

State of Arizona
House of Representatives
Forty-ninth Legislature
Seventh Special Session
2010

HOUSE BILL 2006

AN ACT

AMENDING SECTIONS 5-396, 12-128, 13-701, 13-3821 AND 13-3824, ARIZONA REVISED STATUTES; REPEALING SECTION 13-3828, ARIZONA REVISED STATUTES; AMENDING SECTIONS 28-1383 AND 28-8288, ARIZONA REVISED STATUTES; AMENDING TITLE 31, CHAPTER 1, ARTICLE 2, ARIZONA REVISED STATUTES, BY ADDING SECTION 31-133; AMENDING SECTIONS 31-201.01, 31-284, 31-401, 41-191.03, 41-1723, 41-1772, 41-1825, 41-2401 AND 41-2402, ARIZONA REVISED STATUTES; REPEALING SECTION 41-3010.12, ARIZONA REVISED STATUTES; AMENDING TITLE 41, CHAPTER 27, ARTICLE 2, ARIZONA REVISED STATUTES, BY ADDING SECTION 41-3011.15; AMENDING SECTION 41-4301, ARIZONA REVISED STATUTES; AMENDING TITLE 41, CHAPTER 42, ARTICLE 1, ARIZONA REVISED STATUTES, BY ADDING SECTION 41-4303; AMENDING SECTION 44-1531.01, ARIZONA REVISED STATUTES; AMENDING LAWS 2007, CHAPTER 261, SECTION 16, AS AMENDED BY LAWS 2009, THIRD SPECIAL SESSION, CHAPTER 6, SECTION 21; REPEALING LAWS 2009, THIRD SPECIAL SESSION, CHAPTER 6, SECTION 33; MAKING APPROPRIATIONS; RELATING TO CRIMINAL JUSTICE BUDGET RECONCILIATION; PROVIDING FOR CONDITIONAL ENACTMENT.

(TEXT OF BILL BEGINS ON NEXT PAGE)

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

2 Section 1. Section 5-396, Arizona Revised Statutes, is amended to
3 read:

4 5-396. Aggravated operating or actual physical control of
5 motorized watercraft while under the influence of
6 intoxicating liquor or drugs; classification

7 A. A person is guilty of aggravated operating or actual physical
8 control of a motorized watercraft that is underway while under the influence
9 of intoxicating liquor or drugs if the person does any of the following:

10 1. Within a period of eighty-four months commits a third or subsequent
11 violation of section 5-395 or 5-397 or this section or is convicted of a
12 violation of section 5-395 or 5-397 or this section and has previously been
13 convicted of any combination of convictions of section 5-395 or 5-397 or this
14 section or acts committed in another jurisdiction that if committed in this
15 state would be a violation of section 5-395 or 5-397 or this section.

16 2. While a person under fifteen years of age is aboard the motorized
17 watercraft, commits any of the following:

18 (a) A first violation of section 5-395, if the person recklessly
19 endangers the person who is under fifteen years of age with a substantial
20 risk of physical injury.

21 (b) A second violation of section 5-395 within a period of eighty-four
22 months.

23 (c) A violation of section 5-397.

24 B. The dates of the commission of the offenses are the determining
25 factor in applying the eighty-four month provision provided in subsection A,
26 paragraph 1 or paragraph 2, subdivision (b) of this section regardless of the
27 sequence in which the offenses were committed. For THE purposes of this
28 section, a third or subsequent violation for which a conviction occurs does
29 not include a conviction for an offense arising out of the same series of
30 acts. The time that a probationer is found to be on absconder status or the
31 time that a person is incarcerated in any state, federal, county or city jail
32 or correctional facility is excluded when determining the eighty-four month
33 period provided in subsection A, paragraph 1, subsection A, paragraph 2,
34 subdivision (b) and subsection D of this section.

35 C. A person who is convicted under subsection A, paragraph 1 of this
36 section and who within an eighty-four month period has been convicted of two
37 prior violations of section 5-395 or 5-397 or this section, or acts committed
38 in another jurisdiction that if committed in this state would be a violation
39 of section 5-395 or 5-397 or this section, is not eligible for probation,
40 pardon, commutation or suspension of sentence or release on any other basis
41 until the person has served not less than four months in ~~prison~~ JAIL.

42 D. A person who is convicted under subsection A, paragraph 1 of this
43 section and who within an eighty-four month period has been convicted of
44 three or more prior violations of section 5-395 or 5-397 or this section, or
45 acts committed in another jurisdiction that if committed in this state would

1 be a violation of section 5-395 or 5-397 or this section, is not eligible for
2 probation, pardon, commutation or suspension of sentence or release on any
3 other basis until the person has served not less than eight months in ~~prison~~
4 JAIL.

5 E. A person who is convicted under subsection A, paragraph 2,
6 subdivision (a) or (b) of this section shall serve at least the minimum term
7 of incarceration required pursuant to section 5-395.01.

8 F. A person who is convicted under subsection A, paragraph 2,
9 subdivision (c) of this section shall serve at least the minimum term of
10 incarceration required pursuant to section 5-397.

11 G. A person who is convicted of a violation of this section and who is
12 placed on probation shall attend and complete alcohol or drug screening,
13 counseling and education from an approved facility and, if ordered by the
14 court, treatment from an approved facility. If the person fails to comply
15 with this subsection, in addition to section 13-901 the court may order that
16 the person be incarcerated as a term of probation as follows:

17 1. For a person sentenced pursuant to subsection C of this section,
18 for an individual period of not more than four months and a total period of
19 not more than one year.

20 2. For a person sentenced pursuant to subsection D of this section,
21 for an individual period of not more than eight months and a total period of
22 not more than two years.

23 H. The time that a person spends in custody pursuant to subsection G
24 of this section shall not be counted toward the sentence imposed if the
25 person's probation is revoked and the person is ~~sentenced to prison~~
26 INCARCERATED following revocation of probation.

27 I. On conviction for a violation of this section, the court:

28 1. Shall order the person to pay a fine of not less than seven hundred
29 fifty dollars.

30 2. In addition to any other penalty prescribed by law, shall order the
31 person to pay an additional assessment of two hundred fifty dollars. If the
32 conviction occurred in the superior court or a justice court, the court shall
33 transmit the assessed monies to the county treasurer. If the conviction
34 occurred in a municipal court, the court shall transmit the assessed monies
35 to the city treasurer. The city or county treasurer shall transmit the
36 monies received to the state treasurer. The state treasurer shall deposit
37 the monies received in the driving under the influence abatement fund
38 established by section 28-1304. Any fine imposed for a violation of this
39 section and any assessments, restitution and incarceration costs shall be
40 paid before the assessment prescribed in this paragraph.

41 3. In addition to any other penalty prescribed by law, shall order the
42 person to pay an additional assessment of one thousand five hundred dollars
43 to be deposited by the state treasurer in the prison construction and
44 operations fund established by section 41-1651. This assessment is not
45 subject to any surcharge. If the conviction occurred in the superior court

1 or a justice court, the court shall transmit the assessed monies to the
2 county treasurer. If the conviction occurred in a municipal court, the court
3 shall transmit the assessed monies to the city treasurer. The city or county
4 treasurer shall transmit the monies received to the state treasurer.

5 4. In addition to any other penalty prescribed by law, shall order the
6 person to pay an additional assessment of one thousand five hundred dollars
7 to be deposited by the state treasurer in the public safety equipment fund
8 established by section 41-1723. This assessment is not subject to any
9 surcharge. If the conviction occurred in the superior court or a justice
10 court, the court shall transmit the assessed monies to the county treasurer.
11 If the conviction occurred in a municipal court, the court shall transmit the
12 assessed monies to the city treasurer. The city or county treasurer shall
13 transmit the monies received to the state treasurer.

14 J. Aggravated operating or actual physical control of a motorized
15 watercraft that is underway while under the influence of an intoxicating
16 liquor or drugs committed under:

17 1. Subsection A, paragraph 1 of this section is a class 4 felony.

18 2. Subsection A, paragraph 2 of this section is a class 6 felony.

19 Sec. 2. Section 12-128, Arizona Revised Statutes, is amended to read:

20 12-128. Salary of judges; payment by state and counties

21 Judges of the superior court shall each receive an annual salary
22 pursuant to section 41-1904, which is payable one-half by this state and
23 one-half by the counties respectively, EXCEPT THAT IN COUNTIES WITH A
24 POPULATION OF MORE THAN TWO MILLION PERSONS, THE COUNTY SHALL PAY ONE HUNDRED
25 PER CENT OF THE ANNUAL SALARY.

26 Sec. 3. Section 13-701, Arizona Revised Statutes, is amended to read:

27 13-701. Sentence of imprisonment for felony; presentence
28 report; aggravating and mitigating factors;
29 consecutive terms of imprisonment; definition

30 A. A sentence of imprisonment for a felony shall be a definite term of
31 years and the person sentenced, unless otherwise provided by law OR PURSUANT
32 TO SUBSECTION J OF THIS SECTION, shall be committed to the custody of the
33 state department of corrections.

34 B. No prisoner may be transferred to the custody of the state
35 department of corrections without a certified copy of the judgment and
36 sentence, signed by the sentencing judge, and a copy of a recent presentence
37 investigation report unless the court has waived preparation of the report.

38 C. The minimum or maximum term imposed pursuant to section 13-702,
39 13-703, 13-704, 13-705, 13-708, 13-710, 13-1406, 13-3212 or 13-3419 may be
40 imposed only if one or more of the circumstances alleged to be in aggravation
41 of the crime are found to be true by the trier of fact beyond a reasonable
42 doubt or are admitted by the defendant, except that an alleged aggravating
43 circumstance under subsection D, paragraph 11 of this section shall be found
44 to be true by the court, or in mitigation of the crime are found to be true
45 by the court, on any evidence or information introduced or submitted to the

1 court or the trier of fact before sentencing or any evidence presented at
2 trial, and factual findings and reasons in support of such findings are set
3 forth on the record at the time of sentencing.

4 D. For the purpose of determining the sentence pursuant to subsection
5 C of this section, the trier of fact shall determine and the court shall
6 consider the following aggravating circumstances, except that the court shall
7 determine an aggravating circumstance under paragraph 11 of this subsection:

8 1. Infliction or threatened infliction of serious physical injury,
9 except if this circumstance is an essential element of the offense of
10 conviction or has been utilized to enhance the range of punishment under
11 section 13-704.

12 2. Use, threatened use or possession of a deadly weapon or dangerous
13 instrument during the commission of the crime, except if this circumstance is
14 an essential element of the offense of conviction or has been utilized to
15 enhance the range of punishment under section 13-704.

16 3. If the offense involves the taking of or damage to property, the
17 value of the property taken or damaged.

18 4. Presence of an accomplice.

19 5. Especially heinous, cruel or depraved manner in which the offense
20 was committed.

21 6. The defendant committed the offense as consideration for the
22 receipt, or in the expectation of the receipt, of anything of pecuniary
23 value.

24 7. The defendant procured the commission of the offense by payment, or
25 promise of payment, of anything of pecuniary value.

26 8. At the time of the commission of the offense, the defendant was a
27 public servant and the offense involved conduct directly related to the
28 defendant's office or employment.

29 9. The victim or, if the victim has died as a result of the conduct of
30 the defendant, the victim's immediate family suffered physical, emotional or
31 financial harm.

32 10. During the course of the commission of the offense, the death of an
33 unborn child at any stage of its development occurred.

34 11. The defendant was previously convicted of a felony within the ten
35 years immediately preceding the date of the offense. A conviction outside
36 the jurisdiction of this state for an offense that if committed in this state
37 would be punishable as a felony is a felony conviction for the purposes of
38 this paragraph.

39 12. The defendant was wearing body armor as defined in section 13-3116.

40 13. The victim of the offense is at least sixty-five years of age or is
41 a disabled person as defined in section 38-492, subsection B.

42 14. The defendant was appointed pursuant to title 14 as a fiduciary and
43 the offense involved conduct directly related to the defendant's duties to
44 the victim as fiduciary.

1 15. Evidence that the defendant committed the crime out of malice
2 toward a victim because of the victim's identity in a group listed in section
3 41-1750, subsection A, paragraph 3 or because of the defendant's perception
4 of the victim's identity in a group listed in section 41-1750, subsection A,
5 paragraph 3.

6 16. The defendant was convicted of a violation of section 13-1102,
7 section 13-1103, section 13-1104, subsection A, paragraph 3 or section
8 13-1204, subsection A, paragraph 1 or 2 arising from an act that was
9 committed while driving a motor vehicle and the defendant's alcohol
10 concentration at the time of committing the offense was 0.15 or more. For
11 the purposes of this paragraph, "alcohol concentration" has the same meaning
12 prescribed in section 28-101.

13 17. Lying in wait for the victim or ambushing the victim during the
14 commission of any felony.

15 18. The offense was committed in the presence of a child and any of the
16 circumstances exists that are set forth in section 13-3601, subsection A.

17 19. The offense was committed in retaliation for a victim either
18 reporting criminal activity or being involved in an organization, other than
19 a law enforcement agency, that is established for the purpose of reporting or
20 preventing criminal activity.

21 20. The defendant was impersonating a peace officer as defined in
22 section 1-215.

23 21. The defendant was in violation of 8 United States Code section
24 1323, 1324, 1325, 1326 or 1328 at the time of the commission of the offense.

25 22. The defendant used a remote stun gun or an authorized remote stun
26 gun in the commission of the offense. For the purposes of this paragraph:

27 (a) "Authorized remote stun gun" means a remote stun gun that has all
28 of the following:

29 (i) An electrical discharge that is less than one hundred thousand
30 volts and less than nine joules of energy per pulse.

31 (ii) A serial or identification number on all projectiles that are
32 discharged from the remote stun gun.

33 (iii) An identification and tracking system that, on deployment of
34 remote electrodes, disperses coded material that is traceable to the
35 purchaser through records that are kept by the manufacturer on all remote
36 stun guns and all individual cartridges sold.

37 (iv) A training program that is offered by the manufacturer.

38 (b) "Remote stun gun" means an electronic device that emits an
39 electrical charge and that is designed and primarily employed to incapacitate
40 a person or animal either through contact with electrodes on the device
41 itself or remotely through wired probes that are attached to the device or
42 through a spark, plasma, ionization or other conductive means emitting from
43 the device.

44 23. During or immediately following the commission of the offense, the
45 defendant committed a violation of section 28-661, 28-662 or 28-663.

1 24. Any other factor that the state alleges is relevant to the
2 defendant's character or background or to the nature or circumstances of the
3 crime.

4 E. For the purpose of determining the sentence pursuant to subsection
5 C of this section, the court shall consider the following mitigating
6 circumstances:

7 1. The age of the defendant.

8 2. The defendant's capacity to appreciate the wrongfulness of the
9 defendant's conduct or to conform the defendant's conduct to the requirements
10 of law was significantly impaired, but not so impaired as to constitute a
11 defense to prosecution.

12 3. The defendant was under unusual or substantial duress, although not
13 to a degree that would constitute a defense to prosecution.

14 4. The degree of the defendant's participation in the crime was minor,
15 although not so minor as to constitute a defense to prosecution.

16 5. During or immediately following the commission of the offense, the
17 defendant complied with all duties imposed under sections 28-661, 28-662 and
18 28-663.

19 6. Any other factor that is relevant to the defendant's character or
20 background or to the nature or circumstances of the crime and that the court
21 finds to be mitigating.

22 F. If the trier of fact finds at least one aggravating circumstance,
23 the trial court may find by a preponderance of the evidence additional
24 aggravating circumstances. In determining what sentence to impose, the court
25 shall take into account the amount of aggravating circumstances and whether
26 the amount of mitigating circumstances is sufficiently substantial to justify
27 the lesser term. If the trier of fact finds aggravating circumstances and
28 the court does not find any mitigating circumstances, the court shall impose
29 an aggravated sentence.

30 G. The court in imposing a sentence shall consider the evidence and
31 opinions presented by the victim or the victim's immediate family at any
32 aggravation or mitigation proceeding or in the presentence report.

33 H. This section does not affect any provision of law that imposes the
34 death penalty, that expressly provides for imprisonment for life or that
35 authorizes or restricts the granting of probation and suspending the
36 execution of sentence.

37 I. The intentional failure by the court to impose the mandatory
38 sentences or probation conditions provided in this title is malfeasance.

39 J. IF THE LENGTH OF INCARCERATION A PERSON WILL ACTUALLY SERVE IN THE
40 STATE DEPARTMENT OF CORRECTIONS IS ONE YEAR OR LESS, THE PERSON SHALL BE
41 COMMITTED TO THE CUSTODY OF THE COUNTY JAIL. THE ONE YEAR PERIOD IS
42 DETERMINED AT THE TIME OF SENTENCING AFTER SUBTRACTING CREDIT FOR TIME
43 SERVED. A PERSON WHO IS SENTENCED TO A CONCURRENT TERM OF INCARCERATION THAT
44 REQUIRES THE PERSON TO BE ACTUALLY INCARCERATED FOR MORE THAN ONE YEAR SHALL
45 BE INCARCERATED IN THE STATE DEPARTMENT OF CORRECTIONS.

1 ~~J~~ K. For the purposes of this section, "trier of fact" means a jury,
2 unless the defendant and the state waive a jury in which case the trier of
3 fact means the court.

4 Sec. 4. Section 13-3821, Arizona Revised Statutes, is amended to read:

5 13-3821. Persons required to register; procedure;
6 identification card; assessment; definitions

7 A. A person who has been convicted of a violation or attempted
8 violation of any of the following offenses or who has been convicted of an
9 offense committed in another jurisdiction that if committed in this state
10 would be a violation or attempted violation of any of the following offenses
11 or an offense that was in effect before September 1, 1978 and that, if
12 committed on or after September 1, 1978, has the same elements of an offense
13 listed in this section or who is required to register by the convicting
14 jurisdiction, within ten days after the conviction or within ten days after
15 entering and remaining in any county of this state, shall register with the
16 sheriff of that county:

17 1. Unlawful imprisonment pursuant to section 13-1303 if the victim is
18 under eighteen years of age and the unlawful imprisonment was not committed
19 by the child's parent.

20 2. Kidnapping pursuant to section 13-1304 if the victim is under
21 eighteen years of age and the kidnapping was not committed by the child's
22 parent.

23 3. Sexual abuse pursuant to section 13-1404 if the victim is under
24 eighteen years of age.

25 4. Sexual conduct with a minor pursuant to section 13-1405.

26 5. Sexual assault pursuant to section 13-1406.

27 6. Sexual assault of a spouse if the offense was committed before
28 August 12, 2005.

29 7. Molestation of a child pursuant to section 13-1410.

30 8. Continuous sexual abuse of a child pursuant to section 13-1417.

31 9. Taking a child for the purpose of prostitution pursuant to section
32 13-3206.

33 10. Child prostitution pursuant to section 13-3212.

34 11. Commercial sexual exploitation of a minor pursuant to section
35 13-3552.

36 12. Sexual exploitation of a minor pursuant to section 13-3553.

37 13. Luring a minor for sexual exploitation pursuant to section 13-3554.

38 14. Sex trafficking of a minor pursuant to section 13-1307.

39 15. A second or subsequent violation of indecent exposure to a person
40 under fifteen years of age pursuant to section 13-1402.

41 16. A second or subsequent violation of public sexual indecency to a
42 minor under the age of fifteen years pursuant to section 13-1403,
43 subsection B.

44 17. A third or subsequent violation of indecent exposure pursuant to
45 section 13-1402.

1 18. A third or subsequent violation of public sexual indecency pursuant
2 to section 13-1403.

3 19. A violation of section 13-3822 or 13-3824.

4 20. Unlawful age misrepresentation.

5 21. Aggravated luring a minor for sexual exploitation pursuant to
6 section 13-3560.

7 B. Before the person is released from confinement the state department
8 of corrections in conjunction with the department of public safety and each
9 county sheriff shall complete the registration of any person who was
10 convicted of a violation of any offense listed under subsection A of this
11 section. Within three days after the person's release from confinement, the
12 state department of corrections shall forward the registered person's records
13 to the department of public safety and to the sheriff of the county in which
14 the registered person intends to reside. Registration pursuant to this
15 subsection shall be consistent with subsection E of this section.

16 C. Notwithstanding subsection A of this section, the judge who
17 sentences a defendant for any violation of chapter 14 or 35.1 of this title
18 or for an offense for which there was a finding of sexual motivation pursuant
19 to section 13-118 may require the person who committed the offense to
20 register pursuant to this section.

21 D. The court may require a person who has been adjudicated delinquent
22 for an act that would constitute an offense specified in subsection A or C of
23 this section to register pursuant to this section. Any duty to register
24 under this subsection shall terminate when the person reaches twenty-five
25 years of age.

26 E. A person who has been convicted of or adjudicated delinquent and
27 who is required to register in the convicting state for an act that would
28 constitute an offense specified in subsection A or C of this section and who
29 is not a resident of this state shall be required to register pursuant to
30 this section if the person is either:

31 1. Employed full-time or part-time in this state, with or without
32 compensation, for more than fourteen consecutive days or for an aggregate
33 period of more than thirty days in a calendar year.

34 2. Enrolled as a full-time or part-time student in any school in this
35 state for more than fourteen consecutive days or for an aggregate period of
36 more than thirty days in a calendar year. For the purposes of this
37 paragraph, "school" means an educational institution of any description,
38 public or private, wherever located in this state.

39 F. Any duty to register under subsection D or E of this section for a
40 juvenile adjudication terminates when the person reaches twenty-five years of
41 age.

42 G. The court may order the termination of any duty to register under
43 this section on successful completion of probation if the person was under
44 eighteen years of age when the offense for which the person was convicted was
45 committed.

1 H. The court may order the suspension or termination of any duty to
2 register under this section after a hearing held pursuant to section 13-923.

3 I. At the time of registering, the person shall sign or affix an
4 electronic fingerprint to a statement giving such information as required by
5 the director of the department of public safety, including all names by which
6 the person is known, any required online identifier and the name of any
7 website or internet communication service where the identifier is being used.
8 The sheriff shall fingerprint and photograph the person and within three days
9 thereafter shall send copies of the statement, fingerprints and photographs
10 to the department of public safety and the chief of police, if any, of the
11 place where the person resides. The information that is required by this
12 subsection shall include the physical location of the person's residence and
13 the person's address. If the person has a place of residence that is
14 different from the person's address, the person shall provide the person's
15 address, the physical location of the person's residence and the name of the
16 owner of the residence if the residence is privately owned and not offered
17 for rent or lease. If the person receives mail at a post office box, the
18 person shall provide the location and number of the post office box. If the
19 person does not have an address or a permanent place of residence, the person
20 shall provide a description and physical location of any temporary residence
21 and shall register as a transient not less than every ninety days with the
22 sheriff in whose jurisdiction the transient is physically present.

23 J. On the person's initial registration and every year after the
24 person's initial registration, the person shall confirm any required online
25 identifier and the name of any website or internet communication service
26 where the identifier is being used and the person shall obtain a new
27 nonoperating identification license or a driver license from the motor
28 vehicle division in the department of transportation and shall carry a valid
29 nonoperating identification license or a driver license. Notwithstanding
30 sections 28-3165 and 28-3171, the license is valid for one year from the date
31 of issuance, and the person shall submit to the department of transportation
32 proof of the person's address and place of residence. The motor vehicle
33 division shall annually update the person's address and photograph and shall
34 make a copy of the photograph available to the department of public safety or
35 to any law enforcement agency. The motor vehicle division shall provide to
36 the department of public safety daily address updates for persons required to
37 register pursuant to this section.

38 K. Except as provided in subsection E or L of this section, the clerk
39 of the superior court in the county in which a person has been convicted of a
40 violation of any offense listed under subsection A of this section or has
41 been ordered to register pursuant to subsection C or D of this section shall
42 notify the sheriff in that county of the conviction within ten days after
43 entry of the judgment.

1 L. Within ten days after entry of judgment, a court not of record
2 shall notify the arresting law enforcement agency of an offender's conviction
3 of a violation of section 13-1402. Within ten days after receiving this
4 information, the law enforcement agency shall determine if the offender is
5 required to register pursuant to this section. If the law enforcement agency
6 determines that the offender is required to register, the law enforcement
7 agency shall provide the information required by section 13-3825 to the
8 department of public safety and shall make community notification as required
9 by law.

10 M. A person who is required to register pursuant to this section
11 because of a conviction for the unlawful imprisonment of a minor or the
12 kidnapping of a minor is required to register, absent additional or
13 subsequent convictions, for a period of ten years from the date that the
14 person is released from prison, jail, probation, community supervision or
15 parole and the person has fulfilled all restitution obligations.
16 Notwithstanding this subsection, a person who has a prior conviction for an
17 offense for which registration is required pursuant to this section is
18 required to register for life.

19 N. A person who is required to register pursuant to this section and
20 who is a student at a public or private institution of postsecondary
21 education or who is employed, with or without compensation, at a public or
22 private institution of postsecondary education or who carries on a vocation
23 at a public or private institution of postsecondary education shall notify
24 the county sheriff having jurisdiction of the institution of postsecondary
25 education. The person who is required to register pursuant to this section
26 shall also notify the sheriff of each change in enrollment or employment
27 status at the institution.

28 O. At the time of registering, the sheriff shall secure a sufficient
29 sample of blood or other bodily substances for deoxyribonucleic acid testing
30 and extraction from a person who has been convicted of an offense committed
31 in another jurisdiction that if committed in this state would be a violation
32 or attempted violation of any of the offenses listed in subsection A of this
33 section or an offense that was in effect before September 1, 1978 and that,
34 if committed on or after September 1, 1978, has the same elements of an
35 offense listed in subsection A of this section or who is required to register
36 by the convicting jurisdiction. The sheriff shall transmit the sample to the
37 department of public safety.

38 P. Any person who is required to register under subsection A of this
39 section shall register the person's required online identifier and the name
40 of any website or internet communication service where the identifier is
41 being used or is intended to be used with the sheriff from and after December
42 31, 2007, regardless of whether the person was required to register an
43 identifier at the time of the person's initial registration under this
44 section.

1 Q. On conviction of any offense for which a person is required to
2 register pursuant to this section, in addition to any other penalty
3 prescribed by law, the court shall order the person to pay an additional
4 assessment of two hundred fifty dollars. This assessment is not subject to
5 any surcharge. The court shall transmit the monies received pursuant to this
6 section to the county treasurer. The county treasurer shall transmit the
7 monies received to the state treasurer. The state treasurer shall deposit
8 the monies received in the ~~sex-offender monitoring~~ STATE GENERAL fund
9 ~~established by section 13-3828~~. Notwithstanding any other law, the court
10 shall not waive the assessment imposed pursuant to this section.

11 R. For the purposes of this section:

12 1. "Address" means the location at which the person receives mail.

13 2. "Required online identifier" means any electronic e-mail address
14 information or instant message, chat, social networking or other similar
15 internet communication name, but does not include a social security number,
16 date of birth or pin number.

17 3. "Residence" means the person's dwelling place, whether permanent or
18 temporary.

19 Sec. 5. Section 13-3824, Arizona Revised Statutes, is amended to read:
20 ~~13-3824.~~ Violation; classification; assessment

21 A. A person who is subject to registration under this article and who
22 fails to comply with the requirements of this article is guilty of a class 4
23 felony.

24 B. Notwithstanding subsection A of this section, a person who fails to
25 comply with section 13-3821, subsection J is guilty of a class 6 felony and,
26 in addition to any other penalty prescribed by law, the court shall order the
27 person to pay an additional assessment of two hundred fifty dollars. This
28 assessment is not subject to any surcharge. The court shall transmit the
29 monies received pursuant to this subsection to the county treasurer. The
30 county treasurer shall transmit the monies received to the state treasurer.
31 The state treasurer shall deposit the monies received in the ~~sex-offender~~
32 ~~monitoring~~ STATE GENERAL fund ~~established by section 13-3828~~.
33 Notwithstanding any other law, the court shall not waive the assessment
34 imposed pursuant to this subsection.

35 Sec. 6. Repeal

36 Section ~~13-3828~~, Arizona Revised Statutes, is repealed.

37 Sec. 7. Section 28-1383, Arizona Revised Statutes, is amended to read:
38 ~~28-1383.~~ Aggravated driving or actual physical control while

39 under the influence; violation; classification;
40 definition

41 A. A person is guilty of aggravated driving or actual physical control
42 while under the influence of intoxicating liquor or drugs if the person does
43 any of the following:

44 1. Commits a violation of section 28-1381, section 28-1382 or this
45 section while the person's driver license or privilege to drive is suspended,

1 canceled, revoked or refused or while a restriction is placed on the person's
2 driver license or privilege to drive as a result of violating section 28-1381
3 or 28-1382 or under section 28-1385.

4 2. Within a period of eighty-four months commits a third or subsequent
5 violation of section 28-1381, section 28-1382 or this section or is convicted
6 of a violation of section 28-1381, section 28-1382 or this section and has
7 previously been convicted of any combination of convictions of section
8 28-1381, section 28-1382 or this section or acts in another jurisdiction that
9 if committed in this state would be a violation of section 28-1381, section
10 28-1382 or this section.

11 3. While a person under fifteen years of age is in the vehicle,
12 commits a violation of either:

13 (a) Section 28-1381.

14 (b) Section 28-1382.

15 4. While the person is ordered by the court or required pursuant to
16 section 28-3319 by the department to equip any motor vehicle the person
17 operates with a certified ignition interlock device, does either of the
18 following:

19 (a) While under arrest refuses to submit to any test chosen by a law
20 enforcement officer pursuant to section 28-1321, subsection A.

21 (b) Commits a violation of section 28-1381, section 28-1382 or this
22 section.

23 B. The dates of the commission of the offenses are the determining
24 factor in applying the eighty-four month provision provided in subsection A,
25 paragraph 2 of this section regardless of the sequence in which the offenses
26 were committed. For the purposes of this section, a third or subsequent
27 violation for which a conviction occurs does not include a conviction for an
28 offense arising out of the same series of acts. The time that a probationer
29 is found to be on absconder status or the time that a person is incarcerated
30 in any state, federal, county or city jail or correctional facility is
31 excluded when determining the eighty-four month period provided in subsection
32 A, paragraph 2 and subsection E of this section.

33 C. The notice to a person of the suspension, cancellation, revocation
34 or refusal of a driver license or privilege to drive is effective as provided
35 in section 28-3318 or pursuant to the laws of the state issuing the license.

36 D. A person is not eligible for probation, pardon, commutation or
37 suspension of sentence or release on any other basis until the person has
38 served not less than four months in ~~prison~~ JAIL if the person is convicted
39 under either of the following:

40 1. Subsection A, paragraph 1 of this section.

41 2. Subsection A, paragraph 2 of this section and within an eighty-four
42 month period has been convicted of two prior violations of section 28-1381,
43 section 28-1382 or this section, or any combination of those sections, or
44 acts in another jurisdiction that if committed in this state would be a
45 violation of section 28-1381, section 28-1382 or this section.

1 E. A person who is convicted under subsection A, paragraph 2 of this
2 section and who within an eighty-four month period has been convicted of
3 three or more prior violations of section 28-1381, section 28-1382 or this
4 section, or any combination of those sections, or acts in another
5 jurisdiction that if committed in this state would be a violation of section
6 28-1381, section 28-1382 or this section is not eligible for probation,
7 pardon, commutation or suspension of sentence or release on any other basis
8 until the person has served not less than eight months in ~~prison~~ JAIL.

9 F. A person who is convicted under subsection A, paragraph 3,
10 subdivision (a) of this section shall serve at least the minimum term of
11 incarceration required pursuant to section 28-1381.

12 G. A person who is convicted under subsection A, paragraph 3,
13 subdivision (b) of this section shall serve at least the minimum term of
14 incarceration required pursuant to section 28-1382.

15 H. A person who is convicted of a violation of this section shall
16 attend and complete alcohol or other drug screening, education or treatment
17 from an approved facility. If the person fails to comply with this
18 subsection and is placed on probation, in addition to the provisions of
19 section 13-901 the court may order that the person be incarcerated as a term
20 of probation as follows:

21 1. For a person sentenced pursuant to subsection D of this section,
22 for an individual period of not more than four months and a total period of
23 not more than one year.

24 2. For a person sentenced pursuant to subsection E of this section,
25 for an individual period of not more than eight months and a total period of
26 not more than two years.

27 I. The time that a person spends in custody pursuant to subsection H
28 of this section shall not be counted towards the sentence imposed if the
29 person's probation is revoked and the person is ~~sentenced to prison after~~
30 INCARCERATED FOLLOWING revocation of probation.

31 J. On a conviction for a violation of this section, the court:

32 1. Shall report the conviction to the department. On receipt of the
33 report, the department shall revoke the driving privilege of the person. The
34 department shall not issue the person a new driver license within three years
35 of the date of the conviction and, for a conviction of a violation of
36 subsection A, paragraph 1, 2 or 4 or paragraph 3, subdivision (b) of this
37 section, shall require the person to equip any motor vehicle the person
38 operates with a certified ignition interlock device pursuant to section
39 28-3319. In addition, the court may order the person to equip any motor
40 vehicle the person operates with a certified ignition interlock device for
41 more than twelve months beginning on the date of reinstatement of the
42 person's driving privilege following a suspension or revocation or on the
43 date of the department's receipt of the report of conviction, whichever
44 occurs later. The person who operates a motor vehicle with a certified

1 ignition interlock device under this paragraph shall comply with article 5 of
2 this chapter.

3 2. In addition to any other penalty prescribed by law, shall order the
4 person to pay an additional assessment of two hundred fifty dollars. If the
5 conviction occurred in the superior court or a justice court, the court shall
6 transmit the monies received pursuant to this paragraph to the county
7 treasurer. If the conviction occurred in a municipal court, the court shall
8 transmit the monies received pursuant to this paragraph to the city
9 treasurer. The city or county treasurer shall transmit the monies received
10 to the state treasurer. The state treasurer shall deposit the monies
11 received in the driving under the influence abatement fund established by
12 section 28-1304. Any fine imposed for a violation of this section and any
13 assessments, restitution and incarceration costs shall be paid before the
14 assessment prescribed in this paragraph.

15 3. Shall order the person to pay a fine of not less than seven hundred
16 fifty dollars.

17 4. In addition to any other penalty prescribed by law, shall order the
18 person to pay an additional assessment of one thousand five hundred dollars
19 to be deposited by the state treasurer in the prison construction and
20 operations fund established by section 41-1651. This assessment is not
21 subject to any surcharge. If the conviction occurred in the superior court
22 or a justice court, the court shall transmit the assessed monies to the
23 county treasurer. If the conviction occurred in a municipal court, the court
24 shall transmit the assessed monies to the city treasurer. The city or county
25 treasurer shall transmit the monies received to the state treasurer.

26 5. In addition to any other penalty prescribed by law, shall order the
27 person to pay an additional assessment of one thousand five hundred dollars
28 to be deposited by the state treasurer in the public safety equipment fund
29 established by section 41-1723. This assessment is not subject to any
30 surcharge. If the conviction occurred in the superior court or a justice
31 court, the court shall transmit the assessed monies to the county treasurer.
32 If the conviction occurred in a municipal court, the court shall transmit the
33 assessed monies to the city treasurer. The city or county treasurer shall
34 transmit the monies received to the state treasurer.

35 K. After completing the period of suspension required by section
36 28-1385, a person whose driving privilege is revoked for a violation of
37 subsection A, paragraph 3 of this section may apply to the department for a
38 special ignition interlock restricted driver license pursuant to section
39 28-1401.

40 L. Aggravated driving or actual physical control while under the
41 influence of intoxicating liquor or drugs committed under:

42 1. Subsection A, paragraph 1 or 2 or paragraph 4, subdivision (b) of
43 this section is a class 4 felony.

1 2. Subsection A, paragraph 3 or paragraph 4, subdivision (a) of this
2 section is a class 6 felony.

3 M. For the purposes of this section, "suspension, cancellation,
4 revocation or refusal" means any suspension, cancellation, revocation or
5 refusal.

6 Sec. 8. Section 28-8288, Arizona Revised Statutes, is amended to read:
7 28-8288. Third or subsequent offense

8 A. If a person is convicted of a third or subsequent violation of
9 section 28-8282 or is convicted of a violation of section 28-8282 and has
10 previously been convicted of any combination of convictions of section
11 28-8282 or acts committed in another state that if committed in this state
12 would be a violation of section 28-8282 within a period of sixty months:

13 1. The person is guilty of a class 5 felony.

14 2. The person is not eligible for probation, pardon, suspension of
15 sentence or release on any basis except as specifically authorized by section
16 31-233, subsection A or B until the person has served not less than six
17 months in ~~prison~~ JAIL.

18 3. The court shall not suspend the imposition of a prison sentence.

19 4. If in the court's opinion the person has the problem of habitual
20 abuse of alcohol or drugs, the court shall require the person to obtain
21 treatment under its supervision.

22 5. In addition to any other penalty prescribed by law, the person
23 shall pay an additional assessment of one thousand five hundred dollars to be
24 deposited by the state treasurer in the prison construction and operations
25 fund established by section 41-1651. This assessment is not subject to any
26 surcharge. If the conviction occurred in the superior court or a justice
27 court, the court shall transmit the assessed monies to the county treasurer.
28 If the conviction occurred in a municipal court, the court shall transmit the
29 assessed monies to the city treasurer. The city or county treasurer shall
30 transmit the monies received to the state treasurer.

31 6. In addition to any other penalty prescribed by law, the person
32 shall pay an additional assessment of one thousand five hundred dollars to be
33 deposited by the state treasurer in the public safety equipment fund
34 established by section 41-1723. This assessment is not subject to any
35 surcharge. If the conviction occurred in the superior court or a justice
36 court, the court shall transmit the assessed monies to the county treasurer.
37 If the conviction occurred in a municipal court, the court shall transmit the
38 assessed monies to the city treasurer. The city or county treasurer shall
39 transmit the monies received to the state treasurer.

40 B. The dates of the commission of the offense are the determining
41 factor in applying this section.

42 C. A third or subsequent violation for which a conviction occurs as
43 provided in this section shall not include a conviction for an offense
44 arising out of the same series of acts.

1 Sec. 9. Title 31, chapter 1, article 2, Arizona Revised Statutes, is
2 amended by adding section 31-133, to read:

3 31-133. Receiving and keeping state prisoners

4 THE SHERIFF SHALL RECEIVE AND KEEP IN THE COUNTY JAIL ANY PRISONER WHO
5 IS SENTENCED TO SERVE A TERM OF IMPRISONMENT IN THE STATE DEPARTMENT OF
6 CORRECTIONS AND WHOSE ACTUAL LENGTH OF IMPRISONMENT IS ONE YEAR OR LESS.

7 Sec. 10. Section 31-201.01, Arizona Revised Statutes, is amended to
8 read:

9 31-201.01. Duties of the director; tort actions; medical
10 treatment costs; state immunity; definitions

11 A. The director shall hold in custody all persons sentenced to the
12 department under the law and shall hold such persons for the term directed by
13 the court, subject to law, EXCEPT THAT IF THE LENGTH OF THE PERSON'S ACTUAL
14 INCARCERATION IS ONE YEAR OR LESS, THE PERSON SHALL BE PLACED IN THE CUSTODY
15 OF A COUNTY JAIL.

16 B. In addition to the medical and health services to be provided
17 pursuant to subsection D of this section, the director ~~may~~, in cooperation
18 with the department of health services, MAY provide to prisoners WHO ARE
19 INCARCERATED IN THE STATE DEPARTMENT OF CORRECTIONS psychiatric care and
20 treatment pursuant to sections 31-226 and 31-226.01.

21 C. The director may institute and pursue programs ~~which~~ THAT promote
22 the rehabilitation of the prisoners in the director's charge.

23 D. The director shall provide medical and health services for the
24 prisoners WHO ARE INCARCERATED IN THE STATE DEPARTMENT OF CORRECTIONS. The
25 director may contract for professional services to assist the director in
26 carrying out this responsibility on behalf of the state, ~~provided~~ EXCEPT that
27 all records made and retained in connection with the services provided by
28 this subsection shall be made and retained only by duly authorized or
29 qualified medical and professional personnel and not by any prisoner. Such
30 records when not in use shall be retained in a safe and secure place.

31 E. If a victim of a person for whom a cost of incarceration has been
32 calculated notifies the state that full restitution has not been made by the
33 person for whom a cost of incarceration has been calculated, the state shall
34 interplead with the superior court the disputed amount and set off the
35 amounts owed the state from the remaining obligation.

36 F. Any and all causes of action ~~which~~ THAT may arise out of tort
37 caused by the director, prison officers or employees of the department,
38 within the scope of their legal duty, shall run only against the state.

39 G. The director shall establish by rule reasonable medical and health
40 ~~service~~ SERVICES fees for the medical and health services that are provided
41 pursuant to subsection D of this section. Except as provided in subsection I
42 of this section, every inmate shall be charged a reasonable medical and
43 health services fee for each medical visit an inmate makes pursuant to a
44 health needs request form or for emergency treatment.

1 H. Except as provided in subsection I of this section, the director
2 may charge each inmate a reasonable fee for prescriptions, ~~medication~~
3 **MEDICATIONS** or prosthetic devices.

4 I. The director shall exempt the following inmates or medical visits
5 by inmates from payment of medical and health services fees and fees for
6 prescriptions, ~~medication~~ **MEDICATIONS** or prosthetic devices:

7 1. Medical visits initiated by the medical or mental health staff of
8 the department.

9 2. Medical visits to a physician by inmates who are referred by a
10 physician assistant or nurse practitioner.

11 3. Inmates at reception centers.

12 4. Juvenile inmates.

13 5. Pregnant inmates.

14 6. Seriously mentally ill inmates. For the purposes of this
15 paragraph, "seriously mentally ill inmates" means inmates who as a result of
16 a mental disorder as defined in section 36-501 exhibit emotional or
17 behavioral functioning ~~which~~ **THAT** is so impaired as to interfere
18 substantially with their capacity to remain in the general prison population
19 without supportive treatment or services of a long-term or indefinite
20 duration and whose mental disability is severe and persistent, resulting in a
21 long-term limitation of their functional capacities for primary activities of
22 daily living, including interpersonal relationships, self-care, employment
23 and recreation.

24 7. Developmentally disabled inmates who are housed in a special
25 programs unit.

26 8. Inmates who are housed in unit 8 at the Florence prison facility.

27 9. Inmates who are inpatients at the Alhambra prison facility special
28 programs psychiatric hospital.

29 10. Inmates who are inpatients at the Flamenco prison facility mental
30 health treatment unit.

31 11. Inmates who are undergoing administrative physical examinations for
32 statewide driver status and fire fighting crews.

33 12. Inmates who are undergoing follow-up medical treatment for chronic
34 diseases.

35 J. An inmate shall not be refused medical treatment for financial
36 reasons.

37 K. All monies received by the department for medical and health
38 ~~service~~ **SERVICES** fees shall be deposited in the general fund.

39 L. A person who is convicted of a felony offense and who is
40 incarcerated while awaiting sentence or while serving a sentence imposed by a
41 court of law may not bring a cause of action seeking damages or equitable
42 relief from the state or its political subdivisions, agencies, officers or
43 employees for injuries suffered while in the custody of the state or its
44 political subdivisions or agencies unless the complaint alleges specific

1 facts from which the court may conclude that the plaintiff suffered serious
2 physical injury or the claim is authorized by a federal statute.

3 M. The director shall establish criteria for reasonable deductions
4 from monies credited to the prisoner's spendable account to repay the cost
5 of:

6 1. State property that the inmate wilfully damages or destroys during
7 the inmate's incarceration.

8 2. Medical treatment for injuries that the inmate inflicts on himself
9 or others.

10 3. Searching for and apprehending an inmate who escapes or attempts to
11 escape.

12 4. Quelling a riot or other disturbance in which the inmate is
13 unlawfully involved.

14 N. For **THE** purposes of this section:

15 1. "Reasonable fee" means an amount not to exceed five dollars.

16 2. "Serious physical injury" means an impairment of physical condition
17 that creates a substantial risk of death or that causes serious
18 disfigurement, prolonged impairment of health or prolonged loss or impairment
19 of the function of any bodily organ.

20 Sec. 11. Section 31-284, Arizona Revised Statutes, is amended to read:

21 **31-284. Transition office fund**

22 The transition office fund is established consisting of the monies
23 collected pursuant to section 31-254, subsection D, paragraph 3. The
24 department shall administer the fund to pay for **ANY** costs related to the
25 transition **office PROGRAM**. Monies in the fund are subject to legislative
26 appropriation and are exempt from the provisions of section 35-190 relating
27 to lapsing of appropriations.

28 Sec. 12. Section 31-401, Arizona Revised Statutes, is amended to read:

29 **31-401. Board of executive clemency; qualifications;**
30 **appointment; officers; quorum; meeting**

31 A. The board of executive clemency is established consisting of five
32 members who are appointed by the governor pursuant to this subsection and
33 section 38-211. The governor shall appoint a selection committee consisting
34 of the director of the department of public safety, the director of the state
35 department of corrections and three other persons who shall submit a list of
36 three qualified candidates to the governor for each vacancy on the board.
37 The governor shall fill the vacancy by appointing a member to the board of
38 executive clemency from the list.

39 B. The members of the board shall serve on a full-time basis and the
40 compensation of members shall be as determined pursuant to section 38-611.
41 Each member shall be appointed on the basis of broad professional or
42 educational qualifications and experience and shall have demonstrated an
43 interest in the state's correctional program. No more than two members from
44 the same professional discipline shall be members of the board at the same
45 time.

1 C. Each member appointed to the board shall complete a four week
2 course relating to the duties and activities of the board. The course shall
3 be designed and administered by the chairman of the board and shall be
4 conducted by the office of the board of executive clemency and the office of
5 the attorney general. The course shall include training in all statutes
6 ~~which~~ THAT pertain to the board and participation in a decision making
7 workshop.

8 D. Members shall be appointed for a term of five years to expire on
9 the third Monday in January of the appropriate year.

10 E. A member of the board may be removed by the governor for cause.

11 F. The governor shall select a member of the board as chairman. The
12 chairman shall select other officers as are advisable. The term of the
13 chairman is two years, except that the chairman may be removed as chairman at
14 the pleasure of the governor. If a board member's term expires while the
15 member is serving as chairman, the chair shall be deemed vacant and a new
16 chairman shall be selected.

17 G. The board may adopt rules, not inconsistent with law, as it deems
18 proper for the conduct of its business. The board may from time to time
19 amend or change the rules and publish and distribute the rules as provided by
20 the administrative procedures act.

21 H. The board shall meet at least once a month at the state prison and
22 at other times or places as the board deems necessary.

23 I. The presence of three members of the board constitutes a quorum, ~~—~~
24 EXCEPT THAT the chairman may designate that the presence of two members of
25 the board constitutes a quorum.

26 J. If two members of the board constitute a quorum pursuant to
27 subsection I, ~~paragraph 2~~ of this section and the two members do not concur
28 on the action under consideration, the chairman of the board, if the chairman
29 is not one of the members who constituted the quorum and after reviewing the
30 information considered by the two members, shall cast the deciding vote. If
31 the chairman of the board is one of the two members constituting a quorum at
32 a hearing under subsection I, ~~paragraph 2~~ of this section, and there is not
33 concurrence on the action under consideration, ~~no action shall be taken and~~
34 ~~the matter shall be heard before the board at which a quorum under subsection~~
35 ~~I, paragraph 1 of this section is present~~ THE ACTION FAILS.

36 K. The board shall employ an executive director whose compensation
37 shall be determined pursuant to section 38-611. THE CHAIRMAN OF THE BOARD
38 MAY ACT AS THE EXECUTIVE DIRECTOR.

39 Sec. 13. Section 41-191.03, Arizona Revised Statutes, is amended to
40 read:

41 41-191.03. Collection enforcement revolving fund; disposition
42 of monies

43 A. ~~A~~ THE collection enforcement revolving fund is established for the
44 purpose of collecting debts owed to the state. Monies in the fund are

1 subject to legislative appropriation. The attorney general shall administer
2 the fund.

3 B. The attorney general may expend from the collection enforcement
4 revolving fund such monies as are necessary for OPERATING EXPENSES INCURRED
5 BY THE DEPARTMENT OF LAW AND the collection of debts owed to ~~the~~ THIS state,
6 including reimbursing other accounts or departments within the office of the
7 attorney general from which monies or services for collection were provided.

8 C. Thirty-five per cent of all monies recovered by the attorney
9 general pursuant to section 41-191.04 shall be deposited, pursuant to
10 sections 35-146 and 35-147, in the collection enforcement revolving fund.

11 D. Sixty-five per cent of all monies recovered by the attorney general
12 pursuant to section 41-191.04 shall be distributed as follows:

13 1. Those monies ~~which~~ THAT are directly attributable to a fund
14 containing monies ~~which~~ THAT do not revert to the state general fund at the
15 end of the fiscal year shall be deposited, pursuant to sections 35-146 and
16 35-147, in that fund.

17 2. All other monies shall be deposited, pursuant to sections 35-146
18 and 35-147, in the state general fund.

19 E. Monies in the collection enforcement revolving fund are exempt from
20 the lapsing provisions of section 35-190, except that monies remaining in the
21 fund at the end of each fiscal year in excess of one hundred thousand dollars
22 shall be distributed on a pro rata basis to the funds receiving monies
23 pursuant to subsection D of this section. Such distribution shall be based
24 on the percentage that the collections deposited in each fund bear to the
25 total amount deposited into the funds during the fiscal year.

26 F. Notwithstanding anything in subsections B through E of this
27 section, monies due and owing pursuant to section 12-116.01 and collected by
28 the attorney general shall be distributed as follows:

29 1. Twenty per cent of all monies recovered by the attorney general
30 pursuant to section 41-191.04 shall be deposited, pursuant to sections 35-146
31 and 35-147, in the collection enforcement revolving fund.

32 2. Eighty per cent of all monies recovered by the attorney general
33 pursuant to section 41-191.04 shall be deposited, pursuant to sections 35-146
34 and 35-147, in the criminal justice enhancement fund; ~~—~~ established by section
35 41-2401.

36 Sec. 14. Section 41-1723, Arizona Revised Statutes, is amended to
37 read:

38 41-1723. Public safety equipment fund; distribution

39 The public safety equipment fund is established consisting of monies
40 deposited in the fund pursuant to sections 5-395.01, 5-396, 5-397, 28-1381,
41 28-1382, 28-1383, 28-8284, 28-8286, 28-8287 and 28-8288. The department
42 shall administer the fund. Monies in the fund shall be distributed as
43 follows:

44 1. The first ~~three~~ ONE million TWO HUNDRED THOUSAND dollars received
45 each fiscal year as a continuing appropriation to the department for

1 protective armor, electronic stun devices and other safety equipment. Monies
2 appropriated pursuant to this paragraph are exempt from the provisions of
3 section 35-190 relating to lapsing of appropriations.

4 2. All other monies each fiscal year shall be deposited in the state
5 general fund.

6 Sec. 15. Section 41-1772, Arizona Revised Statutes, is amended to
7 read:

8 41-1772. Crime laboratory operations fund

9 A. The crime laboratory operations fund is established consisting of
10 surcharge monies deposited pursuant to section 28-3396 AND MONIES DEPOSITED
11 PURSUANT TO SECTION 41-2401, SUBSECTION D, PARAGRAPH 11. The department
12 shall administer the fund.

13 B. Subject to legislative appropriation, monies in the fund shall be
14 used for crime laboratory operations.

15 Sec. 16. Section 41-1825, Arizona Revised Statutes, is amended to
16 read:

17 41-1825. Peace officers' training fund

18 A. A special fund designated as the peace officers' training fund is
19 established. All monies deposited in the fund are continuously appropriated
20 to the department of public safety for the benefit of the board. The monies
21 shall be used exclusively for the costs of training peace officers, including
22 Indian tribe police officers who are training to be qualified pursuant to
23 section 13-3874 and full authority peace officers who are appointed by the
24 director of the state department of corrections and the director of the
25 department of juvenile corrections, for grants to state agencies, counties,
26 cities and towns of this state for peace officer training and for expenses
27 for the operation of the board. No peace officers' training fund monies may
28 be spent for training correctional officers of the state department of
29 corrections.

30 B. All amounts to be paid or advanced from the fund shall be on
31 warrants drawn by the department of administration on presentation of a
32 proper claim or voucher that is approved and signed by the executive
33 director.

34 C. The executive director shall lawfully disburse monies as approved
35 by the board.

36 D. The board may use and the department of public safety shall provide
37 to the board administrative support services. The board shall reimburse the
38 department for expenses incurred for ADMINISTRATIVE SUPPORT services ~~that are~~
39 ~~provided beyond those required for the normal operation of the department.~~
40 This subsection does not require the department to provide administrative
41 support services that are different in kind from those that were provided on
42 January 1, 2000. For the purposes of this subsection, "administrative
43 support services" includes all services relating to business office, finance
44 and procurement, information management and technology, fleet, human

1 resources, supply, telecommunications, facilities, security and clerical and
2 administrative assistance personnel.

3 Sec. 17. Section 41-2401, Arizona Revised Statutes, is amended to
4 read:

5 41-2401. Criminal justice enhancement fund

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

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

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

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

24 1. 6.46 per cent in the Arizona automated fingerprint identification
25 system fund established by section 41-2414.

26 2. 1.61 per cent to the department of juvenile corrections for the
27 treatment and rehabilitation of youth who have committed drug-related
28 offenses.

29 3. 16.64 per cent in the peace officers' training fund established by
30 section 41-1825.

31 4. 3.03 per cent in the prosecuting attorneys' advisory council
32 training fund established by section 41-1830.03.

33 5. 9.35 per cent to the supreme court for the purpose of reducing
34 juvenile crime.

35 6. 8.56 per cent to the department of public safety. Fifteen per cent
36 of the monies shall be allocated for deposit in the Arizona deoxyribonucleic
37 acid identification system fund established by section 41-2419. Eighty-five
38 per cent of the monies shall be allocated to state and local law enforcement
39 authorities for the following purposes:

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

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

- 1 (c) Operational costs of the criminal justice information system.
2 7. 9.35 per cent to the department of law for allocation to county
3 attorneys for the purpose of enhancing prosecutorial efforts.
4 8. 6.02 per cent to the supreme court for the purpose of enhancing the
5 ability of the courts to process criminal and delinquency cases, orders of
6 protection, injunctions against harassment and any proceeding relating to
7 domestic violence matters, for auditing and investigating persons or entities
8 licensed or certified by the supreme court and for processing judicial
9 discipline cases. Notwithstanding section 12-143, subsection A, the salary
10 of superior court judges pro tempore who are appointed for the purposes
11 provided in this paragraph shall, and the salary of other superior court
12 judges pro tempore who are appointed pursuant to section 12-141 for the
13 purposes provided in this paragraph may, be paid in full by the monies
14 received pursuant to this paragraph.
15 9. 11.70 per cent to the county sheriffs for the purpose of enhancing
16 county jail facilities and operations, including county jails under the
17 jurisdiction of county jail districts.
18 10. 1.57 per cent to the Arizona criminal justice commission.
19 11. 9.00 per cent ~~to~~ IN the ~~state-general~~ CRIME LABORATORY OPERATIONS
20 fund ESTABLISHED BY SECTION 41-1772.
21 12. 2.30 per cent in the crime laboratory assessment fund established
22 by section 41-2415.
23 13. 7.68 per cent in the victims' rights fund established by section
24 41-191.08.
25 14. 4.60 per cent in the victim compensation and assistance fund
26 established by section 41-2407.
27 15. 2.13 per cent to the supreme court for the purpose of providing
28 drug treatment services to adult probationers through the community
29 punishment program established in title 12, chapter 2, article 11.
30 E. Monies distributed pursuant to subsection D, paragraphs 3, 4, 7, 9,
31 11, 12, 13 and 14 of this section constitute a continuing appropriation.
32 Monies distributed pursuant to subsection D, paragraphs 1, 2, 5, 8, 10 and 15
33 of this section are subject to legislative appropriation.
34 F. The portion of the eighty-five per cent of the monies for direct
35 operating expenses of the department of public safety in subsection D,
36 paragraph 6 of this section is subject to legislative appropriation. The
37 remainder of the monies in subsection D, paragraph 6 of this section
38 including the portion of the eighty-five per cent for local law enforcement
39 is continuously appropriated.
40 G. The allocation of monies pursuant to subsection D, paragraphs 6, 7,
41 8 and 9 of this section shall be made in accordance with rules adopted by the
42 Arizona criminal justice commission pursuant to section 41-2405.

1 adjudicate and punish drug and gang and related criminal offenders, except
2 those monies allocated pursuant to subsection H of this section.

3 F. Notwithstanding the limitations prescribed in subsection B of this
4 section, any federal monies or matching state monies in the drug and gang
5 enforcement account may only be allocated by the commission pursuant to a
6 plan approved by the federal government.

7 G. The auditor general shall annually perform a full and complete
8 audit of the fund or the commission shall annually contract with an
9 accounting firm to perform the audit and deliver a report to the governor and
10 the legislature. The audit shall be charged to the drug and gang enforcement
11 account.

12 H. A resource center fund is established consisting of monies received
13 pursuant to section 12-284.03, subsection A, paragraph 1, ~~AND~~ section 41-178
14 and all monies received from public or private gifts, grants or other
15 sources, excluding federal monies and monies to be passed through to other
16 entities, to be used solely for the purpose of funding the Arizona ~~drug and~~
17 ~~gang prevention resource center~~ YOUTH SURVEY. Monies in the fund are subject
18 to legislative appropriation. Any monies unexpended or unencumbered on June
19 30 of each year shall not be subsequently expended or encumbered unless
20 reappropriated. No monies in the drug and gang enforcement account except
21 those received pursuant to this subsection shall be used to fund the Arizona
22 ~~drug and gang prevention resource center~~ YOUTH SURVEY. Monies that are
23 ~~received by the center~~ EXPENDED pursuant to this subsection are subject to
24 the reporting requirements prescribed in section 41-617.01.

25 Sec. 19. Repeal

26 Section 41-3010.12, Arizona Revised Statutes, is repealed.

27 Sec. 20. Title 41, chapter 27, article 2, Arizona Revised Statutes, is
28 amended by adding section 41-3011.15, to read:

29 41-3011.15. Department of juvenile corrections; termination
30 July 1, 2011

31 A. THE DEPARTMENT OF JUVENILE CORRECTIONS TERMINATES ON JULY 1, 2011.

32 B. TITLE 41, CHAPTER 26 IS REPEALED ON JANUARY 1, 2012.

33 Sec. 21. Section 41-4301, Arizona Revised Statutes, is amended to
34 read:

35 41-4301. State capital postconviction public defender; office;
36 appointment; qualifications; powers and duties

37 A. The state capital postconviction public defender office is
38 established.

39 B. The state is responsible for funding the state capital
40 postconviction public defender office, including start-up costs.

41 C. The governor shall appoint the state capital postconviction public
42 defender and fill any vacancy in the office on the basis of merit alone
43 without regard to political affiliation from the list of names that are
44 submitted pursuant to sections 41-4302 and 38-211. The state capital
45 postconviction public defender serves a four year term and serves until the

1 appointment and qualification of a successor in office. After appointment,
2 the state capital postconviction public defender is subject to removal from
3 office only for good cause as determined by a majority vote of the
4 nomination, retention and standards commission on indigent defense. A
5 vacancy shall be filled for the balance of the unexpired term.

6 D. The state capital postconviction public defender shall meet all of
7 the following criteria:

8 1. Be a member in good standing of the state bar of Arizona or become
9 a member of the state bar of Arizona within one year after appointment.

10 2. Have been a member of the state bar of Arizona or admitted to
11 practice in any other state for the five years immediately preceding the
12 appointment.

13 3. Have had substantial experience in the representation of accused or
14 convicted persons in criminal or juvenile proceedings.

15 4. Meet or exceed the standards for appointment of counsel in capital
16 cases under rule 6.8, Arizona rules of criminal procedure, as determined by
17 the nomination, retention and standards commission on indigent defense.

18 E. The salary of the state capital postconviction public defender
19 shall equal the annual salary of the chief counsel of the capital litigation
20 section in the office of the attorney general.

21 F. The state capital postconviction public defender shall:

22 1. Represent any person who is not financially able to employ counsel
23 in postconviction relief proceedings in state court after a judgment of death
24 has been rendered. Notwithstanding section 11-584, subsection A, paragraph
25 1, subdivision (g), after a judgment of death has been rendered, a county
26 employed indigent defense counsel shall not handle postconviction relief
27 proceedings in state court unless a conflict exists with the state capital
28 postconviction public defender and a county employed indigent defense counsel
29 is appointed.

30 2. Supervise the operation, activities, policies and procedures of the
31 state capital postconviction public defender office.

32 3. Beginning in fiscal year 2007-2008, submit an annual budget for the
33 operation of the office to the legislature.

34 4. Not engage in the private practice of law or provide outside
35 counsel to any other attorney outside of the state capital postconviction
36 public defender office.

37 5. Not sponsor or fund training for any other attorney outside of the
38 state capital postconviction public defender office.

39 6. Not provide trial or direct appeal assistance to attorneys outside
40 of the state capital postconviction public defender office.

41 7. Not lobby, during working hours, the state legislature or the
42 Congress of the United States, except as provided by paragraph 3 of this
43 subsection.

1 C. The monies in the fund shall be used by the attorney general for
2 OPERATING EXPENSES, INCLUDING ANY COST OR EXPENSE ASSOCIATED WITH THE TOBACCO
3 MASTER SETTLEMENT AGREEMENT ARBITRATION, consumer fraud education and
4 investigative and enforcement operations of the consumer protection
5 division, ~~except that no monies in the fund may be used to compensate or~~
6 ~~employ attorneys except where necessary to collect monies due under judgments~~
7 ~~entered pursuant to this article.~~

8 D. On or before January 15, April 15, July 15 and October 15, the
9 attorney general shall cause to be filed with the governor, with copies to
10 the director of the department of administration, the president of the senate
11 and the speaker of the house of representatives, a full and complete account
12 of the receipts and disbursements from the fund in the previous calendar
13 quarter.

14 E. On or before January 15, April 15, July 15 and October 15, each
15 county attorney who retains monies pursuant to subsection B of this section
16 shall provide the county board of supervisors with a full and complete
17 account of the receipts and disbursements of such monies in the previous
18 calendar quarter.

19 Sec. 24. Laws 2007, chapter 261, section 16, as amended by Laws 2009,
20 third special session, chapter 6, section 21, is amended to read:

21 Sec. 16. Appropriations; deoxyribonucleic acid identification
22 system fund; exemption

23 A. The sums of \$1,980,000 in fiscal year 2007-2008, \$2,980,000 in
24 fiscal year 2008-2009, \$980,000 in fiscal year 2009-2010, ~~\$3,440,000~~ \$980,000
25 in fiscal year 2010-2011 and \$3,520,000 in fiscal year 2011-2012 are
26 appropriated from the monies that are collected pursuant to section
27 12-116.01, subsection C, Arizona Revised Statutes, and that are distributed
28 pursuant to section 12-116.01, subsection J, Arizona Revised Statutes, for
29 deposit in the Arizona deoxyribonucleic acid identification system fund
30 established by section 41-2419, Arizona Revised Statutes, to the department
31 of public safety for equipment purchases, personal services, employee-related
32 expenses, training, other operating expenses and capital improvements in
33 order to implement, conduct and maintain deoxyribonucleic acid testing.

34 B. The appropriations made in subsection A of this section shall come
35 from the additional four per cent penalty assessment that is collected and
36 distributed pursuant to the penalty assessment increase from three per cent
37 to seven per cent in section 12-116.01, subsections C and J, Arizona Revised
38 Statutes, as amended by Laws 2007, chapter 261, section 1.

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

42 Sec. 25. Repeal

43 Laws 2009, third special session, chapter 6, section 33 is repealed.

- 1 2. The director of the department of juvenile corrections.
- 2 3. The interim director of the department of administration or the
- 3 director's designee.
- 4 4. The chief justice of the supreme court or the chief justice's
- 5 designee.
- 6 5. The director of the division for children within the governor's
- 7 office of children, youth and families.
- 8 6. The director of the governor's office of strategic planning and
- 9 budgeting.
- 10 7. Three representatives of the legal community who have assignments
- 11 or experience in matters involving juveniles. The governor, the president of
- 12 the senate and the speaker of the house of representatives shall each appoint
- 13 one of these members.
- 14 8. Two representatives of the general public who have an interest in
- 15 juvenile justice matters who are appointed by the governor. One shall be a
- 16 resident of Maricopa county and one shall reside in another county.
- 17 9. Two county supervisors who are selected by their respective boards
- 18 of supervisors, or the supervisors' designees. One shall be from Maricopa
- 19 county and one shall be from another county selected by the county
- 20 supervisors association.
- 21 10. The presiding judge of the juvenile court in Maricopa county.
- 22 11. The presiding judge of the juvenile court in a county other than
- 23 Maricopa county who is appointed by the chief justice of the supreme court.
- 24 B. The governor shall designate one member as chairperson.
- 25 C. The commission shall:
- 26 1. Meet as soon as possible to formulate a plan with recommendations
- 27 on juvenile corrections reform.
- 28 2. Review and make recommendations for improving the results and
- 29 efficiency of the current rehabilitative services provided by the juvenile
- 30 justice system.
- 31 3. Review the size, condition and location of state juvenile
- 32 correctional facilities, county juvenile detention centers and community
- 33 treatment facilities and make recommendations for their optimal use.
- 34 4. Review the department of juvenile corrections and make
- 35 recommendations for its future function and purpose.
- 36 5. Develop a comprehensive plan for the possible closure of the
- 37 department of juvenile corrections and the transfer and long-term
- 38 incarceration of juveniles by the counties.
- 39 6. Inform the public about the work of the commission in order to
- 40 ensure an accurate understanding of and to minimize false information
- 41 regarding inappropriate releases of youth offenders from secure custody.
- 42 D. The recommendations shall include proposals for:
- 43 1. Any necessary legislation.
- 44 2. Improving cooperation and communication between state and county
- 45 agencies.

1 3. Other matters the commission deems necessary for an effective
2 implementation of its recommendations.

3 E. The commission may consider and discuss cost issues, responsibility
4 for federal programs and grants and other matters the commission deems
5 pertinent to its recommendations.

6 F. The commission shall present a plan with its recommendations on
7 juvenile corrections reform to the governor, the president of the senate and
8 the speaker of the house of representatives not later than November 30, 2010.

9 G. The governor's office of children, youth and families shall provide
10 staff support to the commission.

11 H. This section is repealed from and after September 30, 2011.

12 Sec. 36. Prisoners; incarceration in county jail

13 Beginning October 1, 2010, if proposition 100 is not approved by the
14 voters at the May 18, 2010 special election, the state department of
15 corrections shall transfer all inmates who have less than one year remaining
16 on the inmates' terms of imprisonment to the county jail.

17 Sec. 37. Superior court judges; salary

18 If proposition 100 is not approved by the voters at the May 18, 2010
19 special election, notwithstanding section 12-128, Arizona Revised Statutes,
20 as amended by this act, for fiscal year 2010-2011, the counties with a
21 population of two million persons or less shall pay one-half of the annual
22 salaries for judges of the superior court plus \$735,000 of the state's share.

23 Sec. 38. Purpose

24 Pursuant to section 41-2955, subsection B, Arizona Revised Statutes,
25 the legislature continues the department of juvenile corrections to provide
26 supervisory staff and administrative functions at the state level for all
27 matters relating to the institutionalization, rehabilitation, education and
28 release of all juvenile offenders.

29 Sec. 39. Retroactivity

30 Sections 19 and 20 of this act are effective retroactively to July 1,
31 2010.

32 Sec. 40. Effective date; conditional enactment

33 Sections 5-396, 13-701, 28-1383, 28-8288 and 31-201.01, Arizona Revised
34 Statutes, as amended by this act, and section 31-133, Arizona Revised
35 Statutes, as added by this act, are effective from and after September 30,
36 2010 only if proposition 100 is not approved by the voters at the May 18,
37 2010 special election.