

State of Arizona  
Senate  
Forty-eighth Legislature  
Second Regular Session  
2008

# SENATE BILL 1476

AN ACT

AMENDING SECTION 12-267, ARIZONA REVISED STATUTES; AMENDING TITLE 12, CHAPTER 2, ARTICLE 7, ARIZONA REVISED STATUTES, BY ADDING SECTION 12-270; AMENDING SECTIONS 13-901 AND 13-917, ARIZONA REVISED STATUTES; RELATING TO PROBATION.

(TEXT OF BILL BEGINS ON NEXT PAGE)

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

2 Section 1. Section 12-267, Arizona Revised Statutes, is amended to  
3 read:

4 12-267. Adult probation services fund; accounts; expenditure  
5 plan; use

6 A. The board of supervisors shall designate a chief fiscal officer who  
7 shall establish and administer an adult probation services fund consisting  
8 of:

9 1. County general fund appropriations for adult probation.

10 2. State appropriations for adult probation including:

11 (a) Monies for adult probation officers authorized by article 6 of  
12 this chapter.

13 (b) Monies for state aid for adult probation services authorized by  
14 this article.

15 (c) Monies for adult community punishment programs established  
16 pursuant to article 11 of this chapter.

17 (d) Monies for adult intensive probation pursuant to title 13,  
18 chapter 9.

19 (e) MONIES RECEIVED PURSUANT TO SECTION 12-270 THAT EACH COUNTY SHALL  
20 USE FOR THE FOLLOWING:

21 (i) INCREASING THE AVAILABILITY OF SUBSTANCE ABUSE TREATMENT PROGRAMS  
22 FOR PROBATIONERS.

23 (ii) INCREASING THE AVAILABILITY OF RISK REDUCTION PROGRAMS AND  
24 INTERVENTIONS FOR PROBATIONERS.

25 (iii) GRANTS TO NONPROFIT VICTIM SERVICES ORGANIZATIONS TO PARTNER  
26 WITH THE PROBATION DEPARTMENT AND THE COURT TO ASSIST VICTIMS AND INCREASE  
27 THE AMOUNT OF RESTITUTION COLLECTED FROM PROBATIONERS.

28 3. Probation fees collected pursuant to section 13-901.

29 4. Federal monies provided for adult probation.

30 5. Adult probation monies from any other source.

31 B. The chief fiscal officer shall establish and maintain separate  
32 accounts in the fund showing receipts and expenditures of monies from each  
33 source listed in subsection A of this section. The presiding judge of the  
34 superior court shall annually present to the board of supervisors for  
35 approval a detailed expenditure plan for the adult probation services fund  
36 accounts. Any modifications to the expenditure plan affecting state  
37 appropriations shall be made in accordance with the rules and procedures  
38 established by the supreme court. Any modifications to the expenditure plan  
39 affecting county appropriated funds shall be made in accordance with the  
40 policies established by the county. The chief fiscal officer shall disburse  
41 monies from the fund accounts only at the direction of the presiding judge of  
42 the superior court. The chief fiscal officer of each county ~~shall~~, on or  
43 before August 31 of each year for the preceding fiscal year, **SHALL** submit an  
44 annual report to the supreme court showing the total amount of receipts and  
45 expenditures in each account of the adult probation services fund.

1 C. The state monies in the adult probation services fund shall be used  
2 in accordance with guidelines established by the supreme court or the  
3 granting authority.

4 D. State monies expended from the adult probation services fund shall  
5 be used to supplement, not supplant, county appropriations for the superior  
6 court adult probation department.

7 E. Up to twenty-five thousand dollars annually deposited in the adult  
8 probation services fund shall be used to pay the annual assessment on member  
9 states of the interstate compact for the supervision of adult offenders  
10 established in section 31-467, [ARTICLE X](#), subsection B.

11 F. County monies in the adult probation services fund shall be used in  
12 accordance with the fiscal policies and procedures established by the board  
13 of supervisors.

14 Sec. 2. Title 12, chapter 2, article 7, Arizona Revised Statutes, is  
15 amended by adding section 12-270, to read:

16 [12-270. Probation revocation and crime reduction performance](#)  
17 [funding](#)

18 A. THE JOINT LEGISLATIVE BUDGET COMMITTEE SHALL ANNUALLY CALCULATE:

19 1. IF THERE ARE COSTS THAT HAVE BEEN AVOIDED FROM REDUCTIONS IN THE  
20 PERCENTAGE OF PEOPLE ON SUPERVISED PROBATION FROM EACH COUNTY WHOSE PROBATION  
21 IS REVOKED AND WHO ARE SENTENCED TO SERVE A TERM OF IMPRISONMENT IN THE STATE  
22 DEPARTMENT OF CORRECTIONS. THE BASELINE REVOCATION PERCENTAGE RATE SHALL BE  
23 THE AVERAGE OF THE REVOCATION PERCENTAGE RATES IN FISCAL YEARS 2005-2006,  
24 2006-2007 AND 2007-2008.

25 2. THE PERCENTAGE OF PEOPLE ON SUPERVISED PROBATION FROM EACH COUNTY  
26 WHO ARE ADMITTED TO THE STATE DEPARTMENT OF CORRECTIONS AFTER A CONVICTION  
27 FOR A NEW OFFENSE. THE BASELINE ADMISSION PERCENTAGE RATE SHALL BE THE  
28 AVERAGE OF THE ADMISSION PERCENTAGE RATES IN FISCAL YEARS 2005-2006,  
29 2006-2007 AND 2007-2008.

30 B. THE LEGISLATURE SHALL ANNUALLY APPROPRIATE TO THE ADMINISTRATIVE  
31 OFFICE OF THE COURTS UP TO FORTY PER CENT OF ANY COST SAVINGS CALCULATED IN  
32 SUBSECTION A OF THIS SECTION TO BE DEPOSITED INTO THE ADULT PROBATION  
33 SERVICES FUND OF EACH COUNTY ESTABLISHED PURSUANT TO SECTION 12-267, BASED ON  
34 THE FOLLOWING PROVISIONS:

35 1. TWENTY PER CENT OF THE CALCULATED SAVINGS SHALL BE APPROPRIATED IF  
36 THERE IS A REDUCTION IN THE PERCENTAGE OF PEOPLE FROM THAT COUNTY ON  
37 SUPERVISED PROBATION WHOSE TERMS OF SUPERVISED PROBATION ARE REVOKED AND WHO  
38 ARE ADMITTED TO THE STATE DEPARTMENT OF CORRECTIONS.

39 2. TWENTY PER CENT OF THE CALCULATED SAVINGS SHALL BE APPROPRIATED IF  
40 THERE IS A REDUCTION IN THE PERCENTAGE OF PEOPLE FROM THAT COUNTY WHO ARE ON  
41 SUPERVISED PROBATION AND WHO ARE ADMITTED TO THE STATE DEPARTMENT OF  
42 CORRECTIONS FOR CONVICTION OF A NEW CRIME.

43 C. THE MONIES APPROPRIATED PURSUANT TO THIS SECTION SHALL BE USED TO  
44 SUPPLEMENT, NOT SUPPLANT, ANY OTHER STATE OR COUNTY APPROPRIATION FOR THE  
45 SUPERIOR COURT ADULT PROBATION DEPARTMENT.

1 D. THE ADMINISTRATIVE OFFICE OF THE COURTS AND THE STATE DEPARTMENT OF  
2 CORRECTIONS SHALL JOINTLY REPORT EACH YEAR TO THE PRESIDENT OF THE SENATE,  
3 THE SPEAKER OF THE HOUSE OF REPRESENTATIVES AND THE GOVERNOR AND SHALL  
4 PROVIDE A COPY OF THE REPORT TO THE SECRETARY OF STATE AND THE DIRECTOR OF  
5 THE ARIZONA STATE LIBRARY, ARCHIVES AND PUBLIC RECORDS. THE REPORT SHALL  
6 INCLUDE:

- 7 1. THE IMPACT OF THE MONIES APPROPRIATED PURSUANT TO THIS SECTION.  
8 2. THE PERCENTAGE OF PROBATIONERS WHOSE PROBATION IS REVOKED EACH  
9 YEAR.  
10 3. THE PERCENTAGE OF PROBATIONERS WHO ARE CONVICTED OF NEW CRIMES EACH  
11 YEAR.

12 Sec. 3. Section 13-901, Arizona Revised Statutes, is amended to read:  
13 13-901. Probation

14 A. If a person who has been convicted of an offense is eligible for  
15 probation, the court may suspend the imposition or execution of sentence and,  
16 if so, shall without delay place the person on intensive probation  
17 supervision pursuant to section 13-913 or supervised or unsupervised  
18 probation on such terms and conditions as the law requires and the court  
19 deems appropriate, including participation in any programs authorized in  
20 title 12, chapter 2, article 11. If a person is not eligible for probation,  
21 imposition or execution of sentence shall not be suspended or delayed. If  
22 the court imposes probation, it may also impose a fine as authorized by  
23 chapter 8 of this title. If probation is granted the court shall impose a  
24 condition that the person waive extradition for any probation revocation  
25 procedures and it shall order restitution pursuant to section 13-603,  
26 subsection C where there is a victim who has suffered economic loss. When  
27 granting probation to an adult the court, as a condition of probation, shall  
28 assess a monthly fee of not less than fifty dollars unless, after determining  
29 the inability of the probationer to pay the fee, the court assesses a lesser  
30 fee. In justice and municipal courts the fee shall only be assessed when the  
31 person is placed on supervised probation. For persons placed on probation in  
32 the superior court, the fee shall be paid to the clerk of the superior court  
33 and the clerk of the court shall pay all monies collected from this fee to  
34 the county treasurer for deposit in the adult probation services fund  
35 established by section 12-267. For persons placed on supervised probation in  
36 the justice court, the fee shall be paid to the justice court and the justice  
37 court shall transmit all of the monies to the county treasurer for deposit in  
38 the adult probation services fund established by section 12-267. For persons  
39 placed on supervised probation in the municipal court, the fee shall be paid  
40 to the municipal court. The municipal court shall transmit all of the monies  
41 to the city treasurer who shall transmit the monies to the county treasurer  
42 for deposit in the adult probation services fund established by section  
43 12-267. Any amount greater than forty dollars of the fee assessed pursuant  
44 to this subsection shall only be used to supplement monies currently used for

1 the salaries of adult probation and surveillance officers and for support of  
2 programs and services of the superior court adult probation departments.

3 B. The period of probation shall be determined according to section  
4 13-902, except that if a person is released pursuant to section 31-233,  
5 subsection B and community supervision is waived pursuant to section 13-603,  
6 subsection K, the court shall extend the period of probation by the amount of  
7 time the director of the state department of corrections approves for the  
8 inmate's temporary release.

9 C. The court, in its discretion, may issue a warrant for the rearrest  
10 of the defendant and may modify or add to the conditions or, if the defendant  
11 commits an additional offense or violates a condition, may revoke probation  
12 in accordance with the rules of criminal procedure at any time before the  
13 expiration or termination of the period of probation. If the court revokes  
14 the defendant's probation and the defendant is serving more than one  
15 probationary term concurrently, the court may sentence the person to terms of  
16 imprisonment to be served consecutively.

17 D. At any time during the probationary term of the person released on  
18 probation, any probation officer, without warrant or other process and at any  
19 time until the final disposition of the case, may rearrest any person and  
20 bring the person before the court.

21 E. The court, on its own initiative or on application of the  
22 probationer, after notice and an opportunity to be heard for the prosecuting  
23 attorney and, on request, the victim, may terminate the period of probation  
24 or intensive probation and discharge the defendant at a time earlier than  
25 that originally imposed if in the court's opinion the ends of justice will be  
26 served and if the conduct of the defendant on probation warrants it.

27 F. When granting probation the court may require that the defendant be  
28 imprisoned in the county jail at whatever time or intervals, consecutive or  
29 nonconsecutive, the court shall determine, within the period of probation, as  
30 long as the period actually spent in confinement does not exceed one year or  
31 the maximum period of imprisonment permitted under chapter 7 of this title,  
32 whichever is the shorter.

33 G. If restitution is made a condition of probation, the court shall  
34 fix the amount of restitution and the manner of performance pursuant to  
35 chapter 8 of this title.

36 H. When granting probation, the court shall set forth at the time of  
37 sentencing and on the record the factual and legal reasons in support of each  
38 sentence.

39 I. If the defendant meets the criteria set forth in section 13-901.01  
40 or 13-3422, the court may place the defendant on probation pursuant to either  
41 section. If a defendant is placed on probation pursuant to section 13-901.01  
42 or 13-3422, the court may impose any term of probation that is authorized  
43 pursuant to this section and that is not in violation of section 13-901.01.

44 J. NOTWITHSTANDING ANY OTHER LAW, THE COURT MAY ADJUST THE PERIOD OF A  
45 DEFENDANT'S SUPERVISED PROBATION ON THE RECOMMENDATION OF AN ADULT PROBATION

1 OFFICER FOR EARNED TIME CREDIT. FOR THE PURPOSES OF THIS SUBSECTION, EARNED  
2 TIME CREDIT EQUALS TWENTY DAYS FOR EVERY MONTH THAT A DEFENDANT DOES ALL OF  
3 THE FOLLOWING:

- 4 1. EXHIBITS POSITIVE PROGRESSION TOWARD THE GOALS AND TREATMENT OF THE  
5 DEFENDANT'S CASE PLAN.
- 6 2. HAS NO NEW ARRESTS.
- 7 3. IS CURRENT ON PAYMENTS FOR COURT ORDERED RESTITUTION, FINES AND  
8 FEES.
- 9 4. IS CURRENT IN COMPLETING COMMUNITY RESTITUTION.

10 Sec. 4. Section 13-917, Arizona Revised Statutes, is amended to read:  
11 13-917. Modification of supervision

12 A. The adult probation officer shall periodically examine the needs of  
13 each person granted intensive probation and the risks of modifying the level  
14 of supervision of the person. The court may at any time modify the level of  
15 supervision of a person granted intensive probation, ~~or~~ may transfer the  
16 person to supervised probation or MAY terminate the period of intensive  
17 probation pursuant to section 13-901, subsection E.

18 B. The court may issue a warrant for the arrest of a person granted  
19 intensive probation. If the person commits an additional offense or violates  
20 a condition of probation, the court may revoke intensive probation at any  
21 time before the expiration or termination of the period of intensive  
22 probation. If a petition to revoke the period of intensive probation is  
23 filed and the court finds that the person has committed an additional felony  
24 offense or has violated a condition of intensive probation which poses a  
25 serious threat or danger to the community, the court ~~shall~~ MAY revoke the  
26 period of intensive probation and impose a term of imprisonment as authorized  
27 by law. If the court finds that the person has violated any other condition  
28 of intensive probation, it shall modify the conditions of intensive probation  
29 as appropriate or shall revoke the period of intensive probation and impose a  
30 term of imprisonment as authorized by law.

31 C. The court shall notify the prosecuting attorney, and the victim on  
32 request, of any proposed modification of a person's intensive probation if  
33 that modification will substantially affect the person's contact with or  
34 safety of the victim or if the modification involves restitution or  
35 incarceration status.

36 Sec. 5. Legislative findings

37 The legislature finds that:

38 1. Arizona's crime rate is unacceptably high and among the highest in  
39 the nation.

40 2. Arizona's prison population is projected to increase by fifty per  
41 cent from 2007 to 2017 according to an independent projection by the JFA  
42 institute assuming current admissions trends continue and is estimated to  
43 cost taxpayers an additional two to three billion dollars in construction and  
44 operating costs over the next decade.

1           3. Each year over four thousand probationers are revoked to prison in  
2 Arizona for failing to comply with the conditions of their probation  
3 supervision and not necessarily for committing a new crime. The cost of  
4 housing these probation revocations in state prison costs taxpayers an  
5 estimated one hundred million dollars annually.

6           4. Nearly eighty per cent of the persons whose probation is revoked  
7 and who are sent to prison are property or drug offenders, and alcohol or  
8 drug use was a factor in forty-five per cent of the revocations.

9           5. Half of the individuals revoked from probation in Maricopa county  
10 chose to be sentenced to prison rather than be placed back on probation  
11 supervision in the community.

12           6. Just a few "high stakes" neighborhoods in Arizona account for a  
13 majority of criminal activity and involvement in the criminal justice system.  
14 A single neighborhood in Phoenix is home to just one per cent of the state's  
15 total resident population, but accounts for six and one-half per cent of the  
16 state's prison population.

17           7. To increase public safety, state, county and local governments must  
18 work together to integrate efforts by law enforcement, probation officers,  
19 parole officers, prosecutors, social service organizations and community  
20 based organizations in these high stakes communities to fight crime.

21           Sec. 6. Short title

22           This act shall be known as the "Safe Communities Act".