes amended thereby and

antecedent thereto, as of June 30, 1968 on behalf of their municipal policemen.

(c) The state highway patrol covered under the state highway patrol retirement system.

(d) The state, or any political subdivision of this state, including towns, cities, fire districts, counties and nonprofit corporations operating public airports pursuant to sections 28-8423 and 28-8424, that has elected to participate in the system on behalf of an eligible group of public safety personnel pursuant to a joinder agreement entered into after July 1, 1968.

(e) Indian tribes that have elected to participate in the system on behalf of an eligible group of public safety personnel pursuant to a joinder agreement entered into after July 1, 1968.

23. "Fund" means the public safety personnel retirement fund, which is the fund established to receive and invest contributions accumulated under the system and from which benefits are paid.

24. "Fund manager" means the fund manager of the system, who are the persons appointed to invest and operate the fund.

25. "Local board" means the retirement board of the employer, who are the persons appointed to administer the system as it applies to their members in the system.

26. "Member" means any employee who meets all of the following qualifications:

(a) Who is either a full-time paid municipal police officer, a full-time paid fire fighter, a law enforcement officer who is employed by this state including the director thereof, a state fire fighter who is primarily assigned to fire fighting duties, a fire fighter or police officer of a nonprofit corporation operating a public airport pursuant to sections 28-8423 and 28-8424, all ranks designated by the Arizona law enforcement merit system council, a state attorney general investigator who is a certified peace officer, a county attorney investigator who is a certified peace officer, a police officer who is appointed by the department of administration and who is a certified peace officer, a department of liquor licenses and control investigator who is a certified peace officer, an Arizona department of agriculture officer who is a certified peace officer, an Arizona state parks board ranger or manager who is a certified peace officer, a county park ranger who is a certified peace officer, a person who is a certified peace officer and who is employed by an Indian reservation police agency, a fire fighter who is employed by an Indian reservation fire fighting agency or an employee included in a group designated as eligible employees under a joinder agreement entered into by their employer after July 1, 1968 and who is or was regularly assigned to hazardous duty.

(b) Who, on or after the employee's effective date of participation, is receiving compensation for personal services rendered to an employer or would be receiving compensation except for an authorized leave of absence.

(c) Whose employment with an employer commenced prior to attainment of age fifty.

(d) Whose customary employment is at least forty hours per week and for more than six months in a calendar year.

(e) Who has not attained age sixty-five prior to the employee's effective date of participation or who was over age sixty-five with twenty-five years or more of service prior to the employee's effective date of participation.

27. "Normal retirement date" means the first day of the calendar month immediately following an employee's completion of twenty years of service or the employee's sixty-second birthday and the employee's completion of fifteen years of service.

28. "Notice of receipt" means a written document that is issued by the system to a participant and alternate payee and that states that the system has received a domestic relations order and a request for a determination that the domestic relations order is a plan approved domestic relations order.

29. "Ordinary disability" means a physical condition that the local board determines will prevent an employee totally and permanently from performing a reasonable range of duties within the employee's department or a mental condition that the local board determines will prevent an employee totally and permanently from engaging in any substantial gainful activity.

30. "Participant" means a member who is subject to a domestic relations order.

31. "Participant's portion" means benefits that are payable to a participant pursuant to a plan approved domestic relations order.

32. "Pension" means a series of monthly amounts that are payable to a person who is entitled to receive benefits under the plan.

33. "Personal representative" means the personal representative of a deceased alternate payee.

34. "Plan approved domestic relations order" means a domestic relations order that the system approves as meeting all the requirements for a plan approved domestic relations order as otherwise prescribed in this article.

35. "Regularly assigned to hazardous duty" means regularly assigned to duties of the type normally expected of municipal police officers, municipal or state fire fighters, eligible fire district fire fighters, state highway patrol officers, county sheriffs and deputies, fish and game wardens, fire fighters and police officers of a nonprofit corporation operating a public airport pursuant to sections 28-8423 and 28-8424, police officers who are appointed by the Arizona board of regents or a community college district governing board, state attorney general investigators who are certified peace officers, county attorney investigators who are certified peace officers, police officers who are appointed by the department of administration and who are certified peace officers, department of liquor licenses and control investigators who are certified peace officers, Arizona department of

agriculture officers who are certified peace officers, Arizona state parks board rangers and managers who are certified peace officers, county park rangers who are certified peace officers, police officers who are certified peace officers and who are employed by an Indian reservation police agency or fire fighters who are employed by an Indian reservation fire fighting agency. Those individuals who are assigned solely to support duties such as secretaries, stenographers, clerical personnel, clerks, cooks, maintenance personnel, mechanics and dispatchers are not assigned to hazardous duty regardless of their position classification title. Since the normal duties of those jobs described in this paragraph are constantly changing, questions as to whether a person is or was previously regularly assigned to hazardous duty shall be resolved by the local board on a case-by-case basis. Resolutions by local boards are subject to rehearing and appeal.

36. "Retirement" means termination of employment after a member has fulfilled all requirements for a pension. Retirement shall be considered as commencing on the first day of the month immediately following a member's last day of employment or authorized leave of absence, if later.

37. "Segregated funds" means the amount of benefits that would currently be payable to an alternate payee pursuant to a domestic relations order under review by the system, or a domestic relations order submitted to the system that failed to qualify as a plan approved domestic relations order, if the domestic relations order were determined to be a plan approved domestic relations order.

38. "Service" means the last period of continuous employment of an employee by the employers prior to the employee's retirement or the employee's sixty-fifth birthday, whichever first occurs, except that if such period includes employment during which the employee would not have qualified as a member had the system then been effective, such as employment as a volunteer fire fighter, then only twenty-five per cent of such noncovered employment shall be considered as service. Any absence that is authorized by an employer shall not be considered as interrupting continuity of employment if the employee returns within the period of authorized absence. Transfers between employers also shall not be considered as interrupting continuity of employment. Any period during which a member is receiving sick leave payments or a temporary disability pension shall be considered as service. Notwithstanding any other provision of this paragraph, any period during which a person was employed as a full-time paid fire fighter for a corporation that contracted with an employer to provide firefighting services on behalf of the employer shall be considered as service if the employer has elected at its option to treat part or all of the period the firefighter worked for the company as service in its applicable joinder agreement. Any reference in this system to the number of years of service of an employee shall be deemed to include fractional portions of a year.

39. "State" means the state of Arizona, including any department, office, board, commission, agency or other instrumentality of the state.

40. "System" means the public safety personnel retirement system established by this article.

41. "Temporary disability" means a physical or mental condition that the local board finds totally and temporarily prevents an employee from performing a reasonable range of duties within the employee's department and that was incurred in the performance of the employee's duty.

Sec. 16. Section 38-902, Arizona Revised Statutes, is amended to read:

38-902. Joinder agreement

A. County detention officers and nonuniformed employees of a sheriff's department whose primary duties require direct contact with inmates may participate in this plan if the board of supervisors of the county enters into a joinder agreement with the fund manager to bring such employees into this plan. The joinder agreement shall be in accordance with the provisions of this plan. All such employees shall be designated for membership in the joinder agreement unless written consent to the contrary is obtained from the fund manager.

B. City or town detention officers may participate in this plan if the governing body of the city or town enters into a joinder agreement with the fund manager to bring its detention officers into this plan. The joinder agreement shall be in accordance with the provisions of the plan. The governing body of the city or town shall designate all detention officers for membership in the plan unless written consent to the contrary is obtained from the fund manager.

C. Full-time dispatchers may participate in this plan if the governing body or agency of the employer of an eligible group as defined in section 38-842 enters into a joinder agreement with the fund manager to bring its full-time dispatchers into this plan BEFORE THE EFFECTIVE DATE OF THIS AMENDMENT TO THIS SECTION AND IF THE PERSON WAS EMPLOYED BY THE EMPLOYER AS A FULL-TIME DISPATCHER BEFORE THE EFFECTIVE DATE OF THIS AMENDMENT TO THIS SECTION. The joinder agreement shall be in accordance with the provisions of this plan and for those dispatchers designated for membership in the plan on the joinder date all credited service from any other Arizona defined benefit state retirement system or plan that represents credited service in a designated position shall be transferred to the corrections officer retirement plan. The governing body or agency of the employer shall designate all full-time dispatchers for membership in the plan except for a full-time dispatcher who signs an irrevocable agreement before the joinder agreement becomes effective electing not to become a member of the plan. A full-time dispatcher employed by an employer who becomes eligible for membership in the plan pursuant to this section may elect to participate in the plan within the deadlines and pursuant to the terms prescribed for such participation by the fund manager.

D. Probation, surveillance and juvenile detention officers may participate in this plan if the administrative office of the courts enters into a joinder agreement with the fund manager to bring its probation,

1 surveillance and juvenile detention officers into this plan. The joinder
2 agreement shall be in accordance with the provisions of this plan. The
3 administrative office of the courts shall designate all probation,
4 surveillance and juvenile detention officers for membership in this plan
5 unless written consent to the contrary is obtained from the fund manager.
6 E. Detention officers who are employed by the department of public
7 safety may participate in this plan if the director of the department of
8 public safety enters into a joinder agreement with the fund manager to bring
9 the department's detention officers into this plan. The joinder agreement
10 shall be in accordance with the provisions of this plan. The director of the
11 department of public safety shall designate all detention officers for
12 membership in this plan unless written consent to the contrary is obtained
13 from the fund manager.
14 F. The new employer shall designate the groups of employees who are
15 eligible to participate in the plan and shall agree to make contributions
16 each year that are sufficient to meet both the normal cost of a level cost
17 method attributable to inclusion of its employees and the prescribed interest
18 on the past service cost for its employees.
19 G. Before the execution of any joinder agreement each employer
20 contemplating participation in the plan shall have an actuarial valuation
21 made, which is payable by the employer, to determine the estimated cost of
22 participation in accordance with section 38-894.
23 H. Assets under any existing public employee defined benefit
24 retirement program, except a military retirement program, that are necessary
25 to equal the actuarial present value of projected benefits to the extent
26 funded on a market value basis as of the most recent actuarial valuation
27 attributable to the employer's designated employee group, calculated using
28 the actuarial methods and assumptions adopted by the existing public employee
29 retirement program, shall be transferred from the program to this fund no
30 later than ninety days after the employer's effective date. That portion of
31 the transferred assets that is attributable to employee contributions,
32 including interest credits, shall be properly allocated to each affected
33 employee of the employer and credited to the employee's initial accumulated
34 contributions in accordance with a schedule furnished by the employer to the
35 fund manager.
36 Sec. 17. Title 41, chapter 11, article 1, Arizona Revised Statutes, is
37 amended by adding section 41-1608, to read:
38 41-1608. <u>Inmate medical services; rate structure</u>
39 IF A PRISONER IN A SECURE CARE FACILITY REQUIRES HEALTH CARE SERVICES
40 THAT THE DEPARTMENT, THE FACILITY OR A PRIVATE PRISON PROVIDER CONTRACTED BY
41 THE DEPARTMENT CANNOT PROVIDE, THE DEPARTMENT SHALL PAY APPROVED CLAIMS FROM
42 A FACILITY OR PROVIDER THAT PROVIDES THESE SERVICES AS FOLLOWS:
43 1. FOR INPATIENT AND OUTPATIENT HOSPITAL SERVICES, THE DEPARTMENT
44 SHALL REIMBURSE AT A LEVEL THAT DOES NOT EXCEED THE REIMBURSEMENT METHODOLOGY
45 ESTABLISHED PURSUANT TO SECTION 36-2903.01, SUBSECTION H.

2. FOR HEALTH AND MEDICAL SERVICES, THE DEPARTMENT SHALL REIMBURSE AT A LEVEL THAT DOES NOT EXCEED THE CAPPED FEE-FOR-SERVICE SCHEDULE THAT IS ADOPTED BY THE ARIZONA HEALTH CARE COST CONTAINMENT SYSTEM ADMINISTRATION PURSUANT TO TITLE 36, CHAPTER 29, ARTICLE 1 AND THAT IS IN EFFECT AT THE TIME THE SERVICES ARE DELIVERED.

Sec. 18. Section 41-1722, Arizona Revised Statutes, is amended to read:

41-1722. State photo enforcement system; penalties; fund

A. Notwithstanding any other law, the department shall enter into a contract or contracts with a private vendor or vendors pursuant to chapter 23 of this title to establish a state photo enforcement system consisting of cameras placed throughout this state as determined by the director to enforce the provisions of title 28, chapter 3, articles 3 and 6 relating to vehicle traffic and speed.

B. Notwithstanding any other law, the civil penalty or fine for a citation or a notice of violation issued pursuant to this section is one hundred sixty-five dollars and is not subject to any surcharge except the surcharge imposed by section 16-954. ~~State photo enforcement citations shall not be included in judicial productivity credit calculations for fiscal year 2008-2009.~~

C. The photo enforcement fund is established consisting of monies received from citations or notices of violation issued pursuant to this section. The director shall administer the fund. Monies in the fund are subject to legislative appropriation and are appropriated to the department for administrative and personnel costs of the state photo enforcement system. Monies remaining in the fund in excess of two hundred fifty thousand dollars at the end of each calendar quarter shall be deposited, pursuant to sections 35-146 and 35-147, in the state general fund.

D. Notwithstanding any other law, if a person is found responsible for a civil traffic violation or a notice of violation pursuant to a citation issued pursuant to this section, the department of transportation shall not consider the violation for the purpose of determining whether the person's driver license should be suspended or revoked. A court shall not transmit abstracts of records of these violations to the department of transportation.

Sec. 19. Title 41, chapter 12, article 5, Arizona Revised Statutes, is amended by adding section 41-1772, to read:

41-1772. Crime laboratory operations fund

A. THE CRIME LABORATORY OPERATIONS FUND IS ESTABLISHED CONSISTING OF SURCHARGE MONIES DEPOSITED PURSUANT TO SECTION 28-3396. THE DEPARTMENT SHALL ADMINISTER THE FUND.

B. SUBJECT TO LEGISLATIVE APPROPRIATION, MONIES IN THE FUND SHALL BE USED FOR CRIME LABORATORY OPERATIONS.

Sec. 20. Section 41-2401, Arizona Revised Statutes, is amended to read:

41-2401. Criminal justice enhancement fund

A. The criminal justice enhancement fund is established consisting of monies collected pursuant to section 12-116.01 and monies available from any other source. The state treasurer shall administer the fund.

B. On or before November 1 of each year, each department, agency or office that receives monies pursuant to this section shall provide to the Arizona criminal justice commission a report for the preceding fiscal year. The report shall be in a form prescribed by the Arizona criminal justice commission and shall be reviewed by the director of the joint legislative budget committee. The report shall set forth the sources of all monies and all expenditures. The report shall not include any identifying information about specific investigations.

C. On or before December 1 of each year, the Arizona criminal justice commission shall compile all reports into a single comprehensive report and shall submit a copy of the comprehensive report to the governor, the president of the senate, the speaker of the house of representatives and the director of the joint legislative budget committee.

D. On the first day of each month, the state treasurer shall distribute or deposit:

1. 6.46 per cent in the Arizona automated fingerprint identification system fund established by section 41-2414.

2. 1.61 per cent to the department of juvenile corrections for the treatment and rehabilitation of youth who have committed drug-related offenses.

3. 16.64 per cent in the peace officers' training fund established by section 41-1825.

4. 3.03 per cent in the prosecuting attorneys' advisory council training fund established by section 41-1830.03.

5. 9.35 per cent to the supreme court for the purpose of reducing juvenile crime.

6. 8.56 per cent to the department of public safety. Fifteen per cent of the monies shall be allocated for deposit in the Arizona deoxyribonucleic acid identification system fund established by section 41-2419. Eighty-five per cent of the monies shall be allocated to state and local law enforcement authorities for the following purposes:

(a) To enhance projects that are designed to prevent residential and commercial burglaries, to control street crime, including the activities of criminal street gangs, and to locate missing children.

(b) To provide support to the Arizona automated fingerprint identification system.

(c) Operational costs of the criminal justice information system.

7. 9.35 per cent to the department of law for allocation to county attorneys for the purpose of enhancing prosecutorial efforts.

8. 6.02 per cent to the supreme court for the purpose of enhancing the ability of the courts to process criminal and delinquency cases, orders of protection, injunctions against harassment and any proceeding relating to domestic violence matters, for auditing and investigating persons or entities licensed or certified by the supreme court and for processing judicial discipline cases. Notwithstanding section 12-143, subsection A, the salary of superior court judges pro tempore who are appointed for the purposes provided in this paragraph shall, and the salary of other superior court judges pro tempore who are appointed pursuant to section 12-141 for the purposes provided in this paragraph may, be paid in full by the monies received pursuant to this paragraph.

9. 11.70 per cent to the ~~state department of corrections for allocation to~~ county sheriffs for the purpose of enhancing county jail facilities and operations, including county jails under the jurisdiction of county jail districts.

10. 1.57 per cent to the Arizona criminal justice commission.

11. 9.00 per cent to the state general fund.

12. 2.30 per cent in the crime laboratory assessment fund established by section 41-2415.

13. 7.68 per cent in the victims' rights fund established by section 41-191.08.

14. 4.60 per cent in the victim compensation and assistance fund established by section 41-2407.

15. 2.13 per cent to the supreme court for the purpose of providing drug treatment services to adult probationers through the community punishment program established in title 12, chapter 2, article 11.

E. Monies distributed pursuant to subsection D, paragraphs 3, 4, 7, 9, 11, 12, 13 and 14 of this section constitute a continuing appropriation. Monies distributed pursuant to subsection D, paragraphs 1, 2, 5, 8, 10 and 15 of this section are subject to legislative appropriation.

F. The portion of the eighty-five per cent of the monies for direct operating expenses of the department of public safety in subsection D, paragraph 6 of this section is subject to legislative appropriation. The remainder of the monies in subsection D, paragraph 6 of this section including the portion of the eighty-five per cent for local law enforcement is continuously appropriated.

G. The allocation of monies pursuant to subsection D, paragraphs 6, 7, 8 and 9 of this section shall be made in accordance with rules adopted by the Arizona criminal justice commission pursuant to section 41-2405.

Sec. 21. Laws 2007, chapter 261, section 16 is amended to read:

Sec. 16. <u>Appropriations; deoxyribonucleic acid identification system fund; exemption</u>

A. The sums of $1,980,000 in fiscal year 2007-2008, $2,980,000 in fiscal year 2008-2009, ~~$3,484,000~~ $980,000 in fiscal year 2009-2010, $3,440,000 in fiscal year 2010-2011 and $3,520,000 in fiscal year 2011-2012

are appropriated from the monies that are collected pursuant to section 12-116.01, subsection C, Arizona Revised Statutes, ~~as amended by this act,~~ and that are distributed pursuant to section 12-116.01, subsection J, Arizona Revised Statutes, ~~as amended by this act,~~ for deposit in the Arizona deoxyribonucleic acid identification system fund established by section 41-2419, Arizona Revised Statutes, to the department of public safety for equipment purchases, personal services, employee-related expenses, training, other operating expenses and capital improvements in order to implement, conduct and maintain deoxyribonucleic acid testing.

B. The appropriations made in subsection A of this section shall come from the additional four per cent penalty assessment that is collected and distributed pursuant to the penalty assessment increase from three per cent to seven per cent in section 12-116.01, subsections C and J, Arizona Revised Statutes, as amended by ~~this act~~ LAWS 2007, CHAPTER 261, SECTION 1.

C. The appropriation made in subsection A of this section in fiscal year 2007-2008 is exempt from the provisions of section 35-190, Arizona Revised Statutes, relating to lapsing of appropriations.

Sec. 22. Department of public safety; highway funds; limitation

Notwithstanding sections 28-6537 and 28-6993, Arizona Revised Statutes, the statutory caps limiting the level of highway user revenue fund monies and state highway fund monies available to fund department of public safety highway patrol costs are suspended for fiscal year 2009-2010.

Sec. 23. Nonsupplanting; suspension

Notwithstanding any other law, in fiscal year 2009-2010 the provisions relating to supplanting of state monies contained in section 12-102.02, subsection E, section 12-102.03, subsection D, section 12-135, subsection D, section 12-135.01, subsection D, section 12-267, subsection D, section 12-268, subsection D and section 12-299.01, subsection C, Arizona Revised Statutes, are suspended. The supreme court shall submit a report to the joint legislative budget committee identifying any decrease in county funding related to these suspended provisions including the reasons for the decrease.

Sec. 24. Suspension of reporting requirements

Notwithstanding any other law, the reporting requirements contained in the following sections are suspended for fiscal year 2009-2010:

1. Section 8-358, subsection B, Arizona Revised Statutes, relating to the annual juvenile intensive probation report.

2. Section 12-299.03, subsection A, paragraph 8, Arizona Revised Statutes, relating to the evaluation of the community punishment program.

3. Section 12-2456, Arizona Revised Statutes, relating to a report of information regarding the emancipation of minors.

4. Section 13-901.02, subsection D, Arizona Revised Statutes, relating to the annual drug treatment and education fund report card.

5. Section 21-222, subsection F, Arizona Revised Statutes, relating to the annual lengthy trial fund report.

6. Section 25-323.01, subsection B, Arizona Revised Statutes, relating to the annual child support committee report.

7. Section 25-323.02, subsection C, Arizona Revised Statutes, relating to the annual domestic relations committee report.

Sec. 25. Justices of the peace; payment of compensation; fiscal year 2009-2010; retroactivity

A. Notwithstanding section 22-117, subsection B, Arizona Revised Statutes, for fiscal year 2009-2010, the state shall pay 19.25 per cent of the compensation and employee related expenditures of a justice of the peace, and the county shall pay 80.75 per cent of the compensation and employee related expenditures of a justice of the peace, except that the county shall pay the full amount of the employer contribution of the state retirement system or plan or any county health plan.

B. This section is effective retroactively to from and after June 30, 2009.

Sec. 26. State department of corrections; budget structure; health care services; retroactivity

A. Notwithstanding any other law, the state department of corrections shall report actual fiscal year 2008-2009, estimated fiscal year 2009-2010 and requested fiscal year 2010-2011 expenditures for each line item delineated in the fiscal year 2009-2010 general appropriations act when the department submits the fiscal year 2010-2011 budget request pursuant to section 35-113, Arizona Revised Statutes. The information submitted for each line item shall contain as much detail as submitted in previous years for prior line items.

B. Before October 1, 2009, the state department of corrections shall issue a request for information for the privatization of all correctional health services, including all medical and dental services, that are provided in a state owned and operated facility. Before publication, the request for information shall be submitted for review to the joint legislative budget committee.

C. The state department of corrections shall issue a request for proposals to privatize all correctional health services that are provided in a state owned and operated facility. The department shall award a contract to a private provider of correctional health services that will provide such services, including all medical and dental services, at a cost below the fiscal year 2007-2008 total cost to the state for such services. Not later than January 1, 2010, and before issuance, the request for proposals shall be submitted for review to the joint legislative budget committee. The state department of corrections shall award a contract by May 1, 2010.

D. This section is effective retroactively to from and after September 30, 2009.

Sec. 27. Transition office fund; state department of corrections

Notwithstanding any other law, any monies deposited in the transition office fund pursuant to section 31-254, subsection D, paragraph 3, Arizona Revised Statutes, may be used for any costs to operate transition programs established pursuant to section 31-281, Arizona Revised Statutes.

Sec. 28. Consumer protection-consumer fraud revolving fund; attorney general; use

Notwithstanding section 44-1531.01, subsection C, Arizona Revised Statutes, for fiscal year 2009-2010, the attorney general may use monies in the consumer protection-consumer fraud revolving fund established by section 44-1531.01, Arizona Revised Statutes, for any operating expenses incurred by the department of law, including any cost or expense associated with the tobacco master settlement agreement arbitration.

Sec. 29. Criminal justice enhancement fund; state general fund deposit; crime laboratory assessment fund

Notwithstanding any other law, for fiscal year 2009-2010, any monies distributed from the criminal justice enhancement fund pursuant to section 41-2401, subsection D, paragraph 11, Arizona Revised Statutes, as amended by this act, shall be deposited in the crime laboratory assessment fund established by section 41-2415, Arizona Revised Statutes. Notwithstanding section 41-2415, subsection C, Arizona Revised Statutes, monies distributed by this section pursuant to section 41-2401, subsection D, paragraph 11, Arizona Revised Statutes, as amended by this act, are for use by the department of public safety and are exempt from distribution to political subdivisions.

Sec. 30. Drug and gang prevention resource center; Arizona youth survey mandatory agreement

In fiscal year 2009-2010, the drug and gang prevention resource center shall enter into an agreement with the Arizona criminal justice commission to provide $235,200 to the Arizona criminal justice commission from the drug and gang prevention resource center fund to fund the Arizona youth survey.

Sec. 31. Judicial productivity credit; photo enforcement citations; retroactivity

A. In fiscal year 2009-2010, state photo enforcement citations issued pursuant to section 41-1722, Arizona Revised Statutes, as amended by this act, shall not be included in judicial productivity credit calculations.

B. This section is effective retroactively to from and after June 30, 2009.

Sec. 32. Prison and other state owned facilities; lease-purchase finance agreement

A. Not later than June 30, 2010, the department of administration shall enter into one or more lease-purchase agreements through the sale and simultaneous lease-purchase of a state department of corrections facility or any other state owned facility. If the lease-purchase agreement involves a

state department of corrections facility, the department of administration shall enter into the lease-purchase agreement in consultation with the state department of corrections. The agreement or agreements shall:

1. Result in net available proceeds of not more than $250,000,000 in the state general fund by December 31, 2009 and a total amount of net available proceeds of not more than $735,419,300 in the state general fund by June 30, 2010.

2. Be for a fixed term of not more than twenty years.

3. Require the initial lease-purchase payment to be in fiscal year 2010-2011.

B. Notwithstanding section 41-791.02, Arizona Revised Statutes, any lease-purchase agreement entered into pursuant to this section shall provide that:

1. The obligation of this state to make any payment under the agreement is a current expense of the department of administration, payable exclusively from appropriated monies, and is not a general obligation indebtedness of this state or the department of administration.

2. If the legislature fails to appropriate monies or the department of administration fails to allocate such monies for any payment under the agreement, the agreement terminates at the end of the current term and this state and the department of administration are relieved of any subsequent obligation under the agreement.

3. The department of administration may covenant to use its best efforts to budget, obtain, allocate and maintain sufficient appropriated monies to make payments under the agreement, but the agreement shall acknowledge that appropriating state monies is a legislative act and is beyond the control of the department of administration or any other party to the agreement.

C. Notwithstanding any other law, the department of administration may transfer some or all of this state's interest in any state department of corrections prison facility or any other state owned facility. Any agreements or transactions determined by the department of administration to be necessary to comply with the requirements of this section are exempt from title 41, chapter 23, Arizona Revised Statutes. The authority conferred by this section is in addition to the powers conferred by any other law, without reference to any other law, and is full authority for the actions authorized by this section, including entering into and performing agreements without regard to the requirements or procedures of any other law.

D. This state shall maintain operations at any facility and the state department of corrections or a private contractor shall maintain operations at any prison facility that is sold pursuant to this section.

Sec. 33. <u>Prison operations; private vendor; concession agreement; retroactivity</u>

A. Before October 1, 2009, in consultation with the state department of corrections, the department of administration shall issue a request for

information for the purpose of identifying the feasibility of a concession agreement that allows a private vendor to operate a prison facility. Before publication, the request for information shall be submitted for review to the joint committee on capital review.

B. In consultation with the state department of corrections, the department of administration shall issue a request for proposals for a concession agreement allowing private vendors to operate an Arizona state prison complex other than the Arizona state prison complex at Yuma. A private vendor may operate one or more prison complexes. A concession agreement shall require an annual cost efficiency savings to this state. The annual cost efficiency savings shall be equally divided between this state and the private vendor. Not later than April 1, 2010 and before issuance, the request for proposals shall be submitted for review to the joint committee on capital review. Any proposed concession agreement shall be submitted for review to the joint committee on capital review before it is awarded.

C. It is the intent of the legislature that the privatization of prison operations pursuant to subsection B of this section generate at least $100,000,000 from private vendors at the beginning of the term.

D. Section 41-1609.01, subsections C, I and J, Arizona Revised Statutes, and section 41-2546, Arizona Revised Statutes, do not apply to any concession agreement pursuant to subsection B of this section.

E. Except as otherwise provided in this section, sections 41-1609, 41-1609.01, 41-1609.02, 41-1609.03 and 41-1609.04, Arizona Revised Statutes, apply to any concession agreement pursuant to subsection B of this section.

F. This section is effective retroactively to from and after September 30, 2009.

Sec. 34. <u>Board of executive clemency; chairman; executive director; retroactivity</u>

A. Notwithstanding any other law, for fiscal year 2009-2010, the chairman of the board of executive clemency shall also act as the executive director of the board.

B. Notwithstanding any other law, in fiscal year 2009-2010, the members of the board of executive clemency, excluding the chairman, shall serve on a part-time basis. A part-time board member shall not work more than thirty hours each week and shall not be eligible for paid leave or any benefits provided to state employees pursuant to section 38-651, Arizona Revised Statutes.

C. This section is effective retroactively to from and after June 30, 2009.

Sec. 35. <u>Collection enforcement revolving fund; attorney general; use</u>

Notwithstanding section 41-191.03, subsection B, Arizona Revised Statutes, for fiscal year 2009-2010, the attorney general may use monies in the collection enforcement revolving fund established by section 41-191.03,

Arizona Revised Statutes, for any operating expenses incurred by the department of law.

Sec. 36. State department of corrections; health care expenditures; fiscal year 2007-2008

Notwithstanding any other law, the state department of corrections may use any nonappropriated state monies for the payment of inmate health care expenditures incurred during fiscal year 2007-2008.

Sec. 37. State department of corrections; private prison beds

A. The state department of corrections shall issue a request for proposals and contract for five thousand private prison beds in this state at new or existing private prisons or at expansions of existing private prisons in this state. The private vendor may bid for all or a portion of the five thousand beds. The department may award the contract to one or more private vendors. The request for proposals shall specify the length of the contract period, except that the length of the contract period shall not exceed twenty years. Not later than November 1, 2009, and before issuance, the proposed request for proposals shall be submitted for review to the joint legislative budget committee. All contracts shall be awarded by June 30, 2010. Each calendar quarter, until all new beds are occupied, the department of corrections shall submit a report to the joint legislative budget committee on the status of the beds.

B. Section 41-1609.01, subsections I and J, Arizona Revised Statutes, and section 41-2546, Arizona Revised Statutes, do not apply to any contract pursuant to subsection A of this section.

C. Except as otherwise provided in this section, sections 41-1609, 41-1609.01, 41-1609.02, 41-1609.03 and 41-1609.04, Arizona Revised Statutes, apply to any contract pursuant to subsection A of this section.

Sec. 38. State department of corrections; prison equipment and operations

Notwithstanding any other law, in fiscal year 2009-2010, the state department of corrections may use any nonappropriated monies for any start up and operating costs that are associated with the four thousand new state beds that were authorized in Laws 2007, chapter 261, section 9.

Sec. 39. Conforming legislation

The legislative council staff shall prepare proposed legislation conforming the Arizona Revised Statutes to the provisions of this act for consideration in the forty-ninth legislature, second regular session.

Sec. 40. Retroactivity

A. Section 28-3396, Arizona Revised Statutes, as amended by this act, applies retroactively to from and after June 30, 2009.

B. Section 41-1772, Arizona Revised Statutes, as added by this act, is effective retroactively to from and after June 30, 2009.

Passed the House July 31, 20 09

by the following vote: 31 Ayes,

15 Nays, 14 Not Voting

Speaker of the House

Chief Clerk of the House

Passed the Senate August 12, 20 09

by the following vote: 17 Ayes,

8 Nays, 5 Not Voting

President of the Senate

Secretary of the Senate

EXECUTIVE DEPARTMENT OF ARIZONA
OFFICE OF GOVERNOR

This Bill received by the Governor this

20 day of August, 20 09

at 2:38 o'clock P. M.

Secretary to the Governor

Approved this 3rd day of

September

at 9:40 o'clock A. M.

Governor of Arizona

EXECUTIVE DEPARTMENT OF ARIZONA
OFFICE OF SECRETARY OF STATE

This Bill received by the Secretary of State

this _____ day of _____, 20_____

at _____ o'clock _____ M.

Secretary of State

Third Special Session
H.B. 2010