

COMMITTEE ON JUDICIARY

HOUSE OF REPRESENTATIVES AMENDMENTS TO S.B. 1011

(Reference to Senate engrossed bill)

1 Strike everything after the enacting clause and insert:

2 "Section 1. Section 13-901, Arizona Revised Statutes, is amended to  
3 read:

4 13-901. Probation

5 A. If a person who has been convicted of an offense is eligible for  
6 probation, the court may suspend the imposition or execution of sentence and,  
7 if so, shall without delay place the person on intensive probation  
8 supervision pursuant to section 13-913 or supervised or unsupervised  
9 probation on such terms and conditions as the law requires and the court  
10 deems appropriate, including participation in any programs authorized in  
11 title 12, chapter 2, article 11. If a person is not eligible for probation,  
12 imposition or execution of sentence shall not be suspended or delayed. If  
13 the court imposes probation, it may also impose a fine as authorized by  
14 chapter 8 of this title. If probation is granted the court shall impose a  
15 condition that the person waive extradition for any probation revocation  
16 procedures and it shall order restitution pursuant to section 13-603,  
17 subsection C where there is a victim who has suffered economic loss. When  
18 granting probation to an adult the court, as a condition of probation, shall  
19 assess a monthly fee of not less than fifty dollars unless, after determining  
20 the inability of the probationer to pay the fee, the court assesses a lesser  
21 fee. **THIS FEE IS NOT SUBJECT TO ANY SURCHARGE.** In justice and municipal  
22 courts the fee shall only be assessed when the person is placed on supervised  
23 probation. For persons placed on probation in the superior court, the fee  
24 shall be paid to the clerk of the superior court and the clerk of the court  
25 shall pay all monies collected from this fee to the county treasurer for  
26 deposit in the adult probation services fund established by section  
27 12-267. For persons placed on supervised probation in the justice court, the  
28 fee shall be paid to the justice court and the justice court shall transmit

1 all of the monies to the county treasurer for deposit in the adult probation  
2 services fund established by section 12-267. For persons placed on  
3 supervised probation in the municipal court, the fee shall be paid to the  
4 municipal court. The municipal court shall transmit all of the monies to the  
5 city treasurer who shall transmit the monies to the county treasurer for  
6 deposit in the adult probation services fund established by section 12-267.  
7 Any amount greater than forty dollars of the fee assessed pursuant to this  
8 subsection shall only be used to supplement monies currently used for the  
9 salaries of adult probation and surveillance officers and for support of  
10 programs and services of the superior court adult probation departments.

11 B. The period of probation shall be determined according to section  
12 13-902, except that if a person is released pursuant to section 31-233,  
13 subsection B and community supervision is waived pursuant to section 13-603,  
14 subsection K, the court shall extend the period of probation by the amount of  
15 time the director of the state department of corrections approves for the  
16 inmate's temporary release.

17 C. The court, in its discretion, may issue a warrant for the rearrest  
18 of the defendant and may modify or add to the conditions or, if the defendant  
19 commits an additional offense or violates a condition, may revoke probation  
20 in accordance with the rules of criminal procedure at any time before the  
21 expiration or termination of the period of probation. If the court revokes  
22 the defendant's probation and the defendant is serving more than one  
23 probationary term concurrently, the court may sentence the person to terms of  
24 imprisonment to be served consecutively.

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

29 E. The court, on its own initiative or on application of the  
30 probationer, after notice and an opportunity to be heard for the prosecuting  
31 attorney and, on request, the victim, may terminate the period of probation  
32 or intensive probation and discharge the defendant at a time earlier than

1 that originally imposed if in the court's opinion the ends of justice will be  
2 served and if the conduct of the defendant on probation warrants it.

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

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

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

15 I. If the defendant meets the criteria set forth in section 13-901.01  
16 or 13-3422, the court may place the defendant on probation pursuant to either  
17 section. If a defendant is placed on probation pursuant to section 13-901.01  
18 or 13-3422, the court may impose any term of probation that is authorized  
19 pursuant to this section and that is not in violation of section 13-901.01.

20 Sec. 2. Section 13-902, Arizona Revised Statutes, is amended to read:

21 13-902. Periods of probation; monitoring; fees

22 A. Unless terminated sooner, probation may continue for the following  
23 periods:

- 24 1. For a class 2 felony, seven years.
- 25 2. For a class 3 felony, five years.
- 26 3. For a class 4 felony, four years.
- 27 4. For a class 5 or 6 felony, three years.
- 28 5. For a class 1 misdemeanor, three years.
- 29 6. For a class 2 misdemeanor, two years.
- 30 7. For a class 3 misdemeanor, one year.

31 B. Notwithstanding subsection A of this section, unless terminated  
32 sooner, probation may continue for the following periods:

1           1. For a violation of section 28-1381 or 28-1382, five years.

2           2. For a violation of section 28-1383, ten years.

3           C. When the court has required, as a condition of probation, that the  
4 defendant make restitution for any economic loss related to the defendant's  
5 offense and that condition has not been satisfied, the court at any time  
6 before the termination or expiration of probation may extend the period  
7 within the following limits:

8           1. For a felony, not more than five years.

9           2. For a misdemeanor, not more than two years.

10          D. Notwithstanding any other provision of law, justice courts and  
11 municipal courts may impose the probation periods specified in subsection A,  
12 paragraphs 5, 6 and 7 and subsection B, paragraph 1 of this section.

13          E. After conviction of a felony offense or an attempt to commit any  
14 offense that is included in chapter 14 or 35.1 of this title or section  
15 13-2308.01, 13-2923 or 13-3623, if probation is available, probation may  
16 continue for a term of not less than the term that is specified in subsection  
17 A of this section up to and including life and that the court believes is  
18 appropriate for the ends of justice.

19          F. After conviction of a violation of section 13-3824, subsection A,  
20 if a term of probation is imposed and the offense for which the person was  
21 required to register was a felony, probation may continue for a term of not  
22 less than the term that is specified in subsection A of this section up to  
23 and including life and that the court believes is appropriate for the ends of  
24 justice.

25          G. After conviction of a dangerous crime against children as defined  
26 in section 13-705, if a term of probation is imposed, **THE PERSON IS REQUIRED**  
27 **TO REGISTER PURSUANT TO SECTION 13-3821 AND THE PERSON IS CLASSIFIED AS A**  
28 **LEVEL THREE OFFENDER PURSUANT TO SECTIONS 13-3825 AND 13-3826**, the court  
29 shall require global position system **OR ELECTRONIC** monitoring for the  
30 duration of the term of probation. The court may impose a fee on the  
31 probationer to offset the cost of the monitoring device required by this  
32 subsection. The fee shall be deposited in the adult probation services fund

1 pursuant to section 12-267, subsection A, paragraph 3. THIS SUBSECTION DOES  
2 NOT PRECLUDE GLOBAL POSITION SYSTEM OR ELECTRONIC MONITORING OF ANY OTHER  
3 PERSON WHO IS SERVING A TERM OF PROBATION.

4 Sec. 3. Federal sex offender registration notification act  
5 study committee; membership; duties; report

6 A. The federal sex offender registration notification act study  
7 committee is established consisting of the following members:

8 1. The governor or the governor's designee.

9 2. Two members of the house of representatives who are appointed by  
10 the speaker of the house of representatives and who are members of different  
11 political parties. The speaker of the house of representatives shall  
12 designate one of these members to serve as cochairperson of the committee.

13 3. Two members of the senate who are appointed by the president of the  
14 senate and who are members of different political parties. The president of  
15 the senate shall designate one of these members to serve as cochairperson of  
16 the committee.

17 4. The director of the department of public safety or the director's  
18 designee.

19 5. The director of the state department of corrections or the  
20 director's designee.

21 6. The chief justice of the supreme court or the chief justice's  
22 designee.

23 7. A sheriff or the sheriff's designee who is appointed by the  
24 president of the Arizona county attorneys and sheriffs association and who  
25 represents a county with a population of more than four hundred thousand  
26 persons according to the most recent United States decennial census.

27 8. Two county attorneys or their designees who are appointed by the  
28 chairman of the Arizona prosecuting attorneys' advisory council, one of whom  
29 represents a county with a population of more than four hundred thousand  
30 persons according to the most recent United States decennial census and one  
31 of whom represents a county with a population of four hundred thousand  
32 persons or less according to the most recent United States decennial census.

1           9. A chief of police or the chief's designee who is appointed by the  
2 president of the Arizona association of chiefs of police and who represents a  
3 city or town in a county with a population of four hundred thousand persons  
4 or less according to the most recent United States decennial census.

5           10. Two public defenders or their designees who are appointed by the  
6 president of the Arizona public defender's association, one of whom  
7 represents a county with a population of more than four hundred thousand  
8 persons according to the most recent United States decennial census and one  
9 of whom represents a county with a population of four hundred thousand  
10 persons or less according to the most recent United States decennial census.

11           11. Two chief probation officers or their designees who are appointed  
12 by the chief justice of the supreme court, one of whom is assigned to an  
13 adult probation department and one of whom is assigned to a juvenile  
14 probation department of the superior court.

15           12. One representative of the administrative office of the courts who  
16 has expertise with the provision of probation services and who is appointed  
17 by the chief justice of the supreme court.

18           13. A licensed psychologist who works with adults and who is appointed  
19 by the speaker of the house of representatives.

20           14. A licensed psychologist who works with juveniles and who is  
21 appointed by the president of the senate.

22           15. Two directors of civic organizations concerned with sexual offender  
23 issues or children's issues or their designees, one of whom is appointed by  
24 the speaker of the house of representatives and one of whom is appointed by  
25 the president of the senate.

26           16. A researcher from the University of Arizona, Arizona State  
27 University or Northern Arizona University who has expertise in the area of  
28 sex offender research and who is appointed by the governor.

29           B. The study committee shall examine:

30           1. The effectiveness of the current sex offender laws in this state to  
31 prevent recidivism and protect the community from further sexual offenses.

1           2. The standards set forth by the Adam Walsh Child Protection and  
2 Safety Act of 2006 and specifically, Title 1, the Sex Offender Registration  
3 Notification Act.

4           3. The impact on this state of adopting the federal standards of the  
5 Adam Walsh Child Protection and Safety Act of 2006 and specifically, Title 1,  
6 the Sex Offender Registration Notification Act.

7           C. On or before December 31, 2009, the study committee shall submit a  
8 report regarding its findings to the governor, the speaker of the house of  
9 representatives and the president of the senate and shall provide a copy of  
10 the report to the secretary of state and the director of the Arizona state  
11 library, archives and public records.

12           D. Members of the study committee are not eligible to receive  
13 compensation but public members are eligible for reimbursement of expenses  
14 pursuant to title 38, chapter 4, article 2, Arizona Revised Statutes.

15           Sec. 4. Delayed repeal

16           Section 3 of this act, relating to Federal sex offender registration  
17 notification act study committee; membership; duties; report, is repealed  
18 from and after December 31, 2010.

19           Sec. 5. Emergency

20           This act is an emergency measure that is necessary to preserve the  
21 public peace, health or safety and is operative immediately as provided by  
22 law."

23 Amend title to conform

and, as so amended, it do pass

ADAM DRIGGS  
Chairman

1011-se-jud  
6/25/09  
H:jjb