

REFERENCE TITLE: justice of the peace courts.

State of Arizona
House of Representatives
Fifty-first Legislature
First Regular Session
2013

HB 2459

Introduced by
Representative Boyer

AN ACT

CHANGING THE DESIGNATION OF TITLE 22, ARIZONA REVISED STATUTES, TO "JUSTICE AND MUNICIPAL COURTS"; AMENDING SECTIONS 22-112, 22-113, 22-114, 22-116, 22-117, 22-119, 22-120, 22-122, 22-124, 22-134, 22-135, 22-201 AND 22-202, ARIZONA REVISED STATUTES; REPEALING SECTIONS 22-203 AND 22-204, ARIZONA REVISED STATUTES; AMENDING TITLE 22, CHAPTER 2, ARTICLE 1, ARIZONA REVISED STATUTES, BY ADDING NEW SECTIONS 22-203 AND 22-204; AMENDING SECTIONS 22-205 AND 22-212, ARIZONA REVISED STATUTES; REPEALING SECTIONS 22-213 AND 22-214, ARIZONA REVISED STATUTES; AMENDING SECTION 22-215, ARIZONA REVISED STATUTES; REPEALING SECTION 22-218, ARIZONA REVISED STATUTES; AMENDING SECTIONS 22-219 AND 22-220, ARIZONA REVISED STATUTES; REPEALING SECTIONS 22-221 AND 22-222, ARIZONA REVISED STATUTES; AMENDING SECTIONS 22-223, 22-224, 22-241, 22-242, 22-261, 22-262, 22-264, 22-282 AND 22-301, ARIZONA REVISED STATUTES; REPEALING SECTION 22-303, ARIZONA REVISED STATUTES; AMENDING TITLE 22, CHAPTER 3, ARTICLE 1, ARIZONA REVISED STATUTES, BY ADDING A NEW SECTION 22-303; AMENDING SECTION 22-312, ARIZONA REVISED STATUTES; REPEALING SECTION 22-314, ARIZONA REVISED STATUTES; AMENDING TITLE 22, CHAPTER 3, ARTICLE 2, ARIZONA REVISED STATUTES, BY ADDING A NEW SECTION 22-314; REPEALING SECTIONS 22-315, 22-316, 22-318 AND 22-319, ARIZONA REVISED STATUTES; AMENDING SECTIONS 22-320 AND 22-322, ARIZONA REVISED STATUTES; REPEALING TITLE 22, CHAPTER 3, ARTICLE 3, ARIZONA REVISED STATUTES; AMENDING SECTIONS 22-352, 22-371, 22-373, 22-422, 22-428, 22-429, 22-504, 22-505, 22-515, 22-517, 22-521 AND 22-523, ARIZONA REVISED STATUTES; RELATING TO JUSTICE OF THE PEACE COURTS.

(TEXT OF BILL BEGINS ON NEXT PAGE)

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

2 Section 1. Heading change

3 The title heading of title 22, Arizona Revised Statutes, is changed
4 from "JUSTICES OF THE PEACE AND OTHER COURTS NOT OF RECORD" to "JUSTICE AND
5 MUNICIPAL COURTS".

6 Sec. 2. Section 22-112, Arizona Revised Statutes, is amended to read:
7 22-112. Powers and duties

8 A justice of the peace shall:—

9 ~~1.~~ have the powers and perform the duties prescribed by law.

10 ~~2.~~ Prepare a schedule of traffic violations not involving the death of
11 a person or any felony traffic offense, listing specific bail for each
12 violation.

13 ~~3.~~ Designate a deputy other than a law enforcement officer and a
14 specific location at which the deputy shall, during hours when the court is
15 not open, set the amount of bail in accordance with the foregoing schedule
16 and collect such bail, or accept proper bail bonds in lieu thereof, for and
17 on behalf of the court.

18 ~~4.~~ Prepare a schedule of civil traffic violations, listing a specific
19 deposit for each violation.

20 ~~5.~~ Designate a person, a specific location and the hours which such
21 person will be at the location to accept proper deposits for civil traffic
22 violations for and on behalf of the court.

23 Sec. 3. Section 22-113, Arizona Revised Statutes, is amended to read:
24 22-113. Seal

25 A. Each justice of the peace shall have an official seal, which shall
26 contain the words "justice of the peace" and the name of the county in which
27 the justice precinct is located. The seal shall be used to authenticate
28 official documents issued and acknowledgments taken by the justice of the
29 peace.

30 B. A DIGITAL SEAL MAY BE USED AS AN OFFICIAL SEAL.

31 Sec. 4. Section 22-114, Arizona Revised Statutes, is amended to read:
32 22-114. Authority to act in other precincts within the county
33 or adjoining precincts; expenses

34 A. ~~Each justice of the peace within a county may,~~ In the absence,
35 illness or inability to act or ~~upon~~ ON the request of the justice of the
36 other precinct, EACH JUSTICE OF THE PEACE WITHIN A COUNTY MAY preside in any
37 other precinct within the county or in any precinct adjoining the precinct ~~in~~
38 ~~which he was elected~~ regardless of the county in which ~~such~~ THE adjoining
39 precinct ~~may be~~ IS located.

40 B. ~~Each justice of the peace while in attendance in another precinct~~
41 ~~under the authority of this section may execute process, preside over the~~
42 ~~trial of cases, and otherwise perform all the duties of the justice of the~~
43 ~~other precinct and~~ The expense of travel to perform ~~such functions~~ THE DUTIES
44 OF ANOTHER JUSTICE OF THE PEACE outside the precinct for which the justice of

1 the peace is elected ~~shall be~~ IS a county charge to be paid by the county in
2 which the justice of the peace renders the service.

3 C. On request of a justice of another precinct, for any court
4 proceeding other than a ~~pretrial proceeding or~~ trial and if no witnesses are
5 involved, a justice of one precinct may perform for and on behalf of the
6 justice of the other precinct without being physically present within the
7 precinct of the other justice of the peace. In these cases no travel expense
8 shall be paid.

9 D. If two or more justice courts are located within the same city, the
10 justice of one precinct may perform for and on behalf of the justice of the
11 other precinct without being physically present within the precinct of the
12 other justice of the peace. In these cases, ~~no~~ travel expense shall be
13 paid.

14 Sec. 5. Section 22-116, Arizona Revised Statutes, is amended to read:

15 22-116. Funds in possession of justice of the peace; deposit
16 with county treasurer; payment to claimants;
17 disposition of unclaimed funds

18 A. On or before April 1 each year, every justice of the peace ~~who has~~
19 **WHOSE COURT IS IN POSSESSION OF** funds ~~in his possession~~ arising from ~~fees or~~
20 any ~~other~~ source, ~~which have been in his possession~~ for more than two years
21 ~~before April 1~~, shall pay ~~such~~ **THE** funds to the county treasurer and shall
22 provide the treasurer with an itemized list showing the name of the person
23 depositing the money with the justice, the date of the deposit, ~~and the~~
24 amount.

25 B. The treasurer shall deposit the money in an account ~~entitled~~ **KNOWN**
26 **AS** the ~~"suspension account"~~, and at any time within one year from deposit
27 of the funds the amount owing any person shall be returned and paid to the
28 person ~~upon~~ **ON** warrant issued by the board of supervisors. The board of
29 supervisors shall require strict proof that the money should be repaid to the
30 person claiming it, and the warrant, if issued, shall be paid from the
31 suspension fund.

32 C. One year after deposit of the money with the county treasurer all
33 money remaining in the suspension account for which no claim has been filed
34 shall be deposited in the general fund of the county.

35 Sec. 6. Section 22-117, Arizona Revised Statutes, is amended to read:

36 22-117. Payment of compensation and expenses

37 A. Justices of the peace shall be allowed by the board of supervisors,
38 as a county charge, ~~office rent, stationery, telephone and lights.~~ **THE**
39 **FOLLOWING:**

- 40 1. **SPACE.**
- 41 2. **EQUIPMENT.**
- 42 3. **SUPPLIES.**

43 B. In a county with a population of less than one million five hundred
44 thousand persons, the state shall pay 19.25 per cent of the compensation and
45 employee related expenditures of a justice of the peace, and the county shall

1 pay 80.75 per cent of the compensation and employee related expenditures of a
2 justice of the peace, except that the county shall pay the full amount of the
3 employer contribution of the state retirement system or plan or any county
4 health plan.

5 C. If a county is subject to subsection B of this section, the state
6 treasurer shall remit the compensation and employee related expenditures
7 payable by the state to the county treasurer, and the county shall disburse
8 the funds to the justice of the peace.

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

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

14 1. ~~Beginning in fiscal year 2007-2008,~~ The county's contribution to
15 the hospitalization and medical care of the indigent sick and for the
16 administrative costs of implementing sections 36-2901.01 and 36-2901.04 shall
17 be reduced pursuant to section 11-292, subsection R, in an amount that is
18 equal to the difference between the total costs that the county paid pursuant
19 to subsection D of this section and the amount that the county would have
20 paid if the county were subject to subsection B of this section.

21 2. Pursuant to section 41-563, subsection D ~~and beginning in fiscal~~
22 ~~year 2007-2008,~~ the economic estimates commission shall increase the county's
23 base expenditure limit in an amount that is equal to the difference between
24 the total costs that the county paid pursuant to subsection D of this section
25 and the amount that the county would have paid if the county were subject to
26 subsection B of this section.

27 Sec. 7. Section 22-119, Arizona Revised Statutes, is amended to read:

28 22-119. Purchase of judgment; violation; classification

29 A justice of the peace who knowingly purchases or offers directly or
30 indirectly to purchase any judgment or part ~~thereof on his docket or on any~~
31 ~~docket in his possession,~~ OF A JUDGMENT is guilty of a class 2 misdemeanor.

32 Sec. 8. Section 22-120, Arizona Revised Statutes, is amended to read:

33 22-120. Forfeiture of and disqualification from office on
34 conviction of certain crimes

35 IN ADDITION TO THE PUNISHMENT PRESCRIBED BY THE CRIME, a justice of the
36 peace who is convicted of ANY OF the ~~crime of~~ FOLLOWING CRIMES SHALL FORFEIT
37 THE OFFICE AND IS FOREVER DISQUALIFIED FROM HOLDING ANY OFFICE IN THIS STATE:

38 1. Asking, receiving or agreeing to receive a bribe ~~upon~~ ON an
39 agreement or understanding that ~~his~~ THE JUSTICE'S vote, opinion or decision
40 on any matter or question ~~which~~ THAT is or may be brought before ~~him~~ THE
41 JUSTICE for decision, ~~shall be influenced thereby.~~ , -or- of

42 2. Asking or receiving any emolument, gratuity or reward or any
43 promise thereof, except as authorized by law, for doing any official act.
44 , -or- of

1 3. Purchasing or holding an interest in the purchase of any judgment
2 or part ~~thereof on the docket of, or upon any docket in possession of such~~
3 ~~justice of the peace, in addition to the punishment prescribed, shall forfeit~~
4 ~~his office and is forever disqualified from holding any office in this state~~
5 OF A JUDGMENT.

6 Sec. 9. Section 22-122, Arizona Revised Statutes, is amended to read:

7 22-122. Qualifications of justices of the peace pro tempore;
8 residence; compensation

9 A. A justice of the peace pro tempore shall be:

10 1. Of good moral character.

11 2. A qualified elector and resident of this state for not less than
12 one year next preceding his appointment.

13 B. A justice of the peace pro tempore may be appointed to serve in ~~the~~
14 ~~precinct or county of his residence or in~~ any precinct or county ~~in which he~~
15 ~~is not a resident.~~

16 C. Notwithstanding any other law or rule, a person who is not admitted
17 to the practice of law may be appointed to serve as a justice of the peace
18 pro tempore.

19 D. A justice of the peace pro tempore is entitled to receive
20 compensation as determined for an elected justice of the peace for the
21 precinct where the justice of the peace pro tempore is assigned to serve. A
22 justice of the peace pro tempore may agree in advance to donate any or all of
23 ~~his~~ THE JUSTICE OF THE PEACE PRO TEMPORIS services.

24 Sec. 10. Section 22-124, Arizona Revised Statutes, is amended to read:

25 22-124. Custody of records filed; purging; destruction

26 A. The justice of the peace shall ~~keep in custody and shall take~~
27 ~~charge of and safely keep~~ MAINTAIN and dispose of ~~according to court rules~~
28 ~~all books, papers and records which may be~~ ALL DOCUMENTS THAT ARE filed or
29 ~~deposited in custody~~ WITH THE COURT PURSUANT TO RULES PRESCRIBED BY THE
30 SUPREME COURT.

31 ~~B. The justice court may destroy all documents, records, instruments,~~
32 ~~books, papers, depositions, exhibits and transcripts in any action or~~
33 ~~proceeding in the justice court or otherwise filed or deposited in custody~~
34 ~~pursuant to rules established by the supreme court.~~

35 ~~C.~~ B. The justice of the peace or the justice's designee shall notify
36 the director of the Arizona state library, archives and public records of
37 records designated for destruction pursuant to court rules. The state
38 library shall have the opportunity in a time prescribed by court rule to
39 review and inspect these records. During this time period, the state library
40 may remove any of these records for storage and retrieval.

41 ~~D.~~ C. Subsection ~~C~~ B OF THIS SECTION does not apply if the director
42 of the Arizona state library, archives and public records has previously
43 approved the destruction of records.

1 Sec. 11. Section 22-134, Arizona Revised Statutes, is amended to read:
2 22-134. Purchase of judgment; violation; classification

3 A constable who knowingly purchases or offers directly or indirectly to
4 purchase any judgment or part ~~thereof on the docket of the justice of the~~
5 ~~peace of the precinct of which he is constable or on any docket in the~~
6 ~~possession of such justice of the peace, OF A JUDGMENT~~ is guilty of a class 2
7 misdemeanor.

8 Sec. 12. Section 22-135, Arizona Revised Statutes, is amended to read:
9 22-135. Forfeiture of and disqualification from office on
10 conviction of certain crimes

11 IN ADDITION TO THE PUNISHMENT PRESCRIBED BY THE CRIME, a constable who
12 is convicted of ANY OF the ~~crime of~~ FOLLOWING CRIMES SHALL FORFEIT THE OFFICE
13 AND IS FOREVER DISQUALIFIED FROM HOLDING OFFICE IN THIS STATE:

14 1. Asking, receiving or agreeing to receive a bribe ~~upon~~ ON an
15 agreement or understanding that his vote, opinion or decision on any matter
16 or question ~~which~~ THAT is or may be brought before him for decision, ~~shall~~
17 be influenced thereby. ~~, or of~~

18 2. Asking or receiving any emolument, gratuity or reward or any
19 promise thereof, except as authorized by law, for doing any official act.
20 ~~, or of~~

21 3. Purchasing or holding an interest in the purchase of any judgment
22 or part ~~thereof on the docket of, or upon any docket in possession of the~~
23 ~~justice of the peace of the precinct of which he is constable, in addition to~~
24 ~~the punishment prescribed, shall forfeit his office and is forever~~
25 ~~disqualified from holding any office in this state OF A JUDGMENT.~~

26 Sec. 13. Section 22-201, Arizona Revised Statutes, is amended to read:
27 22-201. Jurisdiction of civil actions

28 A. Justices of the peace have jurisdiction only as affirmatively
29 conferred on them by law.

30 B. Justices of the peace have exclusive original jurisdiction of all
31 civil actions when the amount involved, exclusive of interest, costs and
32 awarded attorney fees when authorized by law, is ten thousand dollars or
33 less.

34 C. Justices of the peace have jurisdiction concurrent with the
35 superior court in cases of forcible entry and detainer when the amount
36 involved, exclusive of interest, costs and awarded attorney fees when
37 authorized by law, is ten thousand dollars or less.

38 D. Justices of the peace have jurisdiction to try the right to
39 possession of real property when title or ownership is not a subject of
40 inquiry in the action. If in any such action the title or ownership of real
41 property becomes an issue, the justice shall so certify in the ~~docket~~ COURT
42 RECORD, at once stop further proceedings in the action and forward all
43 papers, together with a certified copy of the ~~docket~~ COURT RECORD entries in
44 the action, to the superior court, where the action shall be docketed and
45 determined as though originally brought in the superior court.

1 E. In a county with a population of more than two million persons, the
2 justice of the peace of each justice precinct shall have original
3 jurisdiction to hear the following actions that occur in the respective
4 precinct in which the justice of the peace is elected:

5 1. Civil actions pursuant to subsections B and C of this section.

6 2. Small claims pursuant to chapter 5 of this title.

7 3. Civil traffic offenses unless a civil traffic offense is filed in a
8 municipal court by a municipal officer or agent or by an officer employed by
9 a law enforcement agency under contract to that municipality to provide law
10 enforcement services.

11 4. Special detainers and forcible detainers pursuant to title 33,
12 chapters 11 and 19 and forcible detainers pursuant to title 33, chapter 3 if
13 the amount of rent requested is ten thousand dollars or less.

14 F. In actions between landlord and tenant for possession of leased
15 premises, the title to the property leased shall not be raised nor made an
16 issue.

17 G. If in any action before a justice of the peace a party files a
18 verified pleading that states as a counterclaim a claim in which the amount
19 involved, exclusive of interest and costs, is more than ten thousand dollars,
20 the justice of the peace shall certify this in the ~~docket~~ COURT RECORD, at
21 once stop further proceedings in the action and forward all papers, together
22 with a certified copy of the ~~docket~~ COURT RECORD entries in the action, to
23 the superior court, where the action shall be docketed and determined as
24 though originally brought in the superior court. The party shall pay to the
25 clerk of the superior court the same fees required to be paid by a defendant,
26 and no other party in the action before the justice of the peace shall be
27 required to pay any sum. If the party is finally adjudged to be entitled to
28 recover on the counterclaim, exclusive of interest and costs, ten thousand
29 dollars or less, the superior court may deny costs to the party and, in
30 addition, may impose costs, including reasonable attorney fees, on the party.
31 The superior court shall have original jurisdiction of the action, but at any
32 time in furtherance of convenience or to avoid prejudice, or if it appears
33 that the amount involved in the counterclaim, exclusive of interest and
34 costs, is ten thousand dollars or less, it may remand the action, or any
35 claim or counterclaim of which the justice court has jurisdiction, to the
36 justice court and may order costs.

37 H. The justice of the peace may require arbitration or other dispute
38 resolution methods that are approved by the supreme court in all civil
39 actions, ~~except forcible entry or detainer~~ EVICTION actions.

40 Sec. 14. Section 22-202, Arizona Revised Statutes, is amended to read:

41 22-202. Venue of civil actions

42 ~~A. The rules governing venue of civil actions in the superior court~~
43 ~~shall govern justice of the peace courts, and the word "precinct" shall be~~
44 ~~substituted for the word "county" wherever applicable.~~

~~B. Actions against executors, administrators and guardians and against counties shall be brought in the precinct in which the county seat is located.~~

~~C. Actions against persons who contract debts or obligations in one county and thereafter remove to another county in this state, and against persons who contract debts or obligations in one precinct of a county and thereafter remove to another precinct of the same county, may be brought in any precinct of the county in which such person is found, at the option of the plaintiff.~~

~~D. Actions for collection of an account, enforcement of a contract or any other claim may be brought in the precinct where the account, contract or other claim was made or entered into, or where the defendant lives, at the option of the plaintiff.~~

A. A PERSON SHALL NOT BE SUED OUTSIDE OF THE JUSTICE COURT PRECINCT WHERE THE PERSON RESIDES, EXCEPT:

1. IF A DEFENDANT OR ALL OF SEVERAL DEFENDANTS RESIDE OUTSIDE THE STATE OR WHEN THEIR RESIDENCE IS UNKNOWN, THE ACTION MAY BE BROUGHT IN THE JUSTICE COURT PRECINCT WHERE THE PLAINTIFF RESIDES.

2. A MARRIED PERSON MAY BE SUED IN THE JUSTICE COURT PRECINCT WHERE THE PERSON'S SPOUSE RESIDES UNLESS THE SPOUSE IS LIVING SEPARATE AND APART FROM THE DEFENDANT.

3. TRANSIENT PERSONS MAY BE SUED IN ANY JUSTICE COURT PRECINCT IN WHICH FOUND.

4. PERSONS WHO HAVE CONTRACTED A DEBT OR OBLIGATION IN ONE JUSTICE COURT PRECINCT AND THEREAFTER MOVE TO ANOTHER PRECINCT MAY BE SUED IN EITHER PRECINCT.

5. PERSONS WHO HAVE CONTRACTED IN WRITING TO PERFORM AN OBLIGATION IN ONE JUSTICE COURT PRECINCT MAY BE SUED IN THAT PRECINCT OR WHERE THE PERSONS RESIDE.

6. IF THERE ARE SEVERAL DEFENDANTS RESIDING IN DIFFERENT JUSTICE COURT PRECINCTS, AN ACTION MAY BE BROUGHT IN THE JUSTICE COURT PRECINCT WHERE ANY OF THE DEFENDANTS RESIDE.

~~E.~~ B. Actions filed in justice court against ~~persons~~ A PERSON WHO IS alleged to have committed A civil traffic ~~violations~~ VIOLATION shall be brought in any precinct in which the violation is alleged to have occurred.

Sec. 15. Repeal

Sections 22-203 and 22-204, Arizona Revised Statutes, are repealed.

Sec. 16. Title 22, chapter 2, article 1, Arizona Revised Statutes, is amended by adding new sections 22-203 and 22-204, to read:

22-203. Venue when justice is unable to act

IF THE JUSTICE OF THE PEACE OF THE PRECINCT IN WHICH THE CASE IS FILED IS ABSENT OR FOR ANY REASON IS UNABLE TO ACT, THE CASE MAY BE HEARD IN ANY PRECINCT WITHIN THE SAME COUNTY THAT IS DESIGNATED BY THE JUSTICE OF THE PEACE OR IN THE ABSENCE OF THE JUSTICE OF THE PEACE IN ANY PRECINCT DESIGNATED BY THE PRESIDING JUDGE OF THE SUPERIOR COURT.

1 5. Every adjournment, stating at whose request it was granted and to
2 what time.

3 6. The ~~time~~ DATE when the trial was had, and whether by jury or by the
4 justice of the peace.

5 7. The verdict of the jury.

6 8. The judgment and the ~~time~~ DATE of giving the judgment.

7 9. All applications for setting aside judgment or granting a new
8 trial, the order thereon and the date.

9 10. The ~~time~~ DATE of issuing execution, to whom directed and delivered,
10 and the amount of debt, damages and costs. When an execution is returned,
11 the return thereof and a statement of the manner in which it was executed.

12 11. All stays and appeals and the ~~time~~ DATE when taken, the amount of
13 the bond and the names of the sureties.

14 12. The account of costs.

15 ~~B. The justice shall arrange and safely keep the dockets, books and
16 papers transmitted to him by his predecessor, all papers filed in any action
17 in his court, and books and dockets required to be kept by him.~~

18 Sec. 19. Repeal

19 Sections 22-213 and 22-214, Arizona Revised Statutes, are repealed.

20 Sec. 20. Section 22-215, Arizona Revised Statutes, is amended to read:

21 22-215. Oral pleadings

22 The pleadings in the justice of the peace court may be oral, except as
23 otherwise provided by law, but a brief statement ~~thereof~~ OF THE PLEADINGS
24 shall be noted in the ~~docket~~ COURT RECORD.

25 Sec. 21. Repeal

26 Section 22-218, Arizona Revised Statutes, is repealed.

27 Sec. 22. Section 22-219, Arizona Revised Statutes, is amended to read:

28 22-219. Confession of judgment without issuance or service of
29 process

30 A. A party may appear in person or by an agent or attorney before a
31 justice of the peace without issuance or service of process and confess
32 judgment for an amount within the jurisdiction of the justice of the peace,
33 and such judgment shall be entered thereon ~~upon~~ ON the filing by THE
34 plaintiff, ~~his~~ OR THE PLAINTIFF'S agent or attorney of an affidavit of the
35 justness of plaintiff's claim.

36 B. ~~Where~~ IF the judgment is confessed by ~~an~~ THE PLAINTIFF'S agent or
37 attorney, the warrant of THE agent or attorney authorizing the confession
38 shall be filed with the justice and noted in the ~~docket~~ COURT RECORD.

39 Sec. 23. Section 22-220, Arizona Revised Statutes, is amended to read:

40 22-220. Appearance of defendant; demand or waiver of jury; time
41 of trial; charging the jury

42 A. When a defendant appears ~~his~~ THE DEFENDANT'S appearance shall be
43 noted on the ~~docket~~ COURT RECORD.

44 B. Either party may demand a jury ~~at any time~~ before trial, and if not
45 then demanded, trial by jury shall be deemed waived. This subsection does

1 not apply to civil traffic violations for which citations are issued under
2 title 28.

3 C. When a jury is demanded, the trial ~~shall~~ MAY be postponed ~~to a time~~
4 ~~fixed for the return of the jury~~ UNTIL A JURY IS ASSEMBLED.

5 D. Except as otherwise provided by law, the justice of the peace shall
6 charge the jury in all civil actions.

7 Sec. 24. Repeal

8 Sections 22-221 and 22-222, Arizona Revised Statutes, are repealed.

9 Sec. 25. Section 22-223, Arizona Revised Statutes, is amended to read:
10 22-223. Forming jury; challenges

11 A. At the time appointed for the trial, the justice of the peace shall
12 call the names of the jurors summoned. If a sufficient number of qualified
13 jurors do not attend, the ~~justice shall direct others qualified to be~~
14 ~~summoned~~ TRIAL SHALL BE POSTPONED.

15 B. Either party may challenge any juror either for cause or
16 peremptorily and each party shall have three peremptory challenges.

17 Sec. 26. Section 22-224, Arizona Revised Statutes, is amended to read:
18 22-224. Oath of jury

19 When the jury has been selected, the justice of the peace shall
20 administer to it substantially the following oath: ~~"You and each of you do~~
21 ~~solemnly swear that in the case about to be submitted to you, you will a true~~
22 ~~verdict render according to the law and the evidence, so help you God."~~ "DO
23 YOU SWEAR OR AFFIRM THAT YOU WILL GIVE CAREFUL ATTENTION TO THE PROCEEDINGS,
24 ABIDE BY THE COURT'S INSTRUCTIONS AND RENDER A VERDICT IN ACCORDANCE WITH THE
25 LAW AND EVIDENCE PRESENTED TO YOU, SO HELP YOU GOD".

26 Sec. 27. Section 22-241, Arizona Revised Statutes, is amended to read:
27 22-241. Announcement and recording of verdict or decision

28 When a verdict is returned by a jury the justice of the peace shall
29 announce the verdict in open court, note it in ~~his docket~~ THE COURT RECORD
30 and give judgment on the verdict. When the action has been tried without a
31 jury, the justice OF THE PEACE shall announce ~~his~~ THE decision in open court,
32 note it in ~~his docket~~ THE COURT RECORD and give judgment on the decision.

33 Sec. 28. Section 22-242, Arizona Revised Statutes, is amended to read:
34 22-242. Recording judgment

35 The judgment shall be SIGNED BY THE JUSTICE OF THE PEACE AND THEN BE
36 recorded at length in the ~~docket and signed by the justice of the peace~~ COURT
37 RECORD. The judgment shall clearly state the determination of the rights of
38 the parties, who shall pay the costs, and shall direct issuance of such
39 process as necessary to carry the judgment into execution.

40 Sec. 29. Section 22-261, Arizona Revised Statutes, is amended to read:
41 22-261. Judgments that may be appealed

42 A. Any party to a final judgment of a justice of the peace may appeal
43 therefrom to the superior court where the judgment or the amount in
44 controversy exceeds ~~twenty~~ TWO HUNDRED dollars, exclusive of costs.

1 B. The party aggrieved by a judgment in any action in which the
2 validity of a tax, impost, assessment, toll or a statute of the state is
3 involved may appeal to the superior court without regard to the amount in
4 controversy.

5 C. An appeal shall be on the record of the proceedings if such record
6 includes a transcript of the proceedings. De novo trials shall be granted
7 only when the transcript of the proceedings in the superior court's
8 evaluation is insufficient or in such a condition that the court cannot
9 properly consider the appeal. A trial de novo shall not be granted when a
10 party ~~who~~ had the opportunity to request that a transcript of the lower court
11 proceedings be made and failed to do so. At the beginning of each proceeding
12 the judge shall advise the parties that their right to appeal is dependent
13 ~~upon~~ **ON** their requesting that a record be made of the justice court
14 proceedings. Any party to an action may request that the proceedings be
15 recorded for appeal purposes. The cost of recording trial proceedings ~~shall~~
16 **be IS** the responsibility of the court. The cost of preparing a transcript,
17 if appealed, ~~shall be~~ **IS** the responsibility of the party appealing the case.
18 The supreme court shall establish by rule the methods of recording trial
19 proceedings for record appeals to the superior court, including ~~but not~~
20 ~~limited to~~ electronic recording devices or manual transcription.

21 Sec. 30. Section 22-262, Arizona Revised Statutes, is amended to read:
22 22-262. Appeals procedure

23 The procedure for appeals from a justice court to the superior court
24 shall be as provided by rules ~~promulgated~~ **ADOPTED** by the supreme court.

25 Sec. 31. Section 22-264, Arizona Revised Statutes, is amended to read:
26 22-264. Transmittal of court record entries and papers

27 A. When an appeal is taken the justice of the peace shall make a
28 certified copy of all ~~docket~~ **COURT RECORD** entries and the record of the
29 proceedings in the action and transmit it, together with a certified copy of
30 the bill of costs and the original papers in the action, to the clerk of the
31 superior court. The record of the proceedings shall be certified by the
32 justice of the peace or as stipulated by the parties.

33 B. The **SUPERIOR COURT MAY ORDER THE** justice of the peace ~~may be~~
34 ~~ordered by the superior court, upon,~~ **ON** motion and cause shown, to transmit
35 such papers, and may ~~be fined by the superior court~~ **FINE THE JUSTICE OF THE**
36 **PEACE** for neglect or refusal to transmit ~~them~~ **SUCH PAPERS** within the time
37 ordered.

38 C. The copy of the ~~docket~~ **COURT RECORD** entries and other papers shall
39 be transmitted to the clerk of the superior court within ten days after
40 filing the bond on appeal. If not transmitted within that time, **THE** appellee
41 may file in the superior court an affidavit stating:

- 42 1. The entry of judgment in the justice court and the date and amount
43 thereof.
- 44 2. That notice of appeal was given.

1 3. That an appeal bond was filed, giving the names of the sureties and
2 the amount of the bond.

3 D. ~~Upon~~ ON filing the affidavit as provided in subsection C, appellee
4 may move the superior court to affirm the judgment, and the court, unless
5 good cause is shown why the record was not transmitted, shall affirm the
6 judgment and render judgment against appellant and the sureties on the appeal
7 bond for the amount of the judgment in the justice court.

8 E. If good cause is shown the court may extend the time for
9 transmitting the record on appeal ~~upon~~ ON such terms as it deems proper.

10 Sec. 32. Section 22-282, Arizona Revised Statutes, is amended to read:
11 22-282. Deposit at commencement of action; deposit of money or
12 bond on appeal

13 A. ~~Upon~~ ON commencement of a civil action, each justice of the peace
14 may require the plaintiff to deposit not more than ~~ten~~ ONE HUNDRED dollars to
15 be applied toward payment of costs incurred in the action. The justice of
16 the peace may require the defendant at the time of filing an answer or
17 entering an appearance to deposit not more than ~~five~~ FIFTY dollars to be
18 applied to fees and costs incurred by the defendant.

19 B. Notwithstanding ~~the provisions of~~ section 22-281, in civil actions
20 brought for the recovery of money only, other than on an assigned claim,
21 where the amount in controversy, exclusive of interest and costs, does not
22 exceed ~~fifty~~ TWO HUNDRED dollars, no fees shall be required, ~~except one~~
23 ~~dollar to be paid by plaintiff when instituting the action, and one dollar to~~
24 ~~be paid by defendant when entering appearance, which fee shall include~~
25 ~~constable's or sheriff's fees.~~

26 C. If a party desires to take an appeal, no appeal shall be taken
27 until the party has either paid into court the sum of ~~twenty~~ TWO HUNDRED
28 dollars as and for attorney fees to the adverse party or has secured payment
29 of attorney fees by a good and sufficient bond with sureties approved by the
30 justice of the peace. The bond shall be in the amount of the judgment, costs
31 and attorney fees, payable to the adverse party and conditioned that the
32 appellant prosecute the appeal to effect and pay and satisfy the judgment
33 ~~which~~ THAT may be rendered against the appellant on the appeal, with costs
34 and attorney fees.

35 Sec. 33. Section 22-301, Arizona Revised Statutes, is amended to read:
36 22-301. Jurisdiction of criminal actions

37 A. The justice of the peace courts shall have jurisdiction of the
38 following offenses committed within their respective precincts ~~in which such~~
39 ~~courts are established, subject only to the right to change of venue as~~
40 ~~provided by law:~~

41 1. Misdemeanors and criminal offenses punishable by a fine not
42 exceeding two thousand five hundred dollars, or imprisonment in the county
43 jail for not to exceed six months, or by both a fine and imprisonment. Any
44 penalty or other added assessments levied shall not be considered as part of
45 the fine for purposes of determining jurisdiction. The amount of

1 restitution, time payment fees or incarceration costs shall not be considered
2 as part of the fine for purposes of determining jurisdiction.

3 2. Felonies, but only for the purpose of commencing action and
4 conducting proceedings through preliminary examinations and holding the
5 defendant to answer to the superior court or to discharge the defendant if it
6 appears that there is not probable cause to believe the defendant is guilty
7 of an offense.

8 B. In a county with a population of more than two million persons, the
9 justice of the peace of each justice precinct shall have original
10 jurisdiction to hear misdemeanor offenses as set forth in subsection A,
11 paragraph 1 of this section that occur within the respective precinct in
12 which the justice of the peace is elected unless either of the following
13 applies:

14 1. The offense is filed by a municipal officer or agent in a municipal
15 court.

16 2. The offense is consolidated with a felony offense in the complaint,
17 information or indictment.

18 C. For the purposes of subsection A or B of this section, an offense
19 is committed within the precinct of a justice of the peace court if conduct
20 constituting any element of the offense or a result of such conduct occurs
21 either:

22 1. Within the precinct.

23 2. Within a county park that includes a body of water located in two
24 counties if one county has a population of more than three million persons
25 and one county has a population of more than two hundred thousand persons but
26 less than three hundred thousand persons and the precinct includes some part
27 of the county park.

28 Sec. 34. Repeal

29 Section 22-303, Arizona Revised Statutes, is repealed.

30 Sec. 35. Title 22, chapter 3, article 1, Arizona Revised Statutes, is
31 amended by adding a new section 22-303, to read:

32 22-303. Change of venue; grounds

33 A. IF EITHER PARTY IN AN ACTION PENDING IN A JUSTICE OF THE PEACE
34 COURT, AFTER THE COMPLAINT HAS BEEN FILED, FILES AN AFFIDAVIT IN THE ACTION
35 ALLEGING ANY OF THE GROUNDS SPECIFIED IN SUBSECTION B OF THIS SECTION AND
36 GIVES FIVE DAYS' NOTICE TO THE OPPOSITE PARTY, THE VENUE MAY BE CHANGED AS
37 PROVIDED IN SECTION 22-305.

38 B. GROUNDS THAT MAY BE ALLEGED FOR CHANGE OF VENUE ARE:

39 1. THERE EXISTS IN THE PRECINCT WHERE THE ACTION IS PENDING SO GREAT A
40 PREJUDICE AGAINST THE PARTY REQUESTING A CHANGE OF VENUE THAT THE PARTY
41 CANNOT OBTAIN A FAIR AND IMPARTIAL TRIAL.

42 2. THE CONVENIENCE OF WITNESSES AND THE ENDS OF JUSTICE WOULD BE
43 PROMOTED BY THE CHANGE.

44 3. THE COURT DETERMINES THAT THERE IS OTHER GOOD AND SUFFICIENT CAUSE.

1 C. THE COURT SHALL DETERMINE THE TRUTH AND SUFFICIENCY OF THE GROUNDS,
2 BUT A DECISION REFUSING THE CHANGE OF VENUE IS APPEALABLE.

3 Sec. 36. Section 22-312, Arizona Revised Statutes, is amended to read:

4 22-312. Criminal court record

5 A JUSTICE OF THE PEACE SHALL KEEP a criminal ~~docket shall be kept by~~
6 ~~the justice of the peace in which there~~ COURT RECORD AND shall ~~be entered~~
7 ENTER each action and proceedings of the court ~~therein~~ IN THE COURT RECORD.

8 Sec. 37. Repeal

9 Section 22-314, Arizona Revised Statutes, is repealed.

10 Sec. 38. Title 22, chapter 3, article 2, Arizona Revised Statutes, is
11 amended by adding a new section 22-314, to read:

12 22-314. Bail

13 A PERSON, AT ANY TIME AFTER ARREST AND BEFORE CONVICTION, SHALL BE
14 ELIGIBLE FOR BAIL, SUBJECT TO SECTION 13-3961 AND ANY APPLICABLE RULES
15 PRESCRIBED BY THE SUPREME COURT.

16 Sec. 39. Repeal

17 Sections 22-315, 22-316, 22-318 and 22-319, Arizona Revised Statutes,
18 are repealed.

19 Sec. 40. Section 22-320, Arizona Revised Statutes, is amended to read:

20 22-320. Trial by jury

21 A trial by jury shall be had if demanded by either the state or
22 defendant IF OTHERWISE PROVIDED BY LAW. Unless the demand is made at least
23 five days before commencement of the trial, a trial by jury shall be deemed
24 waived.

25 Sec. 41. Section 22-322, Arizona Revised Statutes, is amended to read:

26 22-322. Oath of jury

27 ~~The court shall administer to the jury the following oath: "You do~~
28 ~~swear that you will well and truly try this issue between the state of~~
29 ~~Arizona and defendant, and will render a true verdict according to the~~
30 ~~evidence."~~ WHEN THE JURY HAS BEEN SELECTED, THE JUSTICE OF THE PEACE SHALL
31 ADMINISTER TO IT SUBSTANTIALLY THE FOLLOWING OATH: "DO YOU SWEAR OR AFFIRM
32 THAT YOU WILL GIVE CAREFUL ATTENTION TO THE PROCEEDINGS, ABIDE BY THE COURT'S
33 INSTRUCTIONS AND RENDER A VERDICT IN ACCORDANCE WITH THE LAW AND EVIDENCE
34 PRESENTED TO YOU, SO HELP YOU GOD".

35 Sec. 42. Repeal

36 Title 22, chapter 3, article 3, Arizona Revised Statutes, is repealed.

37 Sec. 43. Section 22-352, Arizona Revised Statutes, is amended to read:

38 22-352. Judgment; imprisonment for fine; limitation; lien

39 A. When the defendant pleads guilty or is convicted either by the
40 court or by a jury, the court shall pronounce judgment on the plea or
41 verdict. A sentence of A fine, ~~OR~~ imprisonment, or both, as the case may
42 be, may be pronounced on the judgment.

43 B. If the court sentences the defendant to pay a fine and the
44 defendant fails to comply with the order, the court, after a hearing, may
45 order that the defendant receive credit toward payment of the fine for jail

1 time served ~~at a minimum of one dollar of the fine~~ IN AN AMOUNT THAT IS
2 DETERMINED BY THE JUDGE for each one day of imprisonment. The sentence shall
3 not extend beyond the term of imprisonment for which the defendant might be
4 sentenced for the offense of which the defendant has been found guilty.

5 C. A sentence that the defendant pay a fine, with or without the
6 alternative of imprisonment, shall constitute a lien in like manner as a
7 judgment for money rendered in a civil action.

8 Sec. 44. Section 22-371, Arizona Revised Statutes, is amended to read:

9 22-371. Right of appeal; procedure for taking appeal;
10 transcript

11 A. The defendant in a criminal action may appeal to the superior court
12 from the final judgment of a justice or municipal court.

13 B. The procedure for appeals from a justice or municipal court to the
14 superior court shall be as provided by rules ~~promulgated~~ ADOPTED by the
15 supreme court.

16 C. In a trial in a justice or municipal court, a transcript of the
17 proceedings ~~by a court reporter~~ may be ordered in the sole discretion of the
18 SUPERIOR court.

19 D. A defendant may not appeal from a judgment or sentence that is
20 entered pursuant to a plea agreement or from an admission to a probation
21 violation.

22 Sec. 45. Section 22-373, Arizona Revised Statutes, is amended to read:

23 22-373. Transmittal of papers on appeal

24 A. ~~Upon~~ ON an appeal to the superior court, the justice of the peace
25 or presiding officer of a municipal court shall immediately, without charge,
26 transmit all papers in the case and a copy of all proceedings as shown by the
27 ~~docket~~ COURT RECORD, and all orders entered in the action, to the clerk of
28 the superior court of the county, who shall file them and docket the action
29 without charge.

30 B. The justice of the peace court or municipal court shall retain any
31 bail bond or other security taken in an action unless otherwise ordered by
32 the superior court.

33 Sec. 46. Section 22-422, Arizona Revised Statutes, is amended to read:

34 22-422. Court record

35 ~~THE MAGISTRATE SHALL KEEP a docket shall be kept by the magistrate, in~~
36 ~~which there~~ COURT RECORD AND shall ~~be entered~~ ENTER each action and
37 proceedings of the court ~~therein~~ IN THE COURT RECORD.

38 Sec. 47. Section 22-428, Arizona Revised Statutes, is amended to read:

39 22-428. Custody of records filed; purging; destruction

40 A. The magistrate shall ~~keep in custody and shall take charge of and~~
41 ~~safely keep~~ MAINTAIN and dispose of ~~according to court rules all books,~~
42 ~~papers and records which may be~~ ALL DOCUMENTS THAT ARE filed ~~or deposited in~~
43 ~~custody~~ WITH THE COURT PURSUANT TO RULES PRESCRIBED BY THE SUPREME COURT.

1 ~~B. The municipal court may destroy all documents, records,~~
2 ~~instruments, books, papers, depositions, exhibits and transcripts in any~~
3 ~~action or proceeding in the municipal court or otherwise filed or deposited~~
4 ~~in custody pursuant to rules established by the supreme court.~~

5 ~~C.~~ B. The magistrate or the magistrate's designee shall notify the
6 director of the Arizona state library, archives and public records of records
7 designated for destruction pursuant to court rules. The state library shall
8 have the opportunity in a time prescribed by court rule to review and inspect
9 these records. During this time period, the state library may remove any of
10 these records for storage and retrieval.

11 ~~D.~~ C. Subsection ~~C~~ B OF THIS SECTION does not apply if the director
12 of the Arizona state library, archives and public records has previously
13 approved the destruction of records.

14 Sec. 48. Section 22-429, Arizona Revised Statutes, is amended to read:
15 22-429. Judgment; imprisonment for fine; limitation; lien

16 A. When the defendant pleads guilty or is convicted either by the
17 court or by a jury, the court shall pronounce judgment on the plea or
18 verdict. A sentence of A fine, ~~OR~~ imprisonment, or both, may be pronounced
19 on the judgment.

20 B. If the court sentences the defendant to pay a fine, and the
21 defendant fails to comply with the order, the court, after a hearing, may
22 order that the defendant receive credit toward payment of the fine for jail
23 time served ~~at a minimum of one dollar of the fine~~ IN AN AMOUNT THAT IS
24 DETERMINED BY THE MAGISTRATE for each one day of imprisonment. The sentence
25 shall not extend beyond the term of imprisonment for which the defendant
26 might be sentenced for the offense of which the defendant has been found
27 guilty.

28 C. A sentence that the defendant pay a fine, with or without the
29 alternative of imprisonment, shall constitute a lien in like manner as a
30 judgment for money rendered in a civil action.

31 Sec. 49. Section 22-504, Arizona Revised Statutes, is amended to read:
32 22-504. Transfer to justice court

33 A. If any ~~person~~ PARTY whose rights are or may be adjudicated by an
34 action in the small claims division appears at least ten days ~~prior to~~
35 BEFORE the time set for hearing and objects to the proceedings being held in
36 the small claims division, the action shall be transferred from the small
37 claims division to the justice court and the provisions relating to civil
38 actions in justice court shall apply.

39 B. ~~From and after January 1, 1991~~ The complaint form used in the small
40 claims division of each justice court shall contain the following language
41 printed in no smaller than ten point bold-faced type:

42 "Warning - you do not have the right to appeal the decision of
43 the hearing officer or the justice of the peace in a small
44 claims court. If you wish to preserve your right to appeal, you
45 may have your case transferred to the justice court pursuant to

1 section 22-504, subsection A, Arizona Revised Statutes, if you
2 request such transfer at least ten days prior to the day of the
3 scheduled hearing."

4 Sec. 50. Section 22-505, Arizona Revised Statutes, is amended to read:
5 22-505. Venue of small claims actions; permissible motions

6 A. The rules governing venue of civil actions in the justice courts
7 govern small claims actions.

8 B. A **PARTY MAY FILE A** motion for change of venue ~~and a motion to~~
9 ~~vacate a judgment are the only motions allowed in a small claims action.~~
10 ~~These motions shall be heard only by a justice of the peace~~ **AT ANY TIME**
11 **BEFORE A HEARING.**

12 Sec. 51. Section 22-515, Arizona Revised Statutes, is amended to read:
13 22-515. Setting of trials; failure to appear; continuances

14 A. ~~Upon~~ **ON** the filing of an answer by the defendant, the clerk shall
15 set the action for hearing. The hearing shall be set for a date within sixty
16 days of the filing of the defendant's answer. The clerk shall notify the
17 parties of the time and place of the hearing.

18 B. Any party failing to appear at the time set for hearing risks
19 having an appropriate judgment entered against ~~such~~ **THAT** party.

20 C. Continuances of hearings shall be granted only for ~~most serious~~
21 ~~reasons~~ **GOOD CAUSE.**

22 Sec. 52. Section 22-517, Arizona Revised Statutes, is amended to read:
23 22-517. Counterclaims exceeding jurisdiction; procedures;

24 sanctions for improper assertion

25 A. In any action where a counterclaim is asserted and the amount
26 involved in the counterclaim exceeds the jurisdictional amount of the small
27 claims division, the court shall at once terminate the designation as a small
28 claim action, and the action shall proceed in accordance with the rules
29 relating to all other civil actions.

30 B. If, at any stage during the proceedings subsequent to the
31 termination of the small claims designation as provided in subsection A, the
32 justice of the peace or superior court judge determines that the amount
33 actually involved in the counterclaim is not in excess of the exclusive civil
34 jurisdictional amount of the small claims division, the action shall be
35 reinstated in either the small claims division ~~civil docket~~ as a designated
36 small claim action or in the justice court ~~civil docket~~ as a regular civil
37 action.

38 C. If the court ~~which~~ makes a determination as provided in subsection
39 ~~B,~~ **OF THIS SECTION** that results in a reinstatement of the small claims
40 designation, ~~AND~~ further determines that the amount requested in the
41 counterclaim was asserted for the sole purpose of avoiding small claims
42 proceedings, the court so finding shall award the plaintiff ~~his~~ costs plus
43 ~~his~~ actual reasonable attorney fees incurred in defending the counterclaim.

1 Sec. 53. Section 22-521, Arizona Revised Statutes, is amended to read:
2 22-521. Court records

3 Notwithstanding section 22-212, each justice of the peace shall
4 maintain a small claims ~~docket~~ COURT RECORD in which ~~he shall~~ THE JUSTICE OF
5 THE PEACE MAY enter:

6 1. The title of all actions commenced before ~~him~~ THE JUSTICE OF THE
7 PEACE, including names of all plaintiffs and defendants.

8 2. All judgments rendered by the justice of the peace or hearing
9 officer.

10 Sec. 54. Section 22-523, Arizona Revised Statutes, is amended to read:
11 22-523. Notice to public

12 A. The presiding judge of the superior court OR THE PRESIDING JUSTICE
13 OF THE PEACE in each county shall publicize in an appropriate manner the
14 existence of the small claims division, its procedures and its hours of
15 operation. ~~Such~~ THE publication shall be made so as to bring the division's
16 existence to the attention of the entire community.

17 B. The supreme court shall publish a small claims division brochure
18 outlining the procedures of the division in lay terms.