

REFERENCE TITLE: criminal justice; 2011-2012; budget reconciliation

State of Arizona
Senate
Fiftieth Legislature
First Regular Session
2011

SB 1621

Introduced by
Senators Biggs, Murphy, Pearce R, Pierce S: Antenori, Barto, Driggs,
Gould, Klein, Melvin, Nelson, Reagan, Shooter, Smith, Yarbrough (with
permission of Committee on Rules)

AN ACT

AMENDING SECTION 5-396, ARIZONA REVISED STATUTES; AMENDING TITLE 11, CHAPTER 3, ARTICLE 2, ARIZONA REVISED STATUTES, BY ADDING SECTION 11-453; AMENDING SECTIONS 11-539 AND 11-588, ARIZONA REVISED STATUTES; AMENDING TITLE 12, CHAPTER 1, ARTICLE 1, ARIZONA REVISED STATUTES, BY ADDING SECTION 12-119.05; AMENDING SECTION 12-267, ARIZONA REVISED STATUTES; REPEALING SECTION 12-270, ARIZONA REVISED STATUTES; AMENDING SECTIONS 13-701, 22-117, 28-1383 AND 28-8288, ARIZONA REVISED STATUTES; AMENDING TITLE 31, CHAPTER 1, ARTICLE 2, ARIZONA REVISED STATUTES, BY ADDING SECTION 31-133; AMENDING SECTIONS 31-201.01, 31-230 AND 41-191.09, ARIZONA REVISED STATUTES; AMENDING TITLE 41, CHAPTER 4, ARTICLE 7, ARIZONA REVISED STATUTES, BY ADDING SECTION 41-797; AMENDING SECTIONS 41-1604, 41-1604.02 AND 41-1604.03, ARIZONA REVISED STATUTES; AMENDING TITLE 41, CHAPTER 11, ARTICLE 1, ARIZONA REVISED STATUTES, BY ADDING SECTION 41-1610.02; AMENDING SECTIONS 41-1624, 41-1723, 41-1724, 41-2401 AND 41-2421, ARIZONA REVISED STATUTES; PROVIDING FOR THE DELAYED REPEAL OF SECTIONS 11-539, 11-588 AND 41-2409, ARIZONA REVISED STATUTES; AMENDING LAWS 2007, CHAPTER 261, SECTION 16, AS AMENDED BY LAWS 2009, THIRD SPECIAL SESSION, CHAPTER 6, SECTION 21 AND LAWS 2010, SEVENTH SPECIAL SESSION, CHAPTER 6, SECTION 24; MAKING APPROPRIATIONS; RELATING TO CRIMINAL JUSTICE BUDGET RECONCILIATION.

(TEXT OF BILL BEGINS ON NEXT PAGE)

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

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

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

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

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

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

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

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

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

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

35 C. A person who is convicted under subsection A, paragraph 1 of this
36 section and who within an eighty-four month period has been convicted of two
37 prior violations of section 5-395 or 5-397 or this section, or acts committed
38 in another jurisdiction that if committed in this state would be a violation
39 of section 5-395 or 5-397 or this section, is not eligible for probation,
40 pardon, commutation or suspension of sentence or release on any other basis
41 until the person has served not less than four months in ~~prison~~ JAIL, UNLESS
42 THE SENTENCING COUNTY HAS ENTERED INTO AN AGREEMENT TO REIMBURSE THE STATE
43 DEPARTMENT OF CORRECTIONS FOR THE INCARCERATION COSTS PURSUANT TO SECTION
44 41-1610.02, IN WHICH CASE THE PERSON SHALL BE COMMITTED TO THE CUSTODY OF THE
45 STATE DEPARTMENT OF CORRECTIONS.

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

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

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

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

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

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

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

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

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

2. In addition to any other penalty prescribed by law, shall order the person to pay an additional assessment of two hundred fifty dollars. If the conviction occurred in the superior court or a justice court, the court shall transmit the assessed monies to the county treasurer. If the conviction occurred in a municipal court, the court shall transmit the assessed monies to the city treasurer. The city or county treasurer shall transmit the monies received to the state treasurer. The state treasurer shall deposit the monies received in the driving under the influence abatement fund established by section 28-1304. Any fine imposed for a violation of this

section and any assessments, restitution and incarceration costs shall be paid before the assessment prescribed in this paragraph.

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

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

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

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

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

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

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

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

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

Sec. 3. Section 11-539, Arizona Revised Statutes, is amended to read:

11-539. State aid to county attorneys fund

A. The state aid to county attorneys fund is established consisting of monies appropriated to the fund ~~and monies allocated pursuant to section 41-2421, subsections B and J~~. The purpose of the fund is to provide state aid to county attorneys for the processing of criminal cases.

1 B. The Arizona criminal justice commission shall administer the fund.
2 The commission shall allocate fund monies to each county pursuant to section
3 41-2409, subsection A.

4 C. All monies distributed or spent from the fund shall be used to
5 supplement, not supplant, funding at the level provided in fiscal year
6 1997-1998 by the counties for the processing of criminal cases by county
7 attorneys.

8 D. Monies in the state aid to county attorneys fund are exempt from
9 the provisions of section 35-190 relating to lapsing of appropriations ~~and~~
10 ~~monies allocated pursuant to section 41-2421, subsections B and J are subject~~
11 ~~to legislative appropriation.~~ Any state general fund monies appropriated to
12 the fund may be spent without further legislative appropriation.

13 E. On notice from the commission, the state treasurer shall invest and
14 divest monies in the fund as provided by section 35-313, and monies earned
15 from investment shall be credited to the fund.

16 Sec. 4. Section 11-588, Arizona Revised Statutes, is amended to read:

17 11-588. State aid to indigent defense fund

18 A. The state aid to indigent defense fund is established consisting of
19 monies appropriated to the fund ~~and monies allocated to the fund pursuant to~~
20 ~~section 41-2421, subsections B and J.~~ The purpose of the fund is to provide
21 state aid to the county public defender, legal defender and contract indigent
22 defense counsel for the processing of criminal cases.

23 B. The Arizona criminal justice commission shall administer the fund.
24 The commission shall allocate monies in the fund to each county pursuant to
25 section 41-2409, subsection C.

26 C. All monies distributed or spent from the fund shall be used to
27 supplement, not supplant, funding at the level provided in fiscal year
28 1997-1998 by counties for the processing of criminal cases by the county
29 public defender, legal defender and contract indigent defense counsel in each
30 county.

31 D. Monies in the state aid to indigent defense fund are exempt from
32 the provisions of section 35-190 relating to lapsing of appropriations ~~and~~
33 ~~monies allocated pursuant to section 41-2421, subsections B and J are subject~~
34 ~~to legislative appropriation.~~ Any state general fund monies appropriated to
35 the fund may be spent without further legislative appropriation.

36 E. On notice from the commission, the state treasurer shall invest and
37 divest monies in the fund as provided by section 35-313, and monies earned
38 from investment shall be credited to the fund.

39 Sec. 5. Title 12, chapter 1, article 1, Arizona Revised Statutes, is
40 amended by adding section 12-119.05, to read:

41 12-119.05. Post of duty; supreme court justice

42 THE DESIGNATED POST OF DUTY OF A JUSTICE OF THE SUPREME COURT WHO
43 RESIDES OUTSIDE OF MARICOPA COUNTY SHALL BE DEEMED TO BE THE JUSTICE'S PLACE
44 OF PHYSICAL RESIDENCE AT THE TIME OF THE JUSTICE'S APPOINTMENT.

1 Sec. 6. Section 12-267, Arizona Revised Statutes, is amended to read:
 2 12-267. Adult probation services fund; accounts; expenditure
 3 plan; use
 4 A. The board of supervisors shall designate a chief fiscal officer who
 5 shall establish and administer an adult probation services fund consisting
 6 of:
 7 1. County general fund appropriations for adult probation.
 8 2. State appropriations for adult probation including:
 9 (a) Monies for adult probation officers authorized by article 6 of
 10 this chapter.
 11 (b) Monies for state aid for adult probation services authorized by
 12 this article.
 13 (c) Monies for adult community punishment programs established
 14 pursuant to article 11 of this chapter.
 15 (d) Monies for adult intensive probation pursuant to title 13,
 16 chapter 9.
 17 ~~(e) Monies received pursuant to section 12-270 that each county shall~~
 18 ~~use for the following:~~
 19 ~~(i) Increasing the availability of substance abuse treatment programs~~
 20 ~~for probationers.~~
 21 ~~(ii) Increasing the availability of risk reduction programs and~~
 22 ~~interventions for probationers.~~
 23 ~~(iii) Grants to nonprofit victim services organizations to partner~~
 24 ~~with the probation department and the court to assist victims and increase~~
 25 ~~the amount of restitution collected from probationers.~~
 26 3. Probation fees collected pursuant to section 13-901 and section
 27 13-902, subsection G.
 28 4. Federal monies provided for adult probation.
 29 5. Adult probation monies from any other source.
 30 B. The chief fiscal officer shall establish and maintain separate
 31 accounts in the fund showing receipts and expenditures of monies from each
 32 source listed in subsection A of this section. The presiding judge of the
 33 superior court shall annually present to the board of supervisors for
 34 approval a detailed expenditure plan for the adult probation services fund
 35 accounts. Any modifications to the expenditure plan affecting state
 36 appropriations shall be made in accordance with the rules and procedures
 37 established by the supreme court. Any modifications to the expenditure plan
 38 affecting county appropriated funds shall be made in accordance with the
 39 policies established by the county. The chief fiscal officer shall disburse
 40 monies from the fund accounts only at the direction of the presiding judge of
 41 the superior court. The chief fiscal officer of each county, on or before
 42 August 31 of each year for the preceding fiscal year, shall submit an annual
 43 report to the supreme court showing the total amount of receipts and
 44 expenditures in each account of the adult probation services fund.

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

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

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

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

G. The administrative office of the courts shall periodically charge each local probation fees account an amount established annually by the supreme court to cover a proportional share of the cost of monitoring devices required pursuant to section 13-902, subsection G consistent with guidelines established to implement section 13-902, subsection G.

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

Sec. 7. Repeal

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

Sec. 8. Section 13-701, Arizona Revised Statutes, is amended to read:

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

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

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

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

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

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

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

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

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

19 4. Presence of an accomplice.

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

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

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

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

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

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

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

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

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

1 14. The defendant was appointed pursuant to title 14 as a fiduciary and
2 the offense involved conduct directly related to the defendant's duties to
3 the victim as fiduciary.

4 15. Evidence that the defendant committed the crime out of malice
5 toward a victim because of the victim's identity in a group listed in section
6 41-1750, subsection A, paragraph 3 or because of the defendant's perception
7 of the victim's identity in a group listed in section 41-1750, subsection A,
8 paragraph 3.

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

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

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

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

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

26 21. The defendant was in violation of 8 United States Code section
27 1323, 1324, 1325, 1326 or 1328 at the time of the commission of the offense.

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

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

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

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

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

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

41 (b) "Remote stun gun" means an electronic device that emits an
42 electrical charge and that is designed and primarily employed to incapacitate
43 a person or animal either through contact with electrodes on the device
44 itself or remotely through wired probes that are attached to the device or

1 through a spark, plasma, ionization or other conductive means emitting from
2 the device.

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

5 24. Any other factor that the state alleges is relevant to the
6 defendant's character or background or to the nature or circumstances of the
7 crime.

8 E. For the purpose of determining the sentence pursuant to subsection
9 C of this section, the court shall consider the following mitigating
10 circumstances:

11 1. The age of the defendant.

12 2. The defendant's capacity to appreciate the wrongfulness of the
13 defendant's conduct or to conform the defendant's conduct to the requirements
14 of law was significantly impaired, but not so impaired as to constitute a
15 defense to prosecution.

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

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

20 5. During or immediately following the commission of the offense, the
21 defendant complied with all duties imposed under sections 28-661, 28-662 and
22 28-663.

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

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

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

37 H. This section does not affect any provision of law that imposes the
38 death penalty, that expressly provides for imprisonment for life or that
39 authorizes or restricts the granting of probation and suspending the
40 execution of sentence.

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

43 J. IF A PERSON IS SENTENCED TO SERVE ONE YEAR OR LESS IN THE STATE
44 DEPARTMENT OF CORRECTIONS, THE PERSON SHALL BE COMMITTED TO THE CUSTODY OF
45 THE COUNTY JAIL, UNLESS THE SENTENCING COUNTY HAS ENTERED INTO AN AGREEMENT

1 TO REIMBURSE THE STATE DEPARTMENT OF CORRECTIONS FOR THE INCARCERATION COSTS
2 PURSUANT TO SECTION 41-1610.02, IN WHICH CASE THE PERSON SHALL BE COMMITTED
3 TO THE CUSTODY OF THE STATE DEPARTMENT OF CORRECTIONS. A PERSON WHO IS
4 SENTENCED TO A CONCURRENT TERM OF INCARCERATION FOR MORE THAN ONE YEAR SHALL
5 BE INCARCERATED IN THE STATE DEPARTMENT OF CORRECTIONS.

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

9 Sec. 9. Section 22-117, Arizona Revised Statutes, is amended to read:

10 22-117. Payment of compensation and expenses

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

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

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

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

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

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

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

1 Sec. 10. Section 28-1383, Arizona Revised Statutes, is amended to
2 read:

3 28-1383. Aggravated driving or actual physical control while
4 under the influence: violation: classification:
5 definition

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

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

14 2. Within a period of eighty-four months commits a third or subsequent
15 violation of section 28-1381, section 28-1382 or this section or is convicted
16 of a violation of section 28-1381, section 28-1382 or this section and has
17 previously been convicted of any combination of convictions of section
18 28-1381, section 28-1382 or this section or acts in another jurisdiction that
19 if committed in this state would be a violation of section 28-1381, section
20 28-1382 or this section.

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

23 (a) Section 28-1381.

24 (b) Section 28-1382.

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

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

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

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

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

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

1. Subsection A, paragraph 1 of this section.

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

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

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

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

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

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

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

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

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

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

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

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

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

5. In addition to any other penalty prescribed by law, shall order the person to pay an additional assessment of one thousand five hundred dollars

1 to be deposited by the state treasurer in the public safety equipment fund
2 established by section 41-1723. This assessment is not subject to any
3 surcharge. If the conviction occurred in the superior court or a justice
4 court, the court shall transmit the assessed monies to the county treasurer.
5 If the conviction occurred in a municipal court, the court shall transmit the
6 assessed monies to the city treasurer. The city or county treasurer shall
7 transmit the monies received to the state treasurer.

8 K. After completing the period of suspension required by section
9 28-1385, a person whose driving privilege is revoked for a violation of
10 subsection A, paragraph 3 of this section may apply to the department for a
11 special ignition interlock restricted driver license pursuant to section
12 28-1401.

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

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

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

19 M. For the purposes of this section, "suspension, cancellation,
20 revocation or refusal" means any suspension, cancellation, revocation or
21 refusal.

22 Sec. 11. Section 28-8288, Arizona Revised Statutes, is amended to
23 read:

24 28-8288. Third or subsequent offense

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

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

31 2. The person is not eligible for probation, pardon, suspension of
32 sentence or release on any basis except as specifically authorized by section
33 31-233, subsection A or B until the person has served not less than six
34 months in ~~prison~~ JAIL, UNLESS THE COUNTY HAS ENTERED INTO AN AGREEMENT TO
35 REIMBURSE THE STATE DEPARTMENT OF CORRECTIONS FOR THE INCARCERATION COSTS
36 PURSUANT TO SECTION 41-1610.02, IN WHICH CASE THE PERSON SHALL BE COMMITTED
37 TO THE CUSTODY OF THE STATE DEPARTMENT OF CORRECTIONS.

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

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

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

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

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

15 B. The dates of the commission of the offense are the determining
16 factor in applying this section.

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

20 Sec. 12. Title 31, chapter 1, article 2, Arizona Revised Statutes, is
21 amended by adding section 31-133, to read:

22 31-133. Receiving and keeping state prisoners

23 THE SHERIFF SHALL RECEIVE AND KEEP IN THE COUNTY JAIL ANY PRISONER WHO
24 IS SENTENCED ON OR AFTER THE EFFECTIVE DATE OF THIS SECTION TO SERVE A TERM
25 OF IMPRISONMENT IN THE STATE DEPARTMENT OF CORRECTIONS FOR ONE YEAR OR LESS,
26 UNLESS THE COUNTY HAS ENTERED INTO AN AGREEMENT TO REIMBURSE THE STATE
27 DEPARTMENT OF CORRECTIONS FOR THE INCARCERATION COSTS PURSUANT TO SECTION
28 41-1610.02, IN WHICH CASE THE PERSON SHALL BE COMMITTED TO THE CUSTODY OF THE
29 STATE DEPARTMENT OF CORRECTIONS.

30 Sec. 13. Section 31-201.01, Arizona Revised Statutes, is amended to
31 read:

32 31-201.01. Duties of the director; tort actions; medical
33 treatment costs; state immunity; definitions

34 A. The director shall hold in custody all persons sentenced to the
35 department under the law and shall hold such persons for the term directed by
36 the court, subject to law, EXCEPT THAT BEGINNING ON THE EFFECTIVE DATE OF
37 THIS AMENDMENT TO THIS SECTION OR JULY 1, 2011, WHICHEVER IS LATER, IF THE
38 PERSON IS SENTENCED TO ONE YEAR OR LESS IN THE STATE DEPARTMENT OF
39 CORRECTIONS, THE PERSON SHALL BE PLACED IN THE CUSTODY OF A COUNTY JAIL,
40 UNLESS THE SENTENCING COUNTY HAS ENTERED INTO AN AGREEMENT TO REIMBURSE THE
41 STATE DEPARTMENT OF CORRECTIONS FOR THE INCARCERATION COSTS PURSUANT TO
42 SECTION 41-1610.02, IN WHICH CASE THE PERSON SHALL BE COMMITTED TO THE
43 CUSTODY OF THE STATE DEPARTMENT OF CORRECTIONS.

44 B. In addition to the medical and health services to be provided
45 pursuant to subsection D of this section, the director ~~may~~, in cooperation

1 with the department of health services, MAY provide to prisoners WHO ARE
2 INCARCERATED IN THE STATE DEPARTMENT OF CORRECTIONS psychiatric care and
3 treatment pursuant to sections 31-226 and 31-226.01.

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

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

14 E. If a victim of a person for whom a cost of incarceration has been
15 calculated notifies the state that full restitution has not been made by the
16 person for whom a cost of incarceration has been calculated, the state shall
17 interplead with the superior court the disputed amount and set off the
18 amounts owed the state from the remaining obligation.

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

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

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

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

34 1. Medical visits initiated by the medical or mental health staff of
35 the department.

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

38 3. Inmates at reception centers.

39 4. Juvenile inmates.

40 5. Pregnant inmates.

41 6. Seriously mentally ill inmates. For the purposes of this
42 paragraph, "seriously mentally ill inmates" means inmates who as a result of
43 a mental disorder as defined in section 36-501 exhibit emotional or
44 behavioral functioning ~~which~~ THAT is so impaired as to interfere
45 substantially with their capacity to remain in the general prison population

1 without supportive treatment or services of a long-term or indefinite
2 duration and whose mental disability is severe and persistent, resulting in a
3 long-term limitation of their functional capacities for primary activities of
4 daily living, including interpersonal relationships, self-care, employment
5 and recreation.

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

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

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

11 10. Inmates who are inpatients at the Flamenco prison facility mental
12 health treatment unit.

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

15 12. Inmates who are undergoing follow-up medical treatment for chronic
16 diseases.

17 J. An inmate shall not be refused medical treatment for financial
18 reasons.

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

21 L. A person who is convicted of a felony offense and who is
22 incarcerated while awaiting sentence or while serving a sentence imposed by a
23 court of law may not bring a cause of action seeking damages or equitable
24 relief from the state or its political subdivisions, agencies, officers or
25 employees for injuries suffered while in the custody of the state or its
26 political subdivisions or agencies unless the complaint alleges specific
27 facts from which the court may conclude that the plaintiff suffered serious
28 physical injury or the claim is authorized by a federal statute.

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

32 1. State property that the inmate wilfully damages or destroys during
33 the inmate's incarceration.

34 2. Medical treatment for injuries that the inmate inflicts on himself
35 or others.

36 3. Searching for and apprehending an inmate who escapes or attempts to
37 escape.

38 4. Quelling a riot or other disturbance in which the inmate is
39 unlawfully involved.

40 N. For THE purposes of this section:

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

42 2. "Serious physical injury" means an impairment of physical condition
43 that creates a substantial risk of death or that causes serious
44 disfigurement, prolonged impairment of health or prolonged loss or impairment
45 of the function of any bodily organ.

1 Sec. 14. Section 31-230, Arizona Revised Statutes, is amended to read:

2 31-230. Prisoner spendable accounts; fees

3 A. The director shall establish a prisoner spendable account for each
4 prisoner. All monies that are received by a prisoner and that are not
5 required to be deposited in another account shall be deposited in the
6 prisoner's spendable account.

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

9 C. If the court has ordered the prisoner to pay restitution pursuant
10 to section 13-603, the director shall withdraw a minimum of twenty per cent,
11 or the balance owing on the restitution amount, up to a maximum of fifty per
12 cent of the monies available in the prisoner's spendable account each month
13 to pay the court ordered restitution.

14 D. THE DIRECTOR MAY ESTABLISH BY RULE A FEE FOR ANY DEPOSITS MADE TO A
15 PRISONER SPENDABLE ACCOUNT. THE DIRECTOR SHALL DEPOSIT, PURSUANT TO SECTIONS
16 35-146 AND 35-147, ANY MONIES COLLECTED PURSUANT TO THIS SUBSECTION IN THE
17 DEPARTMENT OF CORRECTIONS BUILDING RENEWAL FUND ESTABLISHED BY SECTION
18 41-797.

19 Sec. 15. Section 41-191.09, Arizona Revised Statutes, is amended to
20 read:

21 41-191.09. Attorney general legal services cost allocation
22 fund; contributions; exemptions

23 A. The attorney general legal services cost allocation fund is
24 established for the purpose of reimbursing the department of law for general
25 agency counsel. Monies in the fund are subject to legislative appropriation.
26 The attorney general shall administer the fund.

27 B. ~~Beginning July 1, 2006,~~ All state agency appropriated and
28 nonappropriated funds shall contribute a pro rata share of general agency
29 counsel services provided by the department of law. The pro rata share is
30 payable by payroll fund source, and the resultant amount shall be deposited
31 in the attorney general legal services cost allocation fund. ~~Beginning~~
32 ~~July 1, 2007,~~ The pro rata share for each fund shall be 0.675 per cent of the
33 total payroll. For the purposes of this subsection, "total payroll" includes
34 federal monies, state general fund monies, special revenue funds,
35 intergovernmental revenue monies, trust funds and other payroll fund sources.

36 C. A claim for the pro rata share percentage payment shall be
37 submitted according to the fund source, with the accompanying payroll, to the
38 department of administration for deposit in the attorney general legal
39 services cost allocation fund.

40 D. The following agencies are exempt from this section:

- 41 1. The department of water resources.
- 42 2. The residential utility consumer office.
- 43 3. The industrial commission.
- 44 4. The universities and the Arizona board of regents.
- 45 5. The auditor general.

1 6. The corporation commission.
2 7. The office of the governor.
3 8. The department of law.
4 9. The house of representatives.
5 10. The senate.
6 11. The joint legislative budget committee.
7 12. The Arizona state library, archives and public records.
8 13. The legislative council.
9 14. The department of administration risk management fund.
10 15. The department of transportation.
11 16. The Arizona game and fish department.
12 17. The department of economic security.
13 18. The Arizona health care cost containment system.
14 19. The superior court.
15 20. The court of appeals.
16 21. The supreme court.
17 22. The Arizona department of agriculture and councils that receive
18 administrative and budgetary services from the Arizona department of
19 agriculture.
20 23. All self-supporting regulatory agencies as determined pursuant to
21 section 35-143.01.
22 24. THE STATE CAPITAL POSTCONVICTION PUBLIC DEFENDER OFFICE.
23 E. Monies in the attorney general legal services cost allocation fund
24 are exempt from lapsing to the state general fund at the end of each fiscal
25 year.
26 Sec. 16. Title 41, chapter 4, article 7, Arizona Revised Statutes, is
27 amended by adding section 41-797, to read:
28 41-797. Department of corrections building renewal fund
29 A. THE DEPARTMENT OF CORRECTIONS BUILDING RENEWAL FUND IS ESTABLISHED
30 CONSISTING OF MONIES DEPOSITED PURSUANT TO SECTION 31-230, SECTION 41-1604,
31 SUBSECTION B, PARAGRAPH 3 AND SECTIONS 41-1604.02, 41-1604.03 AND 41-1624.
32 THE DIRECTOR SHALL ADMINISTER THE FUND. MONIES IN THE FUND ARE SUBJECT TO
33 LEGISLATIVE APPROPRIATION AND ARE EXEMPT FROM THE PROVISIONS OF SECTION
34 35-190 RELATING TO LAPSING OF APPROPRIATIONS.
35 B. THE DIRECTOR SHALL USE THE MONIES IN THE FUND FOR BUILDING RENEWAL
36 PROJECTS THAT REPAIR OR REWORK BUILDINGS AND SUPPORTING INFRASTRUCTURE THAT
37 ARE UNDER THE CONTROL OF THE STATE DEPARTMENT OF CORRECTIONS AND THAT RESULT
38 IN MAINTAINING A BUILDING'S EXPECTED USEFUL LIFE. MONIES IN THE FUND MAY NOT
39 BE USED FOR NEW BUILDING ADDITIONS, NEW INFRASTRUCTURE ADDITIONS, LANDSCAPING
40 AND AREA BEAUTIFICATION, DEMOLITION AND REMOVAL OF A BUILDING AND, EXCEPT AS
41 PROVIDED IN SUBSECTION C OF THIS SECTION, ROUTINE PREVENTIVE MAINTENANCE.
42 C. THE DIRECTOR MAY USE UP TO EIGHT PER CENT OF THE ANNUAL
43 EXPENDITURES FROM THE FUND FOR ROUTINE PREVENTIVE MAINTENANCE.

1 Sec. 17. Section 41-1604, Arizona Revised Statutes, is amended to
2 read:

3 41-1604. Duties and powers of director

4 A. The director shall:

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

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

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

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

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

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

26 7. Employ deputy directors and other key personnel based on
27 qualifications prescribed by the director that require education and
28 practical experience.

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

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

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

42 B. The director may:

43 1. Adopt rules to implement the purposes of the department and the
44 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.

41 (j) Operate travel reduction programs that are subsidized by the
42 department for employees who commute between work and home by vanpools,
43 carpools and buses or in vehicles that are purchased or leased by the
44 department.

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

Sec. 18. Section 41-1604.02, Arizona Revised Statutes, is amended to read:

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

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

Sec. 19. Section 41-1604.03, Arizona Revised Statutes, is amended to read:

41-1604.03. Special services fund; uses; report

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

B. THE DIRECTOR SHALL TRANSFER FIVE HUNDRED THOUSAND DOLLARS FROM THE SPECIAL SERVICES FUND ANNUALLY TO THE DEPARTMENT OF CORRECTIONS BUILDING RENEWAL FUND ESTABLISHED BY SECTION 41-797. ANY REMAINING MONIES IN the special services fund, including the inmate recreation fund, may be used for the following purposes:

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

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

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

Sec. 20. Title 41, chapter 11, article 1, Arizona Revised Statutes, is amended by adding section 41-1610.02, to read:

41-1610.02. Correctional reimbursement fund; county reimbursement option

A. THE CORRECTIONAL REIMBURSEMENT FUND IS ESTABLISHED CONSISTING OF MONIES RECEIVED FROM A COUNTY FOR THE COSTS OF INCARCERATING A PERSON IN THE STATE DEPARTMENT OF CORRECTIONS WHO OTHERWISE WOULD BE INCARCERATED IN JAIL PURSUANT TO SECTION 5-396, SUBSECTION C OR D, SECTION 13-701, SUBSECTION J, SECTION 28-1383, SUBSECTION D OR E OR SECTION 28-8288. THE DIRECTOR SHALL ADMINISTER THE FUND. MONIES IN THE FUND ARE SUBJECT TO LEGISLATIVE APPROPRIATION.

B. A COUNTY SHALL ENTER INTO A REIMBURSEMENT AGREEMENT WITH THE DEPARTMENT BEFORE A PERSON IS TRANSFERRED INTO THE CUSTODY OF THE DEPARTMENT TO SERVE THE PERSON'S INCARCERATION.

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

Sec. 21. Section 41-1624, Arizona Revised Statutes, is amended to read:

41-1624. Arizona correctional industries revolving fund; definitions

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

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

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

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

4. For the construction or reconstruction of facilities.

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

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

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

6 B. Monies received for or derived from the operation of Arizona
7 correctional industries, including monies from the sale of obsolete or
8 unneeded material, supplies, equipment or property, shall be deposited,
9 pursuant to sections 35-146 and 35-147, in a specially designated revolving
10 fund and expended without need of previous encumbrance upon warrants drawn
11 upon order of the director or the director's designee. The fund is a
12 continuing fund and is exempt from the provisions of section 35-190. **THE**
13 **DIRECTOR SHALL TRANSFER ONE MILLION DOLLARS FROM THE REVOLVING FUND ANNUALLY**
14 **TO THE DEPARTMENT OF CORRECTIONS BUILDING RENEWAL FUND ESTABLISHED BY SECTION**
15 **41-797.**

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

19 D. For the purposes of this section:

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

22 2. "Raw materials" means the materials that are converted or combined
23 during the manufacturing process.

24 Sec. 22. Section 41-1723, Arizona Revised Statutes, is amended to
25 read:

26 **41-1723. Public safety equipment fund; distribution**

27 The public safety equipment fund is established consisting of monies
28 deposited in the fund pursuant to sections 5-395.01, 5-396, 5-397, 28-1381,
29 28-1382, 28-1383, 28-8284, 28-8286, 28-8287, ~~and~~ 28-8288 **AND 41-2421**. The
30 department shall administer the fund. Monies in the fund shall be
31 distributed as follows:

32 1. The first one million two hundred thousand dollars received each
33 fiscal year **PURSUANT TO SECTIONS 5-395.01, 5-396, 5-397, 28-1381, 28-1382,**
34 **28-1383, 28-8284, 28-8286, 28-8287 AND 28-8288** as a continuing appropriation
35 to the department for protective armor, electronic stun devices and other
36 safety equipment. Monies appropriated pursuant to this paragraph are exempt
37 from the provisions of section 35-190 relating to lapsing of appropriations.

38 **2. MONIES RECEIVED PURSUANT TO SECTION 41-2421 ARE SUBJECT TO**
39 **LEGISLATIVE APPROPRIATION.**

40 ~~2-~~ **3.** All other monies each fiscal year shall be deposited in the
41 state general fund.

1 Sec. 23. 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 WITH A POPULATION OF MORE THAN FIVE HUNDRED THOUSAND
36 PERSONS BUT LESS THAN TWO MILLION PERSONS SHALL NOT RECEIVE ANY MONIES FROM
37 THE GANG AND IMMIGRATION INTELLIGENCE TEAM ENFORCEMENT MISSION FUND.

38 F. THE USE OF THE MONIES FROM THE FUND IS CONTINGENT ON A LAW
39 ENFORCEMENT AGENCY MAKING EVERY REASONABLE EFFORT TO DETERMINE THE LEGAL
40 STATUS OF ANY PERSON WHO A LAW ENFORCEMENT OFFICER COMES INTO LAWFUL CONTACT
41 WITH AND WHO IS SUSPECTED OF BEING AN ILLEGAL ALIEN OR IN A GANG.

42 G. THE DEPARTMENT SHALL SUBMIT AN EXPENDITURE PLAN TO THE JOINT
43 LEGISLATIVE BUDGET COMMITTEE FOR REVIEW BEFORE EXPENDING ANY MONIES NOT
44 IDENTIFIED IN THE DEPARTMENT'S PREVIOUS EXPENDITURE PLANS. WITHIN THIRTY
45 DAYS AFTER THE LAST DAY OF EACH CALENDAR QUARTER, THE DEPARTMENT SHALL

1 PROVIDE A SUMMARY OF QUARTERLY AND YEAR-TO-DATE EXPENDITURES AND PROGRESS TO
2 THE JOINT LEGISLATIVE BUDGET COMMITTEE, INCLUDING ANY PRIOR YEAR
3 APPROPRIATIONS THAT WERE NONLAPSING.

4 Sec. 24. Section 41-2401, Arizona Revised Statutes, is amended to
5 read:

6 41-2401. Criminal justice enhancement fund

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

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

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

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

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

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

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

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

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

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

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

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

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

2 7. 9.35 per cent to the department of law for allocation to county
3 attorneys for the purpose of enhancing prosecutorial efforts.

4 8. 6.02 per cent to the supreme court for the purpose of enhancing the
5 ability of the courts to process criminal and delinquency cases, orders of
6 protection, injunctions against harassment and any proceeding relating to
7 domestic violence matters, for auditing and investigating persons or entities
8 licensed or certified by the supreme court and for processing judicial
9 discipline cases. Notwithstanding section 12-143, subsection A, the salary
10 of superior court judges pro tempore who are appointed for the purposes
11 provided in this paragraph shall, and the salary of other superior court
12 judges pro tempore who are appointed pursuant to section 12-141 for the
13 purposes provided in this paragraph may, be paid in full by the monies
14 received pursuant to this paragraph.

15 9. 11.70 per cent to the county sheriffs for the purpose of enhancing
16 county jail facilities and operations, including county jails under the
17 jurisdiction of county jail districts.

18 10. 1.57 per cent to the Arizona criminal justice commission.

19 11. 9.00 per cent in the crime laboratory operations fund established
20 by section 41-1772.

21 12. 2.30 per cent in the crime laboratory assessment fund established
22 by section 41-2415.

23 13. 7.68 per cent in the victims' rights fund established by section
24 41-191.08.

25 14. 4.60 per cent in the victim compensation and assistance fund
26 established by section 41-2407.

27 15. 2.13 per cent to the supreme court for the purpose of providing
28 drug treatment services to adult probationers through the community
29 punishment program established in title 12, chapter 2, article 11.

30 E. Monies distributed pursuant to subsection D, paragraphs 3, 4, 7, 9,
31 11, 12, 13 and 14 of this section constitute a continuing appropriation.
32 Monies distributed pursuant to subsection D, paragraphs 1, 2, 5, 8, 10 and 15
33 of this section are subject to legislative appropriation.

34 F. The portion of the eighty-five per cent of the monies for direct
35 operating expenses of the department of public safety in subsection D,
36 paragraph 6 of this section is subject to legislative appropriation. The
37 remainder of the monies in subsection D, paragraph 6 of this section
38 including the portion of the eighty-five per cent for local law enforcement
39 is continuously appropriated.

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

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

1 Sec. 25. Section 41-2421, Arizona Revised Statutes, is amended to
2 read:

3 41-2421. Enhanced collections; allocation of monies; criminal
4 justice entities

5 A. Notwithstanding any other law and except as provided in subsection
6 J of this section, five per cent of any monies collected by the supreme court
7 and the court of appeals for the payment of filing fees, including clerk
8 fees, diversion fees, fines, penalties, surcharges, sanctions and
9 forfeitures, shall be deposited, pursuant to sections 35-146 and 35-147, and
10 allocated pursuant to the formula in subsection B of this section. This
11 subsection does not apply to monies collected by the courts pursuant to
12 section 16-954, subsection C, or for child support, restitution or exonerated
13 bonds.

14 B. The monies deposited pursuant to subsection A of this section shall
15 be allocated according to the following formula:

16 ~~1. 21.61 per cent to the state aid to county attorneys fund~~
17 ~~established by section 11-539.~~

18 ~~2. 20.53 per cent to the state aid to indigent defense fund~~
19 ~~established by section 11-588.~~

20 1. 42.14 PER CENT TO THE PUBLIC SAFETY EQUIPMENT FUND ESTABLISHED BY
21 SECTION 41-1723.

22 ~~3.~~ 2. 57.37 per cent to the state aid to the courts fund established
23 by section 12-102.02.

24 ~~4.~~ 3. 0.49 per cent to the department of law for the processing of
25 criminal cases.

26 C. Notwithstanding any other law and except as provided in subsection
27 J of this section, five per cent of any monies collected by the superior
28 court, including the clerk of the court and the justice courts in each county
29 for the payment of filing fees, including clerk fees, diversion fees, adult
30 and juvenile probation fees, juvenile monetary assessments, fines, penalties,
31 surcharges, sanctions and forfeitures, shall be transmitted to the county
32 treasurer for allocation pursuant to subsections E, F, G and H of this
33 section. This subsection does not apply to monies collected by the courts
34 pursuant to section 16-954, subsection C or for child support, restitution or
35 exonerated bonds.

36 D. The supreme court shall adopt guidelines regarding the collection
37 of revenues pursuant to subsections A and C OF THIS SECTION.

38 E. The county treasurer shall allocate the monies deposited pursuant
39 to subsection C of this section according to the following formula:

40 ~~1. 21.61 per cent for the purposes specified in section 11-539.~~

41 ~~2. 20.53 per cent for the purposes specified in section 11-588.~~

42 1. 42.14 PER CENT TO THE STATE TREASURER FOR DEPOSIT IN THE PUBLIC
43 SAFETY EQUIPMENT FUND ESTABLISHED BY SECTION 41-1723.

44 ~~3.~~ 2. 57.37 per cent to the local courts assistance fund established
45 by section 12-102.03.

~~4.~~ 3. 0.49 per cent to the state treasurer for transmittal to the department of law for the processing of criminal cases.

F. The board of supervisors in each county shall separately account for all monies received pursuant to subsections C and E of this section and expenditures of these monies may be made only after the requirements of subsections G and H of this section have been met.

G. By December 1 of each year, each county board of supervisors shall certify if the total revenues received by the justice courts and the superior court, including the clerk of the superior court, exceed the amount received in fiscal year 1997-1998. If the board so certifies, then the board shall distribute the lesser of either:

1. The total amount deposited pursuant to subsection C of this section.

2. The amount collected and deposited pursuant to subsection C of this section that exceeds the base year collections of fiscal year 1997-1998. These monies shall be distributed according to the formula specified in subsection E of this section. Any monies remaining after this allocation shall be transmitted as otherwise provided by law.

H. If a county board of supervisors determines that the total revenues transmitted by the superior court, including the clerk of the superior court and the justice courts in the county, do not equal the base year collections transmitted in fiscal year 1997-1998 the monies specified in subsection C of this section shall be transmitted by the county treasurer as otherwise provided by law.

I. For the purposes of this section, base year collections shall be those collections specified in subsection C of this section.

J. Monies collected pursuant to section 12-116.01, subsection B shall be allocated as follows:

~~1. 15.44 per cent to the state aid to county attorneys fund established by section 11-539.~~

~~2. 14.66 per cent to the state aid to indigent defense fund established by section 11-588.~~

1. 30.10 PER CENT TO THE PUBLIC SAFETY EQUIPMENT FUND ESTABLISHED BY SECTION 41-1723.

~~3.~~ 2. 40.97 per cent to the state aid to the courts fund established by section 12-102.02.

~~4.~~ 3. 0.35 per cent to the department of law for the processing of criminal cases.

~~5.~~ 4. 14.29 per cent to the Arizona criminal justice commission for distribution to state, county and municipal law enforcement full service forensic crime laboratories pursuant to rules adopted by the Arizona criminal justice commission.

~~6.~~ 5. 14.29 per cent to the supreme court for allocation to the municipal courts pursuant to subsection K of this section.

1 K. The supreme court shall administer and allocate the monies received
2 pursuant to subsection J, paragraph ~~6~~ 5 of this section to the municipal
3 courts based on the total amount of penalty assessments transmitted pursuant
4 to section 12-116.01 by that jurisdiction's city treasurer to the state
5 treasurer for the prior fiscal year divided by the total amount of penalty
6 assessments transmitted to the state treasurer pursuant to section 12-116.01
7 by all city treasurers statewide for the prior fiscal year. The municipal
8 court shall use the monies received to improve, maintain and enhance the
9 ability to collect and manage monies assessed or received by the courts, to
10 improve court automation and to improve case processing or the administration
11 of justice. The municipal court shall submit a plan to the supreme court,
12 and the supreme court shall approve the plan before the municipal court
13 begins to spend these allocated monies.

14 Sec. 26. Delayed repeal

15 Sections 11-539, 11-588 and 41-2409, Arizona Revised Statutes, are
16 repealed from and after June 30, 2012.

17 Sec. 27. Laws 2007, chapter 261, section 16, as amended by Laws 2009,
18 third special session, chapter 6, section 21 and Laws 2010, seventh special
19 session, chapter 6, section 24, is amended to read:

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

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

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

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

41 Sec. 28. State department of corrections; budget structure

42 Notwithstanding any other law, the state department of corrections
43 shall report actual fiscal year 2010-2011, estimated fiscal year 2011-2012
44 and requested fiscal year 2012-2013 expenditures in the same structure and
45 detail as the prior fiscal year when the department submits the fiscal year

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

4 Sec. 29. Department of public safety; highway funds; limitation

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

9 Sec. 30. Suspension of reporting requirements

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

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

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

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

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

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

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

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

26 Sec. 31. Nonsupplanting; suspension

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

36 Sec. 32. Board of executive clemency; part-time status

37 Notwithstanding any other law, in fiscal year 2011-2012, the members of
38 the board of executive clemency, excluding the chairman, shall serve on a
39 part-time basis. A part-time board member shall not work more than thirty
40 hours each week and shall not be eligible for paid leave or any benefits
41 provided to state employees pursuant to section 38-651, Arizona Revised
42 Statutes.

1 Sec. 33. Arizona supreme court: county reimbursement

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

7 Sec. 34. Immigration; request for information and proposals for
8 seismic sensors pilot program; report; delayed
9 repeal

10 A. On or before October 1, 2011, the department of public safety shall
11 issue a request for information to implement a one-year pilot program that
12 would use seismic sensors to monitor rural airport runways and other rural
13 areas of this state where illegal drug traffic and illegal alien traffic or
14 human smuggling are likely to occur. On or before January 1, 2012, the
15 department of public safety shall report to the joint legislative committee
16 on the request for information.

17 B. On or before March 1, 2012, the department of public safety shall
18 issue a request for proposals to implement the program described in
19 subsection A.

20 C. If the department awards a contract before July 1, 2013, the
21 department of public safety shall submit a report on or before July 1, 2013
22 regarding the effectiveness of the pilot program to the governor, the speaker
23 of the house of representatives and the president of the senate and shall
24 provide a copy of this report to the secretary of state.

25 D. This section is repealed from and after December 31, 2013.

26 Sec. 35. Prisoners who are serving a sentence of one year or
27 less: county expense

28 A. Beginning on the effective date of this act or July 1, 2011,
29 whichever is later, the sentencing county shall reimburse the state
30 department of corrections at a rate to be determined by the department for
31 each remaining day of incarceration in the state department of corrections
32 for any prisoner who was sentenced to one year or less in the state
33 department of corrections.

34 B. Each county shall make the reimbursements for these costs as
35 specified in subsection A of this section within thirty days after a request
36 by the state department of corrections. If the county does not make the
37 reimbursement, the director of the state department of corrections shall
38 notify the state treasurer of the amount owed and the treasurer shall
39 withhold the amount, including any additional interest as provided in section
40 42-1123, Arizona Revised Statutes, from any transaction privilege tax
41 distributions to the county. The treasurer shall deposit the withholdings,
42 pursuant to sections 35-146 and 35-147, Arizona Revised Statutes, in the
43 correctional reimbursement fund established by section 41-1610.02, Arizona
44 Revised Statutes, as added by this act.

1 Sec. 36. Correctional reimbursement fund: fiscal year
2 2011-2012: appropriation

3 Notwithstanding section 41-1610.02, Arizona Revised Statutes, as added
4 by this act, all monies received in the correctional reimbursement fund in
5 fiscal year 2011-2012 are appropriated to the state department of corrections
6 in fiscal year 2011-2012 for the purposes of incarcerating prisoners whose
7 costs are reimbursed by counties.

8 Sec. 37. Retroactivity

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