

State of Arizona
Senate
Fiftieth Legislature
First Regular Session
2011

SENATE BILL 1559

AN ACT

AMENDING SECTIONS 8-241, 8-243 AND 8-321, ARIZONA REVISED STATUTES; RELATING TO JUVENILE OFFENDERS.

(TEXT OF BILL BEGINS ON NEXT PAGE)

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

2 Section 1. Section 8-241, Arizona Revised Statutes, is amended to
3 read:

4 8-241. Fees on disposition

5 A. Notwithstanding section 8-243, the juvenile court shall order the
6 parent of a juvenile to pay a fee of not less than fifty dollars a month for
7 the supervision of the juvenile unless, after determining the inability of
8 the parent to pay the fee, the court orders payment of a lesser amount.

9 B. If:

10 1. The department of economic security is the supervising agency, all
11 monies assessed pursuant to this section shall be ordered to be paid and used
12 as provided in section 8-243.01.

13 2. The juvenile probation office is the supervising agency, all monies
14 assessed pursuant to this section shall be ordered to be paid to the clerk of
15 the superior court. The clerk of the superior court shall pay all monies
16 collected from this fee to the county treasurer for deposit in the juvenile
17 probation fund to be used as provided in section 12-268. Any amount greater
18 than forty dollars of the fee assessed pursuant to this ~~subsection~~ SECTION
19 shall only be used to supplement monies currently used for the salaries of
20 juvenile probation and surveillance officers and for support of programs and
21 services of the superior court juvenile probation departments.

22 3. The department of juvenile corrections is the supervising agency,
23 all monies assessed pursuant to this section shall be ordered to be paid to
24 the department of juvenile corrections and shall be used to fund work
25 restitution programs for juveniles.

26 4. A person or another state agency or state institution is
27 responsible for supervision, all monies assessed pursuant to this section
28 shall be deposited, pursuant to sections 35-146 and 35-147, in the state
29 general fund.

30 C. IF THE JUVENILE WAS ADOPTED OR PLACED IN PERMANENT GUARDIANSHIP
31 AFTER THE JUVENILE WAS DETERMINED BY THE COURT TO BE A DEPENDENT CHILD, THE
32 JUVENILE COURT SHALL CONSIDER THE TOTALITY OF THE CHILD'S CIRCUMSTANCES AND
33 THE NATURE OF THE DEPENDENCY. THE JUVENILE COURT MAY WAIVE ALL OR PART OF THE
34 FEE PRESCRIBED BY SUBSECTION A OF THIS SECTION IF THE JUVENILE COURT
35 DETERMINES EXTENUATING CIRCUMSTANCES EXIST.

36 Sec. 2. Section 8-243, Arizona Revised Statutes, is amended to read:

37 8-243. Liability of parents to bear expense; exception

38 A. The supreme court shall administer the activities, including
39 providing the cost of services, for children who are referred to the juvenile
40 court as incorrigible or delinquent and who are placed in foster care other
41 than in a state institution or who require shelter care or treatment. If the
42 juvenile court places a referred child in foster care or orders a referred
43 child to participate in treatment or an education program or if a probation
44 officer requires a child to comply with a program pursuant to section 8-321,
45 subsection F, the juvenile court shall inquire into the ability of the child

1 or the child's parent to bear the charge or expense of the foster care,
2 treatment, education program or program required pursuant to section 8-321,
3 subsection F. If the court is satisfied that the child or the child's parent
4 can bear the charge or expense or any portion of the charge or expense, the
5 juvenile court may fix the amount of the payment and shall direct the child
6 or parent to pay the amount monthly to the clerk of the court until the child
7 is discharged from foster care, treatment, an education program or a program
8 required pursuant to section 8-321, subsection F. The clerk of the court
9 shall transmit monies collected monthly to the supreme court for deposit in
10 the juvenile probation services fund to reimburse the cost of services
11 incurred under sections 8-321 and 8-322. Monies collected for this purpose
12 are exempt from section 41-2421, subsection C.

13 B. If the juvenile court awards or commits a child to the department
14 of juvenile corrections or other state department or institution, the
15 juvenile court shall inquire into the ability of the child, the child's
16 estate, parent or guardian or the person who has custody of the child to bear
17 the charge, expense and maintenance including the medical, dental and mental
18 health care of the child while the child is committed to the custody of the
19 department of juvenile corrections or other public or private institution or
20 agency, or private person or persons. If the court is satisfied that the
21 child, the child's estate, parent or guardian or the person who has custody
22 of the child can bear the charges, expense and maintenance or any portion of
23 them, the juvenile court shall fix the amount thereof and direct that the
24 child, the child's estate, parent or guardian or the person who has custody
25 of the child pay the amount monthly to the department of juvenile corrections
26 or other public or private institution or agency, or private person or
27 persons to which the child is awarded or committed. The department of
28 juvenile corrections or other public or private institution or agency or
29 private person or persons shall acknowledge the receipt of the monies. The
30 department of juvenile corrections shall retain and utilize the money it
31 receives to fund work restitution programs for juveniles. Except as provided
32 in section 8-243.01, other state institutions or agencies shall deposit,
33 pursuant to sections 35-146 and 35-147, the money in the state general fund.
34 The juvenile court shall transmit a copy of its orders concerning payment
35 along with its order of commitment.

36 C. If the juvenile court awards or commits a child to a juvenile
37 detention facility, the juvenile court shall inquire into the ability of the
38 child, the child's estate, parent or guardian or the person who has custody
39 of the child to bear the charge, expense and maintenance including food,
40 clothing, shelter and supervision of the child while the child is detained in
41 a juvenile detention facility. If the juvenile court is satisfied that the
42 child, the child's estate, parent or guardian or the person who has custody
43 of the child can bear the charges, expense and maintenance or any portion of
44 them, the juvenile court may fix the amount of the payment and direct that
45 the child, the child's estate, parent or guardian or the person who has

1 custody of the child pay the amount monthly to the juvenile court. The
2 assessment is collectible as a civil judgment. The juvenile court shall
3 acknowledge the receipt of the monies and shall transmit the monies monthly
4 to the county treasurer for deposit in the county general fund. The juvenile
5 court shall transmit a copy of its orders concerning payment along with its
6 order of commitment.

7 D. Subsection C of this section does not apply to foster parents and
8 group homes.

9 E. IF THE JUVENILE WAS ADOPTED OR PLACED IN PERMANENT GUARDIANSHIP
10 AFTER THE JUVENILE WAS DETERMINED BY THE COURT TO BE A DEPENDENT CHILD, THE
11 JUVENILE COURT SHALL CONSIDER THE TOTALITY OF THE CHILD'S CIRCUMSTANCES AND
12 THE NATURE OF THE DEPENDENCY. THE JUVENILE COURT MAY WAIVE ALL OR PART OF
13 THE CHARGES, EXPENSE AND MAINTENANCE PRESCRIBED BY THIS SECTION IF THE
14 JUVENILE COURT DETERMINES EXTENUATING CIRCUMSTANCES EXIST.

15 Sec. 3. Section 8-321, Arizona Revised Statutes, is amended to read:

16 8-321. Referrals; diversions; conditions; community based
17 alternative programs

18 A. Except as provided in subsection B of this section, before a
19 petition is filed or an admission or adjudication hearing is held, the county
20 attorney may divert the prosecution of a juvenile who is accused of
21 committing a delinquent act or a child who is accused of committing an
22 incorrigible act to a community based alternative program or to a diversion
23 program administered by the juvenile court.

24 B. A juvenile is not eligible for diversion if any of the following
25 applies:

26 1. The juvenile committed a dangerous offense as defined in section
27 13-105.

28 2. The juvenile is a chronic felony offender as defined in section
29 13-501.

30 3. The juvenile committed an offense that is listed in section 13-501.

31 4. The juvenile is alleged to have committed a violation of section
32 28-1381, 28-1382 or 28-1383.

33 5. The juvenile is alleged to have committed an offense involving the
34 purchase, possession or consumption of spirituous liquor or a violation of
35 title 13, chapter 34 and the juvenile has previously participated in a
36 community based alternative program or a diversion program administered by
37 the juvenile court at least two times within twenty-four months before the
38 date of the commission of the alleged offense.

39 C. Except as provided in section 8-323, the county attorney has sole
40 discretion to decide whether to divert or defer prosecution of a juvenile
41 offender. The county attorney may designate the offenses that shall be
42 retained by the juvenile court for diversion or that shall be referred
43 directly to a community based alternative program that is authorized by the
44 county attorney.

1 D. The county attorney or the juvenile court in cooperation with the
2 county attorney may establish community based alternative programs.

3 E. Except for offenses that the county attorney designates as eligible
4 for diversion or referral to a community based alternative program, on
5 receipt of a referral alleging the commission of an offense, the juvenile
6 probation officer shall submit the referral to the county attorney to
7 determine if a petition should be filed.

8 F. If the county attorney diverts the prosecution of a juvenile to the
9 juvenile court, the juvenile probation officer shall conduct a personal
10 interview with the alleged juvenile offender. At least one of the juvenile's
11 parents or guardians shall attend the interview. The probation officer may
12 waive the requirement for the attendance of the parent or guardian for good
13 cause. If the juvenile acknowledges responsibility for the delinquent or
14 incorrigible act, the juvenile probation officer shall require that the
15 juvenile comply with one or more of the following conditions:

16 1. Participation in unpaid community restitution work.

17 2. Participation in a counseling program that is approved by the court
18 and that is designed to strengthen family relationships and to prevent
19 repetitive juvenile delinquency.

20 3. Participation in an education program that is approved by the court
21 and that has as its goal the prevention of further delinquent behavior.

22 4. Participation in an education program that is approved by the court
23 and that is designed to deal with ancillary problems experienced by the
24 juvenile, such as alcohol or drug abuse.

25 5. Participation in a nonresidential program of rehabilitation or
26 supervision that is offered by the court or offered by a community youth
27 serving agency and approved by the court.

28 6. Payment of restitution to the victim of the delinquent act.

29 7. Payment of a monetary assessment.

30 G. If the juvenile successfully complies with the conditions set forth
31 by the probation officer, the county attorney shall not file a petition in
32 juvenile court and the program's resolution shall not be used against the
33 juvenile in any further proceeding and is not an adjudication of
34 incorrigibility or delinquency. The resolution of the program is not a
35 conviction of crime, does not impose any civil disabilities ordinarily
36 resulting from a conviction and does not disqualify the juvenile in any civil
37 service application or appointment.

38 H. In order to participate in a community based alternative program
39 the juvenile who is referred to a program shall admit responsibility for the
40 essential elements of the accusation and shall cooperate with the program in
41 all of its proceedings.

42 I. All of the following apply to each community based alternative
43 program that is established pursuant to this section:

44 1. The juvenile's participation is voluntary.

45 2. The victim's participation is voluntary.

1 3. The community based alternative program shall ensure that the
2 victim, the juvenile's parent or guardian and any other persons who are
3 directly affected by an offense have the right to participate.

4 4. The participants shall agree to the consequences imposed on the
5 juvenile or the juvenile's parent or guardian.

6 5. The meetings and records shall be open to the public.

7 J. After holding a meeting the participants in the community based
8 alternative program may agree on any legally reasonable consequences that the
9 participants determine are necessary to fully and fairly resolve the matter
10 except confinement.

11 K. The participants shall determine consequences within thirty days
12 after referral to the community based alternative program, and the juvenile
13 shall complete the consequences within ninety days after the matter is
14 referred to the community based alternative program. The county attorney or
15 the juvenile probation officer may extend the time in which to complete the
16 consequences for good cause. If the community based alternative program
17 involves a school, the deadlines for determination and completion of
18 consequences shall be thirty and ninety school days, respectively.

19 L. The community based alternative program, the juvenile, the
20 juvenile's parent or guardian and the victim may sign a written contract in
21 which the parties agree to the program's resolution of the matter and in
22 which the juvenile's parent or guardian agrees to ensure that the juvenile
23 complies with the contract. The contract may provide that the parent or
24 guardian shall post a bond payable to this state to secure the performance of
25 any consequence imposed on the juvenile pursuant to subsection J of this
26 section.

27 M. If the juvenile successfully completes the consequences, the county
28 attorney shall not file a petition in juvenile court and the program's
29 resolution shall not be used against the juvenile in any further proceeding
30 and is not an adjudication of incorrigibility or delinquency. The resolution
31 of the program is not a conviction of crime, does not impose any civil
32 disabilities ordinarily resulting from a conviction and does not disqualify
33 the juvenile in any civil service application or appointment.

34 N. The county attorney or juvenile court shall assess the parent of a
35 juvenile who is diverted pursuant to subsection A of this section a fee of
36 fifty dollars unless, after determining the inability of the parent to pay
37 the fee, the county attorney or juvenile court assesses a lesser amount. **IF
38 THE JUVENILE WAS ADOPTED OR PLACED IN PERMANENT GUARDIANSHIP AFTER THE
39 JUVENILE WAS DETERMINED BY THE COURT TO BE A DEPENDENT CHILD, THE COUNTY
40 ATTORNEY OR JUVENILE COURT SHALL CONSIDER THE TOTALITY OF THE CHILD'S
41 CIRCUMSTANCES AND THE NATURE OF THE DEPENDENCY. THE COUNTY ATTORNEY OR
42 JUVENILE COURT MAY WAIVE ALL OR PART OF THE FEE PRESCRIBED BY THIS SUBSECTION
43 IF THE COUNTY ATTORNEY OR JUVENILE COURT DETERMINES EXTENUATING CIRCUMSTANCES
44 EXIST.** All monies assessed pursuant to this subsection shall be used for the
45 administration and support of community based alternative programs or

1 juvenile court diversion programs. Any amount greater than forty dollars of
2 the fee assessed pursuant to this subsection shall only be used to supplement
3 monies currently used for the salaries of juvenile probation and surveillance
4 officers and for support of programs and services of the superior court
5 juvenile probation departments. The clerk of the superior court shall pay
6 all monies collected from this assessment to the county treasurer for deposit
7 in the juvenile probation fund, to be utilized as provided in section 12-268,
8 and the county attorney shall pay all monies collected from this assessment
9 into the county attorney juvenile diversion fund established by section
10 11-537.

11 0. The supreme court shall annually establish an average cost per
12 juvenile for providing diversion services in each county, based on the monies
13 appropriated for diversion pursuant to section 8-322, excluding the cost of
14 juvenile intake services provided by the juvenile court, and the number of
15 juveniles diverted the previous year. On the county attorney's certification
16 to the supreme court of the number of juveniles diverted to a county attorney
17 community based alternative program each quarter, the annual average cost per
18 juvenile for each juvenile diverted shall be reimbursed to the county
19 attorney juvenile diversion fund established by section 11-537 out of monies
20 appropriated to the supreme court for diversion programs.

21 P. If the juvenile does not acknowledge responsibility for the
22 offense, or fails to comply with the consequences set by the community based
23 alternative program, the case shall be submitted to the county attorney for
24 review.

25 Q. After reviewing a referral, if the county attorney declines
26 prosecution, the county attorney may return the case to the juvenile
27 probation department for further action as provided in subsection F of this
28 section.