

PROPOSED

HOUSE OF REPRESENTATIVES AMENDMENTS TO S.B. 1621

(Reference to Senate engrossed bill)

1 Strike everything after the enacting clause and insert:

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.

1 C. A person who is convicted under subsection A, paragraph 1 of this
2 section and who within an eighty-four month period has been convicted of two
3 prior violations of section 5-395 or 5-397 or this section, or acts committed
4 in another jurisdiction that if committed in this state would be a violation
5 of section 5-395 or 5-397 or this section, is not eligible for probation,
6 pardon, commutation or suspension of sentence or release on any other basis
7 until the person has served not less than four months in ~~prison~~ JAIL, UNLESS
8 THE SHERIFF OF THE SENTENCING COUNTY HAS ENTERED INTO AN AGREEMENT TO
9 REIMBURSE THE STATE DEPARTMENT OF CORRECTIONS FOR THE INCARCERATION COSTS
10 PURSUANT TO SECTION 41-1610.02, IN WHICH CASE THE PERSON SHALL BE COMMITTED
11 TO THE CUSTODY OF THE STATE DEPARTMENT OF CORRECTIONS.

12 D. A person who is convicted under subsection A, paragraph 1 of this
13 section and who within an eighty-four month period has been convicted of
14 three or more prior violations of section 5-395 or 5-397 or this section, or
15 acts committed in another jurisdiction that if committed in this state would
16 be a violation of section 5-395 or 5-397 or this section, is not eligible for
17 probation, pardon, commutation or suspension of sentence or release on any
18 other basis until the person has served not less than eight months in ~~prison~~
19 JAIL, UNLESS THE SHERIFF OF THE SENTENCING COUNTY HAS ENTERED INTO AN
20 AGREEMENT TO REIMBURSE THE STATE DEPARTMENT OF CORRECTIONS FOR THE
21 INCARCERATION COSTS PURSUANT TO SECTION 41-1610.02, IN WHICH CASE THE PERSON
22 SHALL BE COMMITTED TO THE CUSTODY OF THE STATE DEPARTMENT OF CORRECTIONS.

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

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

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

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

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

1 H. The time that a person spends in custody pursuant to subsection G
2 of this section shall not be counted toward the sentence imposed if the
3 person's probation is revoked and the person is sentenced to prison following
4 revocation of probation.

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

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

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

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

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

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

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

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

1 Sec. 2. Title 11, chapter 3, article 2, Arizona Revised Statutes, is
2 amended by adding section 11-453, to read:

3 11-453. Jail enhancement monies; transportation vehicles;
4 procurement exemption

5 A. THE SHERIFF MAY SPEND JAIL ENHANCEMENT MONIES DISTRIBUTED PURSUANT
6 TO SECTION 41-2401, SUBSECTION D, PARAGRAPH 9 FOR ANY PURPOSE THAT THE
7 SHERIFF DETERMINES ENHANCES JAIL FACILITIES AND OPERATIONS, INCLUDING COUNTY
8 JAILS UNDER THE JURISDICTION OF COUNTY JAIL DISTRICTS.

9 B. THE SHERIFF IS EXEMPT FROM ANY COUNTY PROCUREMENT RULES, POLICIES
10 AND PROCEDURES FOR THE PURCHASE OF TRANSPORTATION VEHICLES WITH JAIL
11 ENHANCEMENT MONIES DISTRIBUTED PURSUANT TO SECTION 41-2401, SUBSECTION D,
12 PARAGRAPH 9. THE SHERIFF MAY ADOPT RULES SUBSTANTIALLY EQUIVALENT TO THE
13 RULES, POLICIES AND PROCEDURES OF THE COUNTY FOR THE PROCUREMENT OF INMATE
14 TRANSPORTATION VEHICLES WITH JAIL ENHANCEMENT MONIES.

15 Sec. 3. Title 12, chapter 1, article 1, Arizona Revised Statutes, is
16 amended by adding section 12-119.05, to read:

17 12-119.05. Post of duty; supreme court justice

18 THE DESIGNATED POST OF DUTY OF A JUSTICE OF THE SUPREME COURT WHO
19 RESIDES OUTSIDE OF MARICOPA COUNTY SHALL BE DEEMED TO BE THE JUSTICE'S PLACE
20 OF PERMANENT PHYSICAL RESIDENCE AT THE TIME OF THE JUSTICE'S APPOINTMENT.

21 Sec. 4. Section 12-267, Arizona Revised Statutes, is amended to read:

22 12-267. Adult probation services fund; accounts; expenditure
23 plan; use

24 A. The board of supervisors shall designate a chief fiscal officer who
25 shall establish and administer an adult probation services fund consisting
26 of:

27 1. County general fund appropriations for adult probation.

28 2. State appropriations for adult probation including:

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

31 (b) Monies for state aid for adult probation services authorized by
32 this article.

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

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

37 ~~(e) Monies received pursuant to section 12-270 that each county shall~~
38 ~~use for the following:~~

39 ~~(i) Increasing the availability of substance abuse treatment programs~~
40 ~~for probationers.~~

1 ~~(ii) Increasing the availability of risk reduction programs and~~
2 ~~interventions for probationers.~~

3 ~~(iii) Grants to nonprofit victim services organizations to partner~~
4 ~~with the probation department and the court to assist victims and increase~~
5 ~~the amount of restitution collected from probationers.~~

6 3. Probation fees collected pursuant to section 13-901 and section
7 13-902, subsection G.

8 4. Federal monies provided for adult probation.

9 5. Adult probation monies from any other source.

10 B. The chief fiscal officer shall establish and maintain separate
11 accounts in the fund showing receipts and expenditures of monies from each
12 source listed in subsection A of this section. The presiding judge of the
13 superior court shall annually present to the board of supervisors for
14 approval a detailed expenditure plan for the adult probation services fund
15 accounts. Any modifications to the expenditure plan affecting state
16 appropriations shall be made in accordance with the rules and procedures
17 established by the supreme court. Any modifications to the expenditure plan
18 affecting county appropriated funds shall be made in accordance with the
19 policies established by the county. The chief fiscal officer shall disburse
20 monies from the fund accounts only at the direction of the presiding judge of
21 the superior court. The chief fiscal officer of each county, on or before
22 August 31 of each year for the preceding fiscal year, shall submit an annual
23 report to the supreme court showing the total amount of receipts and
24 expenditures in each account of the adult probation services fund.

25 C. The state monies in the adult probation services fund, and
26 probation fees collected pursuant to section 13-901 and section 13-902,
27 subsection G, shall be used in accordance with guidelines established by the
28 supreme court or the granting authority.

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

32 E. Monies in the adult probation services fund shall be used to pay
33 the annual assessment on member states of the interstate compact for the
34 supervision of adult offenders established in section 31-467, article X,
35 subsection B.

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

39 G. The administrative office of the courts shall periodically charge
40 each local probation fees account an amount established annually by the
41 supreme court to cover a proportional share of the cost of monitoring devices

1 required pursuant to section 13-902, subsection G consistent with guidelines
2 established to implement section 13-902, subsection G.

3 H. The administrative office of the courts shall charge annually the
4 local probation fees account of each county an amount that is established
5 annually by the administrative office of the courts to reflect each county's
6 portion of the superior court risk management premium that is allocated to
7 the judiciary.

8 Sec. 5. Repeal

9 Section 12-270, Arizona Revised Statutes, is repealed.

10 Sec. 6. Section 13-701, Arizona Revised Statutes, is amended to read:

11 13-701. Sentence of imprisonment for felony; presentence report;
12 aggravating and mitigating factors; consecutive terms
13 of imprisonment; definition

14 A. A sentence of imprisonment for a felony shall be a definite term of
15 years and the person sentenced, unless otherwise provided by law **OR**
16 **SUBSECTION J OF THIS SECTION APPLIES**, shall be committed to the custody of
17 the state department of corrections.

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

22 C. The minimum or maximum term imposed pursuant to section 13-702,
23 13-703, 13-704, 13-705, 13-708, 13-710, 13-1406, 13-3212 or 13-3419 may be
24 imposed only if one or more of the circumstances alleged to be in aggravation
25 of the crime are found to be true by the trier of fact beyond a reasonable
26 doubt or are admitted by the defendant, except that an alleged aggravating
27 circumstance under subsection D, paragraph 11 of this section shall be found
28 to be true by the court, or in mitigation of the crime are found to be true
29 by the court, on any evidence or information introduced or submitted to the
30 court or the trier of fact before sentencing or any evidence presented at
31 trial, and factual findings and reasons in support of such findings are set
32 forth on the record at the time of sentencing.

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

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

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

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

7 4. Presence of an accomplice.

8 5. Especially heinous, cruel or depraved manner in which the offense
9 was committed.

10 6. The defendant committed the offense as consideration for the
11 receipt, or in the expectation of the receipt, of anything of pecuniary
12 value.

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

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

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

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

23 11. The defendant was previously convicted of a felony within the ten
24 years immediately preceding the date of the offense. A conviction outside
25 the jurisdiction of this state for an offense that if committed in this state
26 would be punishable as a felony is a felony conviction for the purposes of
27 this paragraph.

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

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

31 14. The defendant was appointed pursuant to title 14 as a fiduciary and
32 the offense involved conduct directly related to the defendant's duties to
33 the victim as fiduciary.

34 15. Evidence that the defendant committed the crime out of malice
35 toward a victim because of the victim's identity in a group listed in section
36 41-1750, subsection A, paragraph 3 or because of the defendant's perception
37 of the victim's identity in a group listed in section 41-1750, subsection A,
38 paragraph 3.

39 16. The defendant was convicted of a violation of section 13-1102,
40 section 13-1103, section 13-1104, subsection A, paragraph 3 or section
41 13-1204, subsection A, paragraph 1 or 2 arising from an act that was

1 committed while driving a motor vehicle and the defendant's alcohol
2 concentration at the time of committing the offense was 0.15 or more. For
3 the purposes of this paragraph, "alcohol concentration" has the same meaning
4 prescribed in section 28-101.

5 17. Lying in wait for the victim or ambushing the victim during the
6 commission of any felony.

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

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

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

15 21. The defendant was in violation of 8 United States Code section
16 1323, 1324, 1325, 1326 or 1328 at the time of the commission of the offense.

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

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

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

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

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

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

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

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

38 24. Any other factor that the state alleges is relevant to the
39 defendant's character or background or to the nature or circumstances of the
40 crime.

1 E. For the purpose of determining the sentence pursuant to subsection
2 C of this section, the court shall consider the following mitigating
3 circumstances:

4 1. The age of the defendant.

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

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

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

13 5. During or immediately following the commission of the offense, the
14 defendant complied with all duties imposed under sections 28-661, 28-662 and
15 28-663.

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

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

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

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

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

36 J. IF A PERSON IS SENTENCED TO SERVE ONE YEAR OR LESS IN THE STATE
37 DEPARTMENT OF CORRECTIONS, THE PERSON SHALL BE COMMITTED TO THE CUSTODY OF
38 THE COUNTY JAIL, UNLESS THE SHERIFF OF THE SENTENCING COUNTY HAS ENTERED INTO
39 AN AGREEMENT TO REIMBURSE THE STATE DEPARTMENT OF CORRECTIONS FOR THE
40 INCARCERATION COSTS PURSUANT TO SECTION 41-1610.02, IN WHICH CASE THE PERSON
41 SHALL BE COMMITTED TO THE CUSTODY OF THE STATE DEPARTMENT OF CORRECTIONS. A

1 PERSON WHO IS SENTENCED TO A CONCURRENT TERM OF INCARCERATION FOR MORE THAN
2 ONE YEAR SHALL BE INCARCERATED IN THE STATE DEPARTMENT OF CORRECTIONS.

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

6 Sec. 7. Section 22-117, Arizona Revised Statutes, is amended to read:
7 22-117. Payment of compensation and expenses

8 A. Justices of the peace shall be allowed by the board of supervisors,
9 as a county charge, office rent, stationery, telephone and lights.

10 B. In a county with a population of less than one million five hundred
11 thousand persons, the state shall pay ~~forty~~ 19.25 per cent of the
12 compensation and employee related expenditures of a justice of the peace, and
13 the county shall pay ~~sixty~~ 80.75 per cent of the compensation and employee
14 related expenditures of a justice of the peace, except that the county shall
15 pay the full amount of the employer contribution of the state retirement
16 system or plan or any county health plan.

17 C. If a county is subject to subsection B of this section, the state
18 treasurer shall remit the compensation and employee related expenditures
19 payable by the state to the county treasurer, and the county shall disburse
20 the funds to the justice of the peace.

21 D. In a county with a population of one million five hundred thousand
22 persons or more, the county shall pay one hundred per cent of the
23 compensation and employee related expenditures of a justice of the peace.

24 E. If a county is subject to subsection D of this section, the
25 following apply:

26 1. Beginning in fiscal year 2007-2008, the county's contribution to
27 the hospitalization and medical care of the indigent sick and for the
28 administrative costs of implementing sections 36-2901.01 and 36-2901.04 shall
29 be reduced pursuant to section 11-292, subsection R, in an amount that is
30 equal to the difference between the total costs that the county paid pursuant
31 to subsection D of this section and the amount that the county would have
32 paid if the county were subject to subsection B of this section.

33 2. Pursuant to section 41-563, subsection D and beginning in fiscal
34 year 2007-2008, the economic estimates commission shall increase the county's
35 base expenditure limit in an amount that is equal to the difference between
36 the total costs that the county paid pursuant TO subsection D of this section
37 and the amount that the county would have paid if the county were subject to
38 subsection B of this section.

1 Sec. 8. Section 28-1383, Arizona Revised Statutes, is amended to read:
2 28-1383. Aggravated driving or actual physical control while
3 under the influence; violation; classification;
4 definition

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

8 1. Commits a violation of section 28-1381, section 28-1382 or this
9 section while the person's driver license or privilege to drive is suspended,
10 canceled, revoked or refused or while a restriction is placed on the person's
11 driver license or privilege to drive as a result of violating section 28-1381
12 or 28-1382 or under section 28-1385.

13 2. Within a period of eighty-four months commits a third or subsequent
14 violation of section 28-1381, section 28-1382 or this section or is convicted
15 of a violation of section 28-1381, section 28-1382 or this section and has
16 previously been convicted of any combination of convictions of section
17 28-1381, section 28-1382 or this section or acts in another jurisdiction that
18 if committed in this state would be a violation of section 28-1381, section
19 28-1382 or this section.

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

22 (a) Section 28-1381.

23 (b) Section 28-1382.

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

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

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

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

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

4 D. A person is not eligible for probation, pardon, commutation or
5 suspension of sentence or release on any other basis until the person has
6 served not less than four months in ~~prison~~ JAIL, UNLESS THE SHERIFF OF THE
7 SENTENCING COUNTY HAS ENTERED INTO AN AGREEMENT TO REIMBURSE THE STATE
8 DEPARTMENT OF CORRECTIONS FOR THE INCARCERATION COSTS PURSUANT TO SECTION
9 41-1610.02, IN WHICH CASE THE PERSON SHALL BE COMMITTED TO THE CUSTODY OF THE
10 STATE DEPARTMENT OF CORRECTIONS, if the person is convicted under either of
11 the following:

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

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

18 E. A person who is convicted under subsection A, paragraph 2 of this
19 section and who within an eighty-four month period has been convicted of
20 three or more prior violations of section 28-1381, section 28-1382 or this
21 section, or any combination of those sections, or acts in another
22 jurisdiction that if committed in this state would be a violation of section
23 28-1381, section 28-1382 or this section is not eligible for probation,
24 pardon, commutation or suspension of sentence or release on any other basis
25 until the person has served not less than eight months in ~~prison~~ JAIL, UNLESS
26 THE SHERIFF OF THE SENTENCING COUNTY HAS ENTERED INTO AN AGREEMENT TO
27 REIMBURSE THE STATE DEPARTMENT OF CORRECTIONS FOR THE INCARCERATION COSTS
28 PURSUANT TO SECTION 41-1610.02, IN WHICH CASE THE PERSON SHALL BE COMMITTED
29 TO THE CUSTODY OF THE STATE DEPARTMENT OF CORRECTIONS.

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

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

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

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

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

7 I. The time that a person spends in custody pursuant to subsection H
8 of this section shall not be counted towards the sentence imposed if the
9 person's probation is revoked and the person is sentenced to prison after
10 revocation of probation.

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

12 1. Shall report the conviction to the department. On receipt of the
13 report, the department shall revoke the driving privilege of the person. The
14 department shall not issue the person a new driver license within three years
15 of the date of the conviction and, for a conviction of a violation of
16 subsection A, paragraph 1, 2 or 4 or paragraph 3, subdivision (b) of this
17 section, shall require the person to equip any motor vehicle the person
18 operates with a certified ignition interlock device pursuant to section
19 28-3319. In addition, the court may order the person to equip any motor
20 vehicle the person operates with a certified ignition interlock device for
21 more than twelve months beginning on the date of reinstatement of the
22 person's driving privilege following a suspension or revocation or on the
23 date of the department's receipt of the report of conviction, whichever
24 occurs later. The person who operates a motor vehicle with a certified
25 ignition interlock device under this paragraph shall comply with article 5 of
26 this chapter.

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

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

1 4. In addition to any other penalty prescribed by law, shall order the
2 person to pay an additional assessment of one thousand five hundred dollars
3 to be deposited by the state treasurer in the prison construction and
4 operations fund established by section 41-1651. This assessment is not
5 subject to any surcharge. If the conviction occurred in the superior court
6 or a justice court, the court shall transmit the assessed monies to the
7 county treasurer. If the conviction occurred in a municipal court, the court
8 shall transmit the assessed monies to the city treasurer. The city or county
9 treasurer shall transmit the monies received to the state treasurer.

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

19 K. After completing the period of suspension required by section
20 28-1385, a person whose driving privilege is revoked for a violation of
21 subsection A, paragraph 3 of this section may apply to the department for a
22 special ignition interlock restricted driver license pursuant to section
23 28-1401.

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

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

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

30 M. For the purposes of this section, "suspension, cancellation,
31 revocation or refusal" means any suspension, cancellation, revocation or
32 refusal.

33 Sec. 9. Section 28-8288, Arizona Revised Statutes, is amended to read:
34 28-8288. Third or subsequent offense

35 A. If a person is convicted of a third or subsequent violation of
36 section 28-8282 or is convicted of a violation of section 28-8282 and has
37 previously been convicted of any combination of convictions of section
38 28-8282 or acts committed in another state that if committed in this state
39 would be a violation of section 28-8282 within a period of sixty months:

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

1 2. The person is not eligible for probation, pardon, suspension of
2 sentence or release on any basis except as specifically authorized by section
3 31-233, subsection A or B until the person has served not less than six
4 months in ~~prison~~ JAIL, UNLESS THE SHERIFF OF THE SENTENCING COUNTY HAS
5 ENTERED INTO AN AGREEMENT TO REIMBURSE THE STATE DEPARTMENT OF CORRECTIONS
6 FOR THE INCARCERATION COSTS PURSUANT TO SECTION 41-1610.02, IN WHICH CASE THE
7 PERSON SHALL BE COMMITTED TO THE CUSTODY OF THE STATE DEPARTMENT OF
8 CORRECTIONS.

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

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

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

22 6. 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 public safety equipment fund
25 established by section 41-1723. 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 B. The dates of the commission of the offense are the determining
32 factor in applying this section.

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

36 Sec. 10. Title 31, chapter 1, article 2, Arizona Revised Statutes, is
37 amended by adding section 31-133, to read:

38 31-133. Receiving and keeping state prisoners

39 THE SHERIFF SHALL RECEIVE AND KEEP IN THE COUNTY JAIL ANY PRISONER WHO
40 IS SENTENCED ON OR AFTER JULY 1, 2012 TO SERVE A TERM OF IMPRISONMENT IN THE
41 STATE DEPARTMENT OF CORRECTIONS FOR ONE YEAR OR LESS, UNLESS THE SHERIFF HAS

1 ENTERED INTO AN AGREEMENT TO REIMBURSE THE STATE DEPARTMENT OF CORRECTIONS
2 FOR THE INCARCERATION COSTS PURSUANT TO SECTION 41-1610.02, IN WHICH CASE THE
3 PERSON SHALL BE COMMITTED TO THE CUSTODY OF THE STATE DEPARTMENT OF
4 CORRECTIONS.

5 Sec. 11. Section 31-201.01, Arizona Revised Statutes, is amended to
6 read:

7 31-201.01. Duties of the director; tort actions; medical
8 treatment costs; state immunity; definitions

9 A. The director shall hold in custody all persons sentenced to the
10 department under the law and shall hold such persons for the term directed by
11 the court, subject to law, EXCEPT THAT BEGINNING JULY 1, 2012, IF THE PERSON
12 IS SENTENCED TO ONE YEAR OR LESS IN THE STATE DEPARTMENT OF CORRECTIONS, THE
13 PERSON SHALL BE PLACED IN THE CUSTODY OF A COUNTY JAIL, UNLESS THE SHERIFF OF
14 THE SENTENCING COUNTY HAS ENTERED INTO AN AGREEMENT TO REIMBURSE THE STATE
15 DEPARTMENT OF CORRECTIONS FOR THE INCARCERATION COSTS PURSUANT TO SECTION
16 41-1610.02, IN WHICH CASE THE PERSON SHALL BE COMMITTED TO THE CUSTODY OF THE
17 STATE DEPARTMENT OF CORRECTIONS.

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

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

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

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

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

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

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

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

13 1. Medical visits initiated by the medical or mental health staff of
14 the department.

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

17 3. Inmates at reception centers.

18 4. Juvenile inmates.

19 5. Pregnant inmates.

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

30 7. Developmentally disabled inmates who are housed in a special
31 programs unit.

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

33 9. Inmates who are inpatients at the Alhambra prison facility special
34 programs psychiatric hospital.

35 10. Inmates who are inpatients at the Flamenco prison facility mental
36 health treatment unit.

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

39 12. Inmates who are undergoing follow-up medical treatment for chronic
40 diseases.

1 J. An inmate shall not be refused medical treatment for financial
2 reasons.

3 K. All monies received by the department for medical and health
4 ~~service~~ SERVICES fees shall be deposited in the STATE general fund.

5 L. A person who is convicted of a felony offense and who is
6 incarcerated while awaiting sentence or while serving a sentence imposed by a
7 court of law may not bring a cause of action seeking damages or equitable
8 relief from the state or its political subdivisions, agencies, officers or
9 employees for injuries suffered while in the custody of the state or its
10 political subdivisions or agencies unless the complaint alleges specific
11 facts from which the court may conclude that the plaintiff suffered serious
12 physical injury or the claim is authorized by a federal statute.

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

16 1. State property that the inmate wilfully damages or destroys during
17 the inmate's incarceration.

18 2. Medical treatment for injuries that the inmate inflicts on himself
19 or others.

20 3. Searching for and apprehending an inmate who escapes or attempts to
21 escape.

22 4. Quelling a riot or other disturbance in which the inmate is
23 unlawfully involved.

24 N. For THE purposes of this section:

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

26 2. "Serious physical injury" means an impairment of physical condition
27 that creates a substantial risk of death or that causes serious
28 disfigurement, prolonged impairment of health or prolonged loss or impairment
29 of the function of any bodily organ.

30 Sec. 12. Section 31-230, Arizona Revised Statutes, is amended to read:

31 31-230. Prisoner spendable accounts: fees

32 A. The director shall establish a prisoner spendable account for each
33 prisoner. All monies that are received by a prisoner and that are not
34 required to be deposited in another account shall be deposited in the
35 prisoner's spendable account.

36 B. The director shall adopt rules for the disbursement of monies from
37 prisoner spendable accounts.

38 C. If the court has ordered the prisoner to pay restitution pursuant
39 to section 13-603, the director shall withdraw a minimum of twenty per cent,
40 or the balance owing on the restitution amount, up to a maximum of fifty per

1 cent of the monies available in the prisoner's spendable account each month
2 to pay the court ordered restitution.

3 D. THE DIRECTOR MAY ESTABLISH BY RULE A FEE FOR ANY DEPOSITS MADE TO A
4 PRISONER SPENDABLE ACCOUNT. THE DIRECTOR SHALL DEPOSIT, PURSUANT TO SECTIONS
5 35-146 AND 35-147, ANY MONIES COLLECTED PURSUANT TO THIS SUBSECTION IN THE
6 DEPARTMENT OF CORRECTIONS BUILDING RENEWAL FUND ESTABLISHED BY SECTION
7 41-797.

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

10 41-191.03. Collection enforcement revolving fund; disposition
11 of monies

12 A. The collection enforcement revolving fund is established for the
13 purpose of collecting debts owed to the state. Monies in the fund are
14 subject to legislative appropriation. The attorney general shall administer
15 the fund.

16 B. The attorney general may expend from the collection enforcement
17 revolving fund such monies as are necessary for operating expenses incurred
18 by the department of law and the collection of debts owed to this state,
19 including reimbursing other accounts or departments within the office of the
20 attorney general from which monies or services for collection were provided.

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

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

26 1. Those monies that are directly attributable to a fund containing
27 monies that do not revert to the state general fund at the end of the fiscal
28 year shall be deposited, pursuant to sections 35-146 and 35-147, in that
29 fund.

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

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

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

- 1 13. The legislative council.
- 2 14. The department of administration risk management fund.
- 3 15. The department of transportation.
- 4 16. The Arizona game and fish department.
- 5 17. The department of economic security.
- 6 18. The Arizona health care cost containment system.
- 7 19. The superior court.
- 8 20. The court of appeals.
- 9 21. The supreme court.

10 22. The Arizona department of agriculture and councils that receive
11 administrative and budgetary services from the Arizona department of
12 agriculture.

13 23. All self-supporting regulatory agencies as determined pursuant to
14 section 35-143.01.

15 24. THE STATE CAPITAL POSTCONVICTION PUBLIC DEFENDER OFFICE.

16 E. Monies in the attorney general legal services cost allocation fund
17 are exempt from lapsing to the state general fund at the end of each fiscal
18 year.

19 Sec. 15. Title 41, chapter 4, article 7, Arizona Revised Statutes, is
20 amended by adding section 41-797, to read:

21 41-797. Department of corrections building renewal fund

22 A. THE DEPARTMENT OF CORRECTIONS BUILDING RENEWAL FUND IS ESTABLISHED
23 CONSISTING OF MONIES DEPOSITED PURSUANT TO SECTION 31-230, SECTION 41-1604,
24 SUBSECTION B, PARAGRAPH 3 AND SECTIONS 41-1604.02, 41-1604.03 AND 41-1624.
25 THE DIRECTOR SHALL ADMINISTER THE FUND. MONIES IN THE FUND ARE SUBJECT TO
26 LEGISLATIVE APPROPRIATION AND ARE EXEMPT FROM THE PROVISIONS OF SECTION
27 35-190 RELATING TO LAPSING OF APPROPRIATIONS.

28 B. THE DIRECTOR SHALL USE THE MONIES IN THE FUND FOR BUILDING RENEWAL
29 PROJECTS THAT REPAIR OR REWORK BUILDINGS AND SUPPORTING INFRASTRUCTURE THAT
30 ARE UNDER THE CONTROL OF THE STATE DEPARTMENT OF CORRECTIONS AND THAT RESULT
31 IN MAINTAINING A BUILDING'S EXPECTED USEFUL LIFE. MONIES IN THE FUND MAY NOT
32 BE USED FOR NEW BUILDING ADDITIONS, NEW INFRASTRUCTURE ADDITIONS, LANDSCAPING
33 AND AREA BEAUTIFICATION, DEMOLITION AND REMOVAL OF A BUILDING AND, EXCEPT AS
34 PROVIDED IN SUBSECTION C OF THIS SECTION, ROUTINE PREVENTIVE MAINTENANCE.

35 C. THE DIRECTOR MAY USE UP TO EIGHT PER CENT OF THE ANNUAL
36 EXPENDITURES FROM THE FUND FOR ROUTINE PREVENTIVE MAINTENANCE.

37 Sec. 16. Section 41-1604, Arizona Revised Statutes, is amended to
38 read:

39 41-1604. Duties and powers of director

40 A. The director shall:

1 1. Be responsible for the overall operations and policies of the
2 department.

3 2. Maintain and administer all institutions and programs within the
4 department, including prisons, reception and diagnostic centers, conservation
5 camps, community correctional centers and such other facilities and programs
6 as may be required and established for the custody, control, correction,
7 treatment and rehabilitation of all adult offenders who are committed to the
8 department.

9 3. Be responsible for the administration and execution of all
10 community supervision services, including those for adult offenders who are
11 released in accordance with law.

12 4. Develop a program to provide uniform statewide community
13 supervision field services in this state and employ parole or community
14 supervision officers based on qualifications prescribed by the director,
15 including physical, psychological and educational qualifications and
16 practical experience.

17 5. Be responsible for the development of policies and programs that
18 shall be recommended to the governor and the legislature for the purpose of
19 improving the various adult correctional programs of this state.

20 6. Develop and establish a uniform statewide method of reporting
21 statistics as related to this chapter.

22 7. Employ deputy directors and other key personnel based on
23 qualifications prescribed by the director that require education and
24 practical experience.

25 8. Adopt rules pursuant to chapter 6 of this title for the development
26 of incentives to encourage good behavior and the faithful performance of work
27 by prisoners.

28 9. Adopt rules pursuant to chapter 6 of this title to limit inmate
29 access to the internet through the use of a computer, computer system,
30 network, computer service provider or remote computing service.

31 10. Cooperate with the Arizona-Mexico commission in the governor's
32 office and with researchers at universities in this state to collect data and
33 conduct projects in the United States and Mexico on issues that are within
34 the scope of the department's duties and that relate to quality of life,
35 trade and economic development in this state in a manner that will help the
36 Arizona-Mexico commission to assess and enhance the economic competitiveness
37 of this state and of the Arizona-Mexico region.

38 B. The director may:

39 1. Adopt rules to implement the purposes of the department and the
40 duties and powers of the director.

1 2. Take any administrative action to improve the efficiency of the
2 department, including the following:

3 (a) Create new divisions or units or consolidate divisions or units.

4 (b) Transfer employees between the various divisions and units of the
5 department.

6 (c) Shift duties between divisions or units.

7 (d) Delegate to appropriate personnel the administrative functions,
8 powers or duties that the director believes can be competently, efficiently
9 and properly performed. The director shall not delegate the responsibilities
10 in subsection A, paragraphs 1 and 5 of this section.

11 (e) Transfer adult inmates between adult institutions or adult
12 facilities.

13 (f) Authorize work crews to perform acceptable tasks in any part of
14 the state.

15 (g) Accept unconvicted persons pursuant to a court order for purposes
16 of examination and treatment regarding competency to understand any stage of
17 a criminal proceeding after indictment or information or their ability to
18 assist in their own defense.

19 (h) Accept convicted yet unsentenced persons pursuant to a court order
20 for purposes of conducting a mental health examination or a diagnostic
21 evaluation.

22 (i) Appoint certain employees of the department to peace officer
23 status for purposes of guarding, transporting or pursuing persons who are
24 under the jurisdiction of the department and appoint certain employees of the
25 department to peace officer status for purposes of investigating or arresting
26 persons who commit or attempt to commit offenses directly relating to the
27 operations of the department. Peace officers of the department shall not
28 preempt the authority and jurisdiction of established agencies of this state
29 and political subdivisions of this state. Such officers shall notify
30 agencies of this state and political subdivisions of this state before
31 conducting an investigation within the jurisdiction of the agency and before
32 making an arrest within the jurisdiction of the agency and shall ask, except
33 in an emergency, if the agency wishes to participate, perform the
34 investigation or arrest the person to be arrested before proceeding.
35 Personnel who are appointed as peace officers by the director shall have the
36 minimum qualifications established for peace officers pursuant to section
37 41-1822. Personnel who are appointed by the director pursuant to this
38 subdivision are not eligible to participate in the public safety personnel
39 retirement system except as otherwise provided in title 38, chapter 5,
40 article 4.

1 (j) Operate travel reduction programs that are subsidized by the
2 department for employees who commute between work and home by vanpools,
3 carpools and buses or in vehicles that are purchased or leased by the
4 department.

5 3. ESTABLISH BY RULE A ONE-TIME FEE FOR CONDUCTING BACKGROUND CHECKS
6 ON ANY PERSON WHO ENTERS A DEPARTMENT FACILITY TO VISIT A PRISONER. A FEE
7 SHALL NOT BE CHARGED FOR A PERSON WHO IS UNDER EIGHTEEN YEARS OF AGE. THE
8 DIRECTOR MAY ADOPT RULES THAT WAIVE ALL OR PART OF THE FEE. THE DIRECTOR
9 SHALL DEPOSIT, PURSUANT TO SECTIONS 35-146 AND 35-147, ANY MONIES COLLECTED
10 PURSUANT TO THIS PARAGRAPH IN THE DEPARTMENT OF CORRECTIONS BUILDING RENEWAL
11 FUND ESTABLISHED BY SECTION 41-797.

12 Sec. 17. Section 41-1604.02, Arizona Revised Statutes, is amended to
13 read:

14 41-1604.02. Inmate stores; establishment; privatization;
15 prices; goods; inmate store proceeds fund

16 The department may establish and maintain an inmate store at any
17 prison, institution or facility. The department shall enter into a contract
18 or contracts with a private entity or entities to establish and maintain
19 inmate stores. The department or Arizona correctional industries may also be
20 considered as an entity eligible for award. Such inmate stores shall offer
21 for sale, at prices THAT ARE fixed by the contractor with direction from the
22 director AND that are no higher than prices of similar retail products,
23 toilet articles, candy, tobacco products, notions and other sundries to the
24 persons confined. The department may provide the facilities necessary to
25 operate such inmate stores. All profit derived from the state's portion of
26 privatization of such inmate stores shall be deposited in an inmate store
27 proceeds fund. THE DIRECTOR SHALL TRANSFER FIVE HUNDRED THOUSAND DOLLARS
28 FROM THE INMATE STORE PROCEEDS FUND ANNUALLY TO THE DEPARTMENT OF CORRECTIONS
29 BUILDING RENEWAL FUND ESTABLISHED BY SECTION 41-797. ANY REMAINING monies in
30 the fund may be used at the director's discretion for inmate activities,
31 incentive pay increases for corrections officers, equipment to enhance safety
32 for both department personnel and inmates or other official needs as
33 required.

34 Sec. 18. Section 41-1604.03, Arizona Revised Statutes, is amended to
35 read:

36 41-1604.03. Special services fund; uses; report

37 A. A special services fund is established in the state department of
38 corrections. The department shall administer the fund.

39 B. THE DIRECTOR SHALL TRANSFER FIVE HUNDRED THOUSAND DOLLARS FROM THE
40 SPECIAL SERVICES FUND ANNUALLY TO THE DEPARTMENT OF CORRECTIONS BUILDING
41 RENEWAL FUND ESTABLISHED BY SECTION 41-797. ANY REMAINING MONIES IN the

1 special services fund, including the inmate recreation fund, may be used for
2 the following purposes:

3 1. The benefit, education and welfare of committed offenders,
4 including the establishment, maintenance, purchase of items for resale and
5 other necessary expenses of operation of canteens and hobby shops.

6 2. To pay the costs of a telephonic victim notification system.
7 Revenues that are generated by the inmate telephone system and the automated
8 public access program shall be deposited in the special services fund.

9 C. On or before August 1 of each year, the department shall submit to
10 the president of the senate and the speaker of the house of representatives a
11 report that contains a full and complete account of special services fund
12 transactions relating to the inmate telephone system and the telephonic
13 victim notification system for the preceding fiscal year.

14 Sec. 19. Title 41, chapter 11, article 1, Arizona Revised Statutes, is
15 amended by adding section 41-1610.02, to read:

16 41-1610.02. Correctional reimbursement; counties

17 A. THE STATE TREASURER SHALL DEPOSIT MONIES RECEIVED FROM A COUNTY FOR
18 THE COSTS OF INCARCERATING A PERSON IN THE STATE DEPARTMENT OF CORRECTIONS
19 WHO OTHERWISE WOULD BE INCARCERATED IN JAIL PURSUANT TO SECTION 5-396,
20 SUBSECTION C OR D, SECTION 13-701, SUBSECTION J, SECTION 28-1383, SUBSECTION
21 D OR E OR SECTION 28-8288 IN THE STATE GENERAL FUND.

22 B. THE SHERIFF OF A SENTENCING COUNTY SHALL ENTER INTO A REIMBURSEMENT
23 AGREEMENT WITH THE DEPARTMENT AT LEAST ONE MONTH BEFORE A PERSON IS
24 TRANSFERRED INTO THE CUSTODY OF THE DEPARTMENT TO SERVE THE PERSON'S
25 INCARCERATION. THE SHERIFF OF A SENTENCING COUNTY SHALL NOT CANCEL AN
26 AGREEMENT MADE PURSUANT TO THIS SUBSECTION BEFORE PROVIDING THE STATE
27 DEPARTMENT OF CORRECTIONS AT LEAST ONE MONTH'S NOTICE.

28 C. EACH COUNTY SHALL MAKE REIMBURSEMENTS PERMITTED BY THIS SECTION
29 WITHIN THIRTY DAYS AFTER A REQUEST BY THE STATE DEPARTMENT OF CORRECTIONS.
30 IF THE COUNTY DOES NOT MAKE THE REIMBURSEMENT, THE DIRECTOR OF THE STATE
31 DEPARTMENT OF CORRECTIONS SHALL NOTIFY THE STATE TREASURER OF THE AMOUNT OWED
32 AND THE STATE TREASURER SHALL WITHHOLD THE AMOUNT, INCLUDING ANY ADDITIONAL
33 INTEREST AS PROVIDED IN SECTION 42-1123, FROM ANY TRANSACTION PRIVILEGE TAX
34 DISTRIBUTIONS TO THE COUNTY. THE STATE TREASURER SHALL DEPOSIT THE
35 WITHHOLDINGS, PURSUANT TO SECTIONS 35-146 AND 35-147, IN THE STATE GENERAL
36 FUND.

1 Sec. 20. Section 41-1624, Arizona Revised Statutes, is amended to
2 read:

3 41-1624. Arizona correctional industries revolving fund:
4 definitions

5 A. The director may establish a revolving fund to be used to pay the
6 expenses required:

7 1. For the purchase of raw materials, components and supplies to be
8 used for the production of food and other items to be sold by the
9 department's Arizona correctional industries.

10 2. For the compensation of prisoners and Arizona correctional
11 industries professional and outside services.

12 3. For the purchase or rental of equipment to be used by the
13 department's Arizona correctional industries.

14 4. For the construction or reconstruction of facilities.

15 5. For other operating expenses and in-state travel.

16 6. For the purchase of workers' compensation insurance for inmates who
17 are employed in a federally certified prison industry enhancement program
18 pursuant to section 41-1674.

19 7. For prisoner instruction related to vocational education, job
20 training, parenting and alcohol and other drug use treatment classes.

21 B. Monies received for or derived from the operation of Arizona
22 correctional industries, including monies from the sale of obsolete or
23 unneeded material, supplies, equipment or property, shall be deposited,
24 pursuant to sections 35-146 and 35-147, in a specially designated revolving
25 fund and expended without need of previous encumbrance upon warrants drawn
26 upon order of the director or the director's designee. The fund is a
27 continuing fund and is exempt from the provisions of section 35-190. **THE
28 DIRECTOR SHALL TRANSFER ONE MILLION DOLLARS FROM THE REVOLVING FUND ANNUALLY
29 TO THE DEPARTMENT OF CORRECTIONS BUILDING RENEWAL FUND ESTABLISHED BY SECTION
30 41-797.**

31 C. On notice from the director, the state treasurer shall invest and
32 divest monies in the fund as provided by section 35-313, and monies earned
33 from investment shall be credited to the fund.

34 D. For the purposes of this section:

35 1. "Components" means the parts, subassemblies and packaging materials
36 that will become part of a final product or service.

37 2. "Raw materials" means the materials that are converted or combined
38 during the manufacturing process.

1 Sec. 21. Section 41-1724, Arizona Revised Statutes, is amended to
2 read:

3 41-1724. Gang and immigration intelligence team enforcement
4 mission fund; use of monies; reporting requirement

5 A. The gang and immigration intelligence team enforcement mission fund
6 is established consisting of monies deposited pursuant to section 11-1051 and
7 monies appropriated by the legislature. The department shall administer the
8 fund. ANY MONIES DISTRIBUTED FROM THE FUND TO A COUNTY SHERIFF SHALL GO
9 DIRECTLY TO THE COUNTY SHERIFF AND ARE NOT SUBJECT TO ANY FORM OF APPROVAL BY
10 THE BOARD OF SUPERVISORS. Monies in the fund are subject to legislative
11 appropriation. ~~and~~

12 B. MONIES IN THE FUND shall be used for EMPLOYER SANCTIONS
13 ENFORCEMENT, ENFORCING HUMAN SMUGGLING AND DRUG SMUGGLING LAWS, gang and
14 STRICT immigration enforcement ~~and for~~, INCLUDING BORDER SECURITY AND BORDER
15 PERSONNEL, county jail reimbursement costs relating to illegal immigration
16 AND ANY OTHER USE PREVIOUSLY AUTHORIZED IN AN ALLOCATION MADE BY LAW FOR THE
17 GANG AND IMMIGRATION INTELLIGENCE TEAM ENFORCEMENT MISSION.

18 C. EACH YEAR THAT MONIES ARE AVAILABLE IN THE FUND THE FIRST ONE
19 MILLION SIX HUNDRED THOUSAND DOLLARS SHALL BE ALLOCATED TO A COUNTY SHERIFF
20 OF A COUNTY WITH A POPULATION OF MORE THAN THREE MILLION PERSONS, THEN FIVE
21 HUNDRED THOUSAND DOLLARS SHALL BE ALLOCATED TO A COUNTY SHERIFF OF A COUNTY
22 WITH A POPULATION OF LESS THAN FIVE HUNDRED THOUSAND PERSONS BUT MORE THAN
23 THREE HUNDRED THOUSAND PERSONS AND ANY REMAINING MONIES SHALL BE USED FOR
24 AGREEMENTS OR CONTRACTS IN ACCORDANCE WITH SUBSECTION D OF THIS SECTION.

25 D. IF THE DEPARTMENT USES MONIES FROM THE FUND FOR AN AGREEMENT OR
26 CONTRACT WITH A CITY, TOWN, COUNTY OR OTHER ENTITY TO PROVIDE SERVICES FOR
27 THE GANG AND IMMIGRATION INTELLIGENCE TEAM ENFORCEMENT MISSION, THE CITY,
28 TOWN, COUNTY OR OTHER ENTITY SHALL PROVIDE NOT LESS THAN TWENTY-FIVE PER CENT
29 OF THE COST OF THE SERVICES AND THE DEPARTMENT SHALL PROVIDE NOT MORE THAN
30 SEVENTY-FIVE PER CENT OF PERSONAL SERVICES AND EMPLOYEE RELATED EXPENDITURES
31 FOR EACH AGREEMENT OR CONTRACT BUT MAY FUND ALL CAPITAL RELATED EQUIPMENT.
32 THIS SUBSECTION DOES NOT APPLY TO A COUNTY WITH A POPULATION OF MORE THAN
33 THREE MILLION PERSONS OR A COUNTY WITH A POPULATION OF LESS THAN FIVE HUNDRED
34 THOUSAND PERSONS BUT MORE THAN THREE HUNDRED THOUSAND PERSONS.

35 E. A COUNTY OFFICIAL IN A COUNTY WITH A POPULATION OF MORE THAN FIVE
36 HUNDRED THOUSAND PERSONS BUT LESS THAN TWO MILLION PERSONS SHALL NOT RECEIVE
37 ANY MONIES FROM THE GANG AND IMMIGRATION INTELLIGENCE TEAM ENFORCEMENT
38 MISSION FUND.

39 F. THE USE OF THE MONIES FROM THE FUND IS CONTINGENT ON A LAW
40 ENFORCEMENT AGENCY MAKING EVERY REASONABLE EFFORT TO DETERMINE THE LEGAL

1 STATUS OF ANY PERSON WHO A LAW ENFORCEMENT OFFICER COMES INTO LAWFUL CONTACT
2 WITH AND WHO IS SUSPECTED OF BEING AN ILLEGAL ALIEN OR IN A GANG.

3 G. THE DEPARTMENT SHALL SUBMIT AN EXPENDITURE PLAN TO THE JOINT
4 LEGISLATIVE BUDGET COMMITTEE FOR REVIEW BEFORE EXPENDING ANY MONIES NOT
5 IDENTIFIED IN THE DEPARTMENT'S PREVIOUS EXPENDITURE PLANS. WITHIN THIRTY
6 DAYS AFTER THE LAST DAY OF EACH CALENDAR QUARTER, THE DEPARTMENT SHALL
7 PROVIDE A SUMMARY OF QUARTERLY AND YEAR-TO-DATE EXPENDITURES AND PROGRESS TO
8 THE JOINT LEGISLATIVE BUDGET COMMITTEE, INCLUDING ANY PRIOR YEAR
9 APPROPRIATIONS THAT WERE NONLAPSING.

10 Sec. 22. Section 41-2401, Arizona Revised Statutes, is amended to
11 read:

12 41-2401. Criminal justice enhancement fund

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

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

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

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

31 1. 6.46 per cent in the Arizona automated fingerprint identification
32 system fund established by section 41-2414.

33 2. 1.61 per cent to the department of juvenile corrections for the
34 treatment and rehabilitation of youth who have committed drug-related
35 offenses.

36 3. 16.64 per cent in the peace officers' training fund established by
37 section 41-1825.

38 4. 3.03 per cent in the prosecuting attorneys' advisory council
39 training fund established by section 41-1830.03.

40 5. 9.35 per cent to the supreme court for the purpose of reducing
41 juvenile crime.

1 6. 8.56 per cent to the department of public safety. Fifteen per cent
2 of the monies shall be allocated for deposit in the Arizona deoxyribonucleic
3 acid identification system fund established by section 41-2419. Eighty-five
4 per cent of the monies shall be allocated to state and local law enforcement
5 authorities for the following purposes:

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

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

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

12 7. 9.35 per cent to the department of law for allocation to county
13 attorneys for the purpose of enhancing prosecutorial efforts.

14 8. 6.02 per cent to the supreme court for the purpose of enhancing the
15 ability of the courts to process criminal and delinquency cases, orders of
16 protection, injunctions against harassment and any proceeding relating to
17 domestic violence matters, for auditing and investigating persons or entities
18 licensed or certified by the supreme court and for processing judicial
19 discipline cases. Notwithstanding section 12-143, subsection A, the salary
20 of superior court judges pro tempore who are appointed for the purposes
21 provided in this paragraph shall, and the salary of other superior court
22 judges pro tempore who are appointed pursuant to section 12-141 for the
23 purposes provided in this paragraph may, be paid in full by the monies
24 received pursuant to this paragraph.

25 9. 11.70 per cent to the county sheriffs for the purpose of enhancing
26 county jail facilities and operations, including county jails under the
27 jurisdiction of county jail districts.

28 10. 1.57 per cent to the Arizona criminal justice commission.

29 11. 9.00 per cent in the crime laboratory operations fund established
30 by section 41-1772.

31 12. 2.30 per cent in the crime laboratory assessment fund established
32 by section 41-2415.

33 13. 7.68 per cent in the victims' rights fund established by section
34 41-191.08.

35 14. 4.60 per cent in the victim compensation and assistance fund
36 established by section 41-2407.

37 15. 2.13 per cent to the supreme court for the purpose of providing
38 drug treatment services to adult probationers through the community
39 punishment program established in title 12, chapter 2, article 11.

40 E. Monies distributed pursuant to subsection D, paragraphs 3, 4, 7, 9,
41 11, 12, 13 and 14 of this section constitute a continuing appropriation.

1 Monies distributed pursuant to subsection D, paragraphs 1, 2, 5, 8, 10 and 15
2 of this section are subject to legislative appropriation.

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

9 G. The allocation of monies pursuant to subsection D, paragraphs 6, 7,
10 8 and 9 of this section shall be made in accordance with rules adopted by the
11 Arizona criminal justice commission pursuant to section 41-2405.

12 H. THE STATE TREASURER SHALL DISTRIBUTE THE MONIES DESCRIBED IN
13 SUBSECTION D, PARAGRAPH 9 OF THIS SECTION DIRECTLY TO THE COUNTY SHERIFF.

14 Sec. 23. Laws 2007, chapter 261, section 16, as amended by Laws 2009,
15 third special session, chapter 6, section 21 and Laws 2010, seventh special
16 session, chapter 6, section 24, is amended to read:

17 Sec. 16. Appropriations: deoxyribonucleic acid identification
18 system fund; exemption

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

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

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

38 Sec. 24. State department of corrections: budget structure

39 Notwithstanding any other law, the state department of corrections
40 shall report actual fiscal year 2010-2011, estimated fiscal year 2011-2012
41 and requested fiscal year 2012-2013 expenditures in the same structure and

1 detail as the prior fiscal year when the department submits the fiscal year
2 2012-2013 budget request pursuant to section 35-113, Arizona Revised
3 Statutes. The information submitted for each line item shall contain as much
4 detail as submitted in previous years for prior line items.

5 Sec. 25. Department of public safety; highway funds; limitation

6 Notwithstanding sections 28-6537 and 28-6993, Arizona Revised Statutes,
7 the statutory caps and transfers of highway user revenue fund monies and
8 state highway fund monies available to fund department of public safety
9 highway patrol costs are suspended for fiscal year 2011-2012.

10 Sec. 26. Suspension of reporting requirements

11 Notwithstanding any other law, the reporting requirements contained in
12 the following sections are suspended for fiscal year 2011-2012:

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

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

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

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

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

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

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

27 Sec. 27. Nonsupplanting; suspension

28 Notwithstanding any other law, in fiscal year 2011-2012 the provisions
29 relating to supplanting of state monies contained in section 12-102.02,
30 subsection E, section 12-102.03, subsection D, section 12-135, subsection D,
31 section 12-135.01, subsection D, section 12-267, subsection D, section
32 12-268, subsection D and section 12-299.01, subsection C, Arizona Revised
33 Statutes, are suspended. The supreme court shall submit a report to the
34 joint legislative budget committee identifying any decrease in county funding
35 related to these suspended provisions, including the reasons for the
36 decrease.

37 Sec. 28. Board of executive clemency; part-time status

38 Notwithstanding any other law, in fiscal year 2011-2012, the members of
39 the board of executive clemency, excluding the chairman, shall serve on a
40 part-time basis. A part-time board member shall not work more than thirty
41 hours each week and shall not be eligible for paid leave or any benefits

1 provided to state employees pursuant to section 38-651, Arizona Revised
2 Statutes.

3 Sec. 29. Arizona supreme court; county reimbursement

4 Notwithstanding section 13-4041, subsection H, Arizona Revised
5 Statutes, and section 21-428, subsection B, Arizona Revised Statutes, the
6 Arizona supreme court shall not reimburse the counties more than the amount
7 appropriated for that purpose in the fiscal year 2011-2012 general
8 appropriations act.

9 Sec. 30. Prisoners who are serving a sentence of one year or
10 less; county expense

11 A. Beginning July 1, 2012, the sentencing county shall reimburse the
12 state department of corrections at a rate to be determined by the department
13 for each remaining day of incarceration in the state department of
14 corrections for any prisoner who was sentenced to one year or less in the
15 state department of corrections before July 1, 2012.

16 B. Each county shall make the reimbursements for these costs as
17 specified in subsection A of this section within thirty days after a request
18 by the state department of corrections. If the county does not make the
19 reimbursement, the director of the state department of corrections shall
20 notify the state treasurer of the amount owed and the treasurer shall
21 withhold the amount, including any additional interest as provided in section
22 42-1123, Arizona Revised Statutes, from any transaction privilege tax
23 distributions to the county. The treasurer shall deposit the withholdings,
24 pursuant to sections 35-146 and 35-147, Arizona Revised Statutes, in the
25 state general fund.

26 Sec. 31. County notification of incarceration location; state
27 department of corrections report

28 A. On or before December 31, 2011, the state department of corrections
29 shall submit to the joint legislative budget committee the department's
30 proposed schedule of charges to the counties for incarceration costs in
31 reimbursement agreements pursuant to section 41-1610.02, Arizona Revised
32 Statutes, as added by this act, and section 28 of this act.

33 B. Notwithstanding section 41-1610.02, Arizona Revised Statutes, as
34 added by this act, the sheriff of a sentencing county shall notify the state
35 department of corrections by February 1, 2012 if the sheriff does not intend
36 to enter into an agreement with the state department of corrections to
37 incarcerate in prison any person who is convicted pursuant to section 5-396,
38 subsection C or D, section 13-701, subsection J, section 28-1383, subsection
39 D or E or section 28-8288, Arizona Revised Statutes, on July 1, 2012.

40 C. The state department of corrections shall present its plan on
41 state-operated prison beds to the joint legislative budget committee for its

1 review on or before March 1, 2012. If there is a sufficient number of
2 persons convicted as outlined in subsection A of this section who are
3 incarcerated in jails, the state department of corrections shall begin
4 closing state-operated prison beds by no later than July 1, 2012. The plan
5 shall be based on how many persons convicted as outlined in subsection A of
6 this section will be incarcerated in jails. The plan also shall include an
7 estimate of bed closure savings in fiscal year 2012-2013 along with an
8 estimate of marginal cost savings to the department associated with counties
9 incarcerating persons convicted as outlined in subsection A of this section
10 in fiscal year 2012-2013.

11 Sec. 32. Retroactivity

12 Section 11-453, Arizona Revised Statutes, as added by this act, is
13 effective retroactively to from and after December 31, 2007.

14 Sec. 33. Effective date

15 Sections 5-396, 13-701, 28-1383, 28-8288 and 31-201.01, Arizona Revised
16 Statutes, as amended by this act, and sections 31-133 and 41-1610.02, Arizona
17 Revised Statutes, as added by this act, are effective from and after June 30,
18 2012."

19 Amend title to conform

JOHN KAVANAGH

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