House Engrossed

State of Arizona
House of Representatives
Fifty-second Legislature
Second Regular Session
2016

HOUSE BILL 2701

AN ACT

AMENDING SECTIONS 12-284.03, 13-811, 31-281, 31-287, 41-178, 41-191.09, 41-1604.07, 41-1641, 41-2402 AND 41-2405, ARIZONA REVISED STATUTES; AMENDING LAWS 2015, CHAPTER 17, SECTION 11; RELATING TO CRIMINAL JUSTICE BUDGET RECONCILIATION.

(TEXT OF BILL BEGINS ON NEXT PAGE)

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

Section 1. Section 12-284.03, Arizona Revised Statutes, is amended to read:

12-284.03. Distribution of fees

A. Excluding the monies that are kept by the court pursuant to subsection B of this section, the county treasurer shall transmit, distribute or deposit all monies received from the clerk of the superior court pursuant to section 12-284, subsection K as follows:

1. 1.31 ~~per cent~~ PERCENT to the state treasurer for deposit in the ~~drug and gang enforcement account~~ RESOURCE CENTER FUND established by ~~section 41-2402~~ AND for the purposes of section 41-2402, subsection G.

2. 8.87 ~~per cent~~ PERCENT to the state treasurer for deposit in the domestic violence shelter fund established by section 36-3002.

3. 1.93 ~~per cent~~ PERCENT to the state treasurer for deposit in the child abuse prevention fund established by section 8-550.01.

4. In the county law library fund established by section 12-305, either:

(a) 7.62 ~~per cent~~ PERCENT if the county treasurer is serving in a county with a population of more than five hundred thousand persons ~~according to the most recent United States decennial census~~.

(b) 15.30 ~~per cent~~ PERCENT if the county treasurer is serving in a county with a population of five hundred thousand persons or less ~~according to the most recent United States decennial census~~.

5. 0.35 ~~per cent~~ PERCENT to the state treasurer for deposit in the alternative dispute resolution fund established by section 12-135.

6. To the elected officials' retirement plan fund established by section 38-802, either of the following percentages, which shall be distributed to the fund pursuant to section 38-810:

(a) 23.79 ~~per cent~~ PERCENT if the county treasurer is serving in a county with a population of more than five hundred thousand persons ~~according to the most recent United States decennial census~~.

(b) 15.30 ~~per cent~~ PERCENT if the county treasurer is serving in a county with a population of five hundred thousand persons or less ~~according to the most recent United States decennial census~~.

7. 17.07 ~~per cent~~ PERCENT to the state treasurer for deposit in the judicial collection enhancement fund established by section 12-113.

8. 0.26 ~~per cent~~ PERCENT to the state treasurer for deposit in the confidential intermediary and fiduciary fund established by section 8-135.

9. In the county general fund, the following percentages:

(a) 31.29 ~~per cent~~ PERCENT if the county treasurer is serving in a county with a population of more than five hundred thousand persons ~~according to the most recent United States decennial census~~.

(b) 32.10 ~~per cent~~ PERCENT if the county treasurer is serving in a county with a population of five hundred thousand persons or less ~~according to the most recent United States decennial census~~.

B. 7.51 ~~per cent~~ PERCENT of the monies transmitted, distributed or deposited pursuant to subsection A of this section shall be kept and used by the court collecting the fees in the same manner as the seven dollars of the time payment fee prescribed by section 12-116, subsection B.

Sec. 2. Section 13-811, Arizona Revised Statutes, is amended to read:

13-811. Disposition of fines

A. Except as provided in subsections B and C of this section, all fines collected in any court, except municipal courts, shall be paid to the county treasurer of the county in which the court is held. All fines collected in the superior court for violation of a city or town ordinance shall be paid to the county treasurer.

B. Except as provided in subsection C of this section, all fines or costs collected in any court for offenses indicted by a state grand jury or for other offenses prosecuted by the attorney general shall be paid to the anti-racketeering revolving fund established ~~in~~ BY section 13-2314.01.

C. Except as provided in section 13-821, all fines collected in any court for offenses included in chapter 34 of this title and prosecuted by a city prosecutor, a county attorney or the attorney general shall be paid to the drug and gang enforcement ~~account of the criminal justice enhancement~~ fund established ~~in~~ BY section 41-2402.

Sec. 3. Section 31-281, Arizona Revised Statutes, is amended to read:

31-281. Transition program; report; definition

A. The department shall establish a transition program THAT PROVIDES ELIGIBLE INMATES WITH TRANSITION SERVICES IN THE COMMUNITY FOR UP TO NINETY DAYS. The department shall administer the transition program and contract with private or nonprofit entities to provide eligible inmates with transition services and shall procure transition services pursuant to title 41, chapter 23.

B. The director shall adopt rules to implement this article. The rules shall include:

1. Eligibility criteria for receiving a contracted entity's transition services. To be eligible, at a minimum, an inmate shall:

(a) Not have been convicted of a ~~violation of~~ SEXUAL OFFENSE PURSUANT TO title 13, chapter 14 or A VIOLATION OF TITLE 13, CHAPTER 17 ~~or title 28, chapter 4~~.

(b) Be classified by the state department of corrections as a low VIOLENCE risk to the community.

(c) Not have been convicted of a violent crime as defined in section 13-901.03 or a domestic violence offense pursuant to section 13-3601.

~~(d) Have a nonviolent risk score as determined by the department.~~

~~(e)~~ (d) Not have any felony detainers.

~~(f)~~ (e) Agree in writing to provide specific information after the inmate is released. The department shall use the information to prepare the report prescribed by subsection D, paragraph 3 of this section.

~~(g)~~ (f) Have made satisfactory progress BY COMPLYING WITH ALL PROGRAMMING on the inmate's individualized corrections plan as determined by the department.

~~(h) Have maintained civil behavior while incarcerated as determined by the department.~~

~~(i) Be current on restitution payments pursuant to section 31-254.~~

~~(j) Have a need and ability to benefit from the program as determined by the department.~~

(g) BE CLASSIFIED BY THE DEPARTMENT AS MINIMUM OR MEDIUM CUSTODY AS DETERMINED BY AN OBJECTIVE RISK ASSESSMENT.

(h) NOT HAVE BEEN FOUND IN VIOLATION OF ANY MAJOR VIOLENT RULE DURING THE INMATE'S CURRENT PERIOD OF INCARCERATION OR IN VIOLATION OF ANY OTHER MAJOR RULE WITHIN THE PREVIOUS SIX MONTHS. FOR THE PURPOSES OF THIS SUBDIVISION, AN ACCUMULATION OF MINOR RULE VIOLATIONS DOES NOT EQUAL A MAJOR RULE VIOLATION.

2. A requirement that each contracted entity train mentors or certify that mentors are trained.

3. A REQUIREMENT THAT the services ~~that may be~~ offered to an inmate INCLUDE PSYCHOEDUCATIONAL COUNSELING AND CASE MANAGEMENT SERVICES AS DETERMINED BY THE DEPARTMENT. THE COUNSELING AND SERVICES MAY INCLUDE SUBSTANCE ABUSE TREATMENT, ANGER MANAGEMENT, COGNITIVE BEHAVIORAL THERAPY, PARENTING SKILLS AND FAMILY REUNIFICATION TRAINING, FURTHER EDUCATION AND JOB PLACEMENT.

~~4. The criteria for inmates to participate in a three-month early release program. Inmates are not required to receive an early release.~~

~~5.~~ 4. A requirement that an inmate may be released pursuant to this article only after the victim has been provided notice and an opportunity to be heard. The department shall provide notice to a victim who has provided a current address or other contact information. The notice shall inform the victim of the opportunity to be heard on the early release. Any objection to the inmate's early release must be made within twenty days after the department has mailed the notice to the victim.

C. In awarding contracts under this section the department shall comply with section 41-3751.

D. The department shall:

1. Conduct an annual study to determine the recidivism rate of inmates who receive a contracted entity's services pursuant to this article. THE STUDY SHALL INCLUDE THE RECIDIVISM RATE OF INMATES WHO HAVE BEEN RELEASED FROM INCARCERATION FOR A MINIMUM OF THREE YEARS AFTER RELEASE.

2. Evaluate the inmate and provide the information to the contracted entity.

3. Submit a written report to the governor, the president of the senate and the speaker of the house of representatives on or before July 31 of each year and provide a copy of this report to the secretary of state ~~and the director of the Arizona state library, archives and public records~~. THE

REPORT MAY BE SUBMITTED ELECTRONICALLY. The report shall contain the following information:

(a) The recidivism rate of inmates who receive services pursuant to this article, INCLUDING THE RECIDIVISM RATE OF INMATES WHO HAVE BEEN RELEASED FROM INCARCERATION FOR A MINIMUM OF THREE YEARS AFTER RELEASE.

(b) The number of inmates who received services pursuant to this article.

(c) The number of inmates who were not provided services pursuant to this article and who were on a list waiting to receive services.

(d) The types of services provided.

(e) The number of inmates who received each type of service provided.

4. PROVIDE INFORMATION ABOUT THE TRANSITION PROGRAM TO ALL INMATES WHO ARE NOT SERVING A LIFE SENTENCE ON ADMISSION TO PRISON AND TO ANY INMATE WHO IS POTENTIALLY ELIGIBLE FOR THE TRANSITION PROGRAM SIX MONTHS BEFORE THE INMATE'S ELIGIBILITY DATE. THE INFORMATION MUST INCLUDE ALL OF THE ADMISSION REQUIREMENTS TO THE TRANSITION PROGRAM, INCLUDING THE DISQUALIFYING FACTORS UNDER THIS SECTION.

E. FOR THE PURPOSES OF THIS SECTION, "RECIDIVISM" MEANS REINCARCERATION IN THE DEPARTMENT FOR ANY REASON.

Sec. 4. Section 31-287, Arizona Revised Statutes, is amended to read:

31-287. Program termination

The transition program established by this article ends on July 1, ~~2018~~ 2020 pursuant to section 41-3102.

Sec. 5. Section 41-178, Arizona Revised Statutes, is amended to read:

41-178. Distribution of notary bond fees

The state treasurer shall transmit, distribute or deposit all monies received pursuant to section 41-126, subsection A, paragraphs 11 and 12 as follows:

1. 1.31 ~~per cent~~ PERCENT for deposit in the ~~drug and gang enforcement account~~ RESOURCE CENTER FUND established by ~~section 41-2402~~ AND for the purposes of section 41-2402, subsection G.

2. 8.87 ~~per cent~~ PERCENT for deposit in the domestic violence shelter fund established by section 36-3002.

3. 1.93 ~~per cent~~ PERCENT for deposit in the child abuse prevention fund established by section 8-550.01.

4. 7.62 ~~per cent~~ PERCENT for proportional deposit in each county's law library fund established by section 12-305, based on the number of notaries commissioned per county.

5. 0.35 ~~per cent~~ PERCENT for deposit in the alternative dispute resolution fund established by section 12-135.

6. 23.79 ~~per cent~~ PERCENT for deposit in the elected officials' retirement plan fund established by section 38-802, which shall be distributed to the fund pursuant to section 38-810.

7. 17.07 ~~per cent~~ PERCENT for deposit in the judicial collection enhancement fund established by section 12-113.

8. 0.26 ~~per cent~~ PERCENT for deposit in the confidential intermediary and fiduciary fund established by section 8-135.

9. 31.29 ~~per cent~~ PERCENT for deposit in the notary bond fund established by section 41-314.

10. 7.51 ~~per cent~~ PERCENT shall be distributed to the county where the notary is commissioned in the same manner as the seven dollars of the time payment fee prescribed by section 12-116, subsection B.

Sec. 6. Section 41-191.09, Arizona Revised Statutes, is amended to read:

41-191.09. Attorney general legal services cost allocation fund; contributions; annual report; exemptions

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

B. Except as provided in subsection E of this section, each state agency or department may be charged for general agency counsel provided by the department of law. The amount, if any, shall be specified annually in the general appropriations act.

C. On or before September 1 of each year, each state agency or department shall submit A REPORT to the joint legislative budget committee ~~for review a report identifying~~ THAT IDENTIFIES the funding sources for the monies to be deposited pursuant to this section. The funding sources may not include the state general fund, federal funds or other funds that are legally restricted from making such payments.

D. A claim for the legal services cost allocation payment shall be submitted according to the fund source to the department of administration for deposit in the attorney general legal services cost allocation fund.

E. The following agencies are exempt from this section:

1. The department of water resources.
2. The residential utility consumer office.
3. The industrial commission.
4. The universities and the Arizona board of regents.
5. The auditor general.
6. The corporation commission.
7. The office of the governor.
8. The department of law.
9. The house of representatives.
10. The senate.
11. The joint legislative budget committee.
12. The Arizona state library, archives and public records.
13. The legislative council.
14. The department of administration risk management fund.
15. The department of transportation.
16. The Arizona game and fish department.

17. The department of economic security.
18. The Arizona health care cost containment system.
19. The superior court.
20. The court of appeals.
21. The supreme court.
22. The Arizona department of agriculture and councils that receive administrative and budgetary services from the Arizona department of agriculture.
23. All self-supporting regulatory agencies as determined pursuant to section 35-143.01.
24. The Arizona commerce authority.
25. The department of child safety.

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

Sec. 7. Section 41-1604.07, Arizona Revised Statutes, is amended to read:

41-1604.07. Earned release credits; forfeiture; restoration; released prisoner health care

A. Pursuant to rules adopted by the director, each prisoner who is in the eligible earned release credit class shall be allowed an earned release credit of one day for every six days served, including time served in county jails, except for those prisoners who are sentenced to serve the full term of imprisonment imposed by the court.

B. Release credits earned by a prisoner pursuant to subsection A of this section shall not reduce the term of imprisonment imposed by the court on the prisoner.

C. On reclassification of a prisoner resulting from the prisoner's failure to adhere to the rules of the department or failure to demonstrate a continual willingness to volunteer for or successfully participate in a work, educational, treatment or training program, the director may declare all release credits earned by the prisoner forfeited. In the discretion of the director, forfeited release credits may subsequently be restored. The director shall maintain an account of release credits earned by each prisoner.

D. A prisoner who has reached the prisoner's earned release date or sentence expiration date shall be released to begin the prisoner's term of community supervision imposed by the court or term of probation if the court waived community supervision pursuant to section 13-603, except that the director may deny or delay the prisoner's release to community supervision or probation if the director believes the prisoner may be a sexually violent person as defined in section 36-3701 until the screening process is complete and the director determines that the prisoner will not be referred to the county attorney pursuant to section 36-3702. If the term of community supervision is waived, the state department of corrections shall provide

reasonable notice to the probation department of the scheduled release of the prisoner from confinement by the department. If the court waives community supervision, the director shall issue the prisoner an absolute discharge on the prisoner's earned release credit date. A prisoner who is released on the earned release credit date to serve a term of probation is not under the control of the state department of corrections when community supervision has been waived and the state department of corrections is not required to provide parole services.

E. Notwithstanding subsection D of this section, a prisoner who fails to achieve functional literacy at an eighth grade literacy level shall not be released to begin the prisoner's term of community supervision until either the prisoner achieves an eighth grade functional literacy level as measured by standardized assessment testing or the prisoner serves the full term of imprisonment imposed by the court, whichever first occurs. This subsection does not apply to inmates who either:

1. Are unable to meet the functional literacy standard required by section 31-229.02, subsection A~~,~~ due to a medical, developmental or learning disability as described in section 31-229, subsection C.

2. Are classified as level five offenders.

3. Are foreign nationals.

4. Have less than six months OF incarceration to serve on commitment to the department.

F. The department shall establish conditions of community supervision it deems appropriate in order to ensure that the best interests of the prisoner and the citizens of this state are served. As a condition of community supervision, the director:

1. May order a released prisoner to participate in an appropriate drug treatment or education program that is administered by a qualified agency, organization or individual approved by the department of health services and that provides treatment or education to persons who abuse controlled substances. Each person who is enrolled in a drug treatment or education program shall pay for the cost of participation in the program to the extent of the person's financial ability.

2. MAY ORDER additional conditions, ~~may include~~ INCLUDING participation in a rehabilitation program or counseling and performance of community restitution work. ~~, except that~~

3. MAY ORDER A PRISONER TO APPLY FOR HEALTH CARE BENEFITS THROUGH THE ARIZONA HEALTH CARE COST CONTAINMENT SYSTEM BEFORE BEING RELEASED. THE STATE DEPARTMENT OF CORRECTIONS SHALL ENTER INTO AN ENROLLMENT SUSPENSE AGREEMENT WITH THE ARIZONA HEALTH CARE COST CONTAINMENT SYSTEM TO REINSTATE BENEFITS FOR PRISONERS WHO WERE SENTENCED TO TWELVE MONTHS OR LESS AND WHO WERE PREVIOUSLY ENROLLED IN THE ARIZONA HEALTH CARE COST CONTAINMENT SYSTEM IMMEDIATELY BEFORE INCARCERATION. FOR ALL OTHER PRISONERS, THE STATE DEPARTMENT OF CORRECTIONS SHALL SUBMIT A PRERELEASE APPLICATION TO THE ARIZONA HEALTH CARE COST CONTAINMENT SYSTEM AT LEAST THIRTY DAYS BEFORE THE

PRISONER'S RELEASE DATE. THE STATE DEPARTMENT OF CORRECTIONS MAY COORDINATE WITH COMMUNITY-BASED ORGANIZATIONS OR THE DEPARTMENT OF ECONOMIC SECURITY TO ASSIST PRISONERS IN APPLYING FOR ENROLLMENT IN THE ARIZONA HEALTH CARE COST CONTAINMENT SYSTEM.

4. SHALL IMPOSE, if the prisoner was convicted of a violation of sexual conduct with a minor under fifteen years of age or molestation of a child under fifteen years of age, ~~the department shall impose as a condition of community supervision~~ a prohibition on residing within four hundred forty feet of a school or its accompanying grounds. FOR THE PURPOSES OF THIS PARAGRAPH, "SCHOOL" MEANS ANY PUBLIC, CHARTER OR PRIVATE SCHOOL WHERE CHILDREN ATTEND CLASSES.

G. THE DIRECTOR MAY EXCHANGE A PRISONER'S HEALTH CARE INFORMATION WITH THE REGIONAL BEHAVIORAL HEALTH AUTHORITY OR ARIZONA HEALTH CARE COST CONTAINMENT SYSTEM JUSTICE SYSTEM CONTACT TO FACILITATE THE TRANSITION TO CARE FOR RELEASED PRISONERS TO ACCESS THE FULL ARRAY OF BEHAVIORAL AND PHYSICAL HEALTH CARE SERVICES, INCLUDING MEDICATION, COUNSELING, CASE MANAGEMENT, SUBSTANCE ABUSE TREATMENT, AND PARENTING SKILLS AND FAMILY REUNIFICATION TRAINING. THE DIRECTOR SHALL ADOPT POLICIES AND PROCEDURES THAT ESTABLISH A CARE TEAM TO CONVENE AND DISCUSS THE SERVICES AND RESOURCES, INCLUDING HOUSING AND EMPLOYMENT SUPPORTS, THAT MAY BE NEEDED FOR THE RELEASED PRISONER TO SAFELY TRANSITION INTO THE COMMUNITY. THE CARE TEAM SHALL BE MANAGED BY THE REGIONAL BEHAVIORAL HEALTH AUTHORITY OR ARIZONA HEALTH CARE COST CONTAINMENT SYSTEM CONTRACTOR AND MAY INCLUDE THE HEALTH CARE PROVIDER THAT IS IDENTIFIED BY AND HAS A CONTRACT WITH THE REGIONAL BEHAVIORAL HEALTH AUTHORITY OR ARIZONA HEALTH CARE COST CONTAINMENT SYSTEM CONTRACTOR. THE CARE TEAM MAY ALSO INCLUDE REPRESENTATIVES OF NONPROFIT ORGANIZATIONS THAT SPECIALIZE IN ASSISTING PRISONERS WHO ARE TRANSITIONING BACK INTO THE COMMUNITY AND OTHER ORGANIZATIONS THAT LINK PRISONERS TO ADDITIONAL SERVICES, INCLUDING HOUSING AND EMPLOYMENT.

H. If a prisoner who reaches the prisoner's earned release credit date refuses to sign and agree to abide by the conditions of supervision before release on community supervision, the prisoner shall not be released. When the prisoner reaches the sentence expiration date, the prisoner shall be released to begin the term of community supervision. If the prisoner refuses to sign and agree to abide by the conditions of release, the prisoner shall not be released on the sentence expiration date and shall serve the term of community supervision in prison. The department is required to supervise any prisoner on community supervision until the period of community supervision expires. The department may bring a prisoner who is in violation of the prisoner's terms and conditions before the board of executive clemency. ~~For the purposes of this subsection, "school" means any public, charter or private school where children attend classes.~~

~~G.~~ I. The director, pursuant to rules adopted by the department, shall authorize the release of any prisoner on the prisoner's earned release credit date to serve any consecutive term imposed on the prisoner. The

release shall be for the sentence completed only. The prisoner shall remain under the custody and control of the department. The director may authorize the rescission of the release to any consecutive term if the prisoner fails to adhere to the rules of the department.

~~H.~~ J. If a prisoner absconds from community supervision, any time spent before the prisoner is returned to custody is excluded in calculating the remaining period of community supervision.

~~I.~~ K. A prisoner shall forfeit five days of the prisoner's earned release credits:

1. If the court finds or a disciplinary hearing held after a review by and recommendations from the attorney general's office determines that the prisoner does any of the following:

(a) Brings a claim without substantial justification.

(b) Unreasonably expands or delays a proceeding.

(c) Testifies falsely or otherwise presents false information or material to the court.

(d) Submits a claim that is intended solely to harass the party it is filed against.

2. For each time the prisoner tests positive for any prohibited drugs during the period of time the prisoner is incarcerated.

~~J.~~ L. If the prisoner does not have five days of earned release credits, the prisoner shall forfeit the prisoner's existing earned release credits and shall be ineligible from accruing earned release credits until the number of earned release credits the prisoner would have otherwise accrued equals the difference between five days and the number of existing earned release credit days the prisoner forfeits pursuant to this section.

~~K.~~ M. The director may authorize temporary release on inmate status of eligible inmates pursuant to rules adopted by the director within ninety days of any other authorized release date. The release authorization applies to any inmate who has been convicted of a drug offense, who has been determined to be eligible for participation in the transition program pursuant to section 31-281 and who has agreed to participate in the transition program.

Sec. 8. Section 41-1641, Arizona Revised Statutes, is amended to read:

41-1641. Corrections fund; uses; prior approval; exemption; transfer

A. The corrections fund is established and consists of monies received from the distribution provided pursuant to section 42-3104. THE STATE DEPARTMENT OF CORRECTIONS SHALL ADMINISTER THE FUND. MONIES IN THE FUND ARE SUBJECT TO LEGISLATIVE APPROPRIATION.

B. Monies in the corrections fund may be expended by:

1. The director of the department of administration for major maintenance, construction, lease, purchase, renovation or conversion of corrections or state operated juvenile facilities subject to the prior approval of the joint committee on capital review and the legislature.

2. The director of the state department of corrections for costs incurred in the minor maintenance and the operations of corrections facilities subject to the prior approval of the legislature.

3. The director of the department of juvenile corrections for costs incurred in the minor maintenance and the operations of state operated juvenile facilities subject to the prior approval of the legislature.

C. Notwithstanding any law to the contrary and except as provided in subsection B of this section:

1. The director of the state department of corrections shall enter into an agreement with the director of the department of administration for the expenditure of monies for the maintenance of corrections facilities.

2. The director of the department of juvenile corrections shall enter into an agreement with the director of the department of administration for the expenditure of monies for the maintenance of state operated juvenile facilities.

D. Monies in the fund are exempt from the provisions of section 35-190 relating to lapsing of appropriations.

E. The director OF THE STATE DEPARTMENT OF CORRECTIONS shall transfer two million five hundred thousand dollars from the corrections fund annually to the department of corrections building renewal fund established by section 41-797.

Sec. 9. Section 41-2402, Arizona Revised Statutes, is amended to read:

41-2402. Drug and gang enforcement fund; resource center fund; uses

A. ~~A~~ THE drug and gang enforcement ~~account~~ FUND is established ~~within the criminal justice enhancement fund consisting~~ AND CONSISTS of monies appropriated ~~to the account~~ by the legislature and any other monies available from other sources, public or private. ~~, to be used for the purpose of enhancing~~ MONIES IN THE FUND SHALL BE USED TO ENHANCE efforts to deter, investigate, prosecute, adjudicate and punish drug offenders and members of criminal street gangs as defined in section 13-105. THE ARIZONA CRIMINAL JUSTICE COMMISSION SHALL ADMINISTER THE FUND.

B. The Arizona criminal justice commission shall distribute monies from the drug and gang enforcement ~~account~~ FUND in the following manner:

1. Up to fifty ~~per cent~~ PERCENT to fund law enforcement agencies approved by the commission to enhance both:

(a) The investigation of drug and gang offenses and related criminal activity.

(b) Drug and gang education and prevention programs.

2. Up to fifty ~~per cent~~ PERCENT to fund programs and agencies approved by the commission to enhance the state, county, city or town prosecution of drug and gang offenses and related criminal activity.

3. Up to thirty ~~per cent~~ PERCENT to fund programs and agencies approved by the commission for the purpose of enhancing the ability of the courts to process drug and gang offenses and related criminal cases, either

through the appointment of judges pro tempore or the establishment of additional divisions of the courts only for the purposes of this section, enhancing defense and probation services, including treatment, and funding the drug testing program.

4. Up to thirty ~~per cent~~ PERCENT to fund programs by county sheriffs and the state department of corrections, as approved by the commission, to enhance drug offender treatment programs and the jail operations and facilities available to detain and incarcerate drug offenders and members of criminal street gangs as defined in section 13-105.

5. Up to thirty ~~per cent~~ PERCENT to fund programs and agencies, as approved by the commission, to enhance the integration of criminal justice records relating to drug and gang offenders and their related criminal activity.

C. Any state agency that receives monies allocated from ~~this account~~ THE DRUG AND GANG ENFORCEMENT FUND shall not include ~~such~~ THE monies as part of ~~its~~ THE STATE AGENCY'S continuation budget base for the purpose of requesting appropriations for the following fiscal year.

D. All the monies allocated from ~~this account~~ THE DRUG AND GANG ENFORCEMENT FUND shall be dedicated solely to the purpose of enhancing efforts to deter, investigate, prosecute, adjudicate and punish drug and gang and related criminal offenders, except those monies allocated pursuant to subsection G of this section.

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

F. The auditor general shall annually perform a full and complete audit of the DRUG AND GANG ENFORCEMENT fund or the commission shall annually contract with an accounting firm to perform the audit and deliver a report to the governor and the legislature. The audit shall be charged to the drug and gang enforcement ~~account~~ FUND.

G. ~~A~~ THE resource center fund is established consisting of monies received pursuant to section 12-284.03, subsection A, paragraph 1 and section 41-178 and all monies received from public or private gifts, grants or other sources, excluding federal monies and monies to be passed through to other entities, to be used solely for ~~the purpose of~~ funding the Arizona youth survey. THE ARIZONA CRIMINAL JUSTICE COMMISSION SHALL ADMINISTER THE FUND. Monies in the fund are subject to legislative appropriation. Any monies unexpended or unencumbered on June 30 of each year shall not be subsequently expended or encumbered unless reappropriated. ~~No~~ Monies in the drug and gang enforcement ~~account except those received pursuant to this subsection~~ FUND shall NOT be used to fund the Arizona youth survey. Monies that are expended pursuant to this subsection are subject to the reporting requirements prescribed in section 41-617.01.

Sec. 10. Section 41-2405, Arizona Revised Statutes, is amended to read:

41-2405. Arizona criminal justice commission; powers and duties; staff

A. The Arizona criminal justice commission shall:

1. Monitor the progress and implementation of new and continuing criminal justice legislation.

2. Facilitate research among criminal justice agencies and maintain criminal justice system information.

3. Facilitate coordinated statewide efforts to improve criminal justice information and data sharing.

4. Prepare for the governor a biennial criminal justice system review report. The report shall contain:

(a) An analysis of all criminal justice programs created by the legislature in the preceding two years.

(b) An analysis of the effectiveness of the criminal code, with a discussion of any problems and recommendations for revisions if deemed necessary.

(c) A study of the level of activity in the several areas of the criminal justice system, with recommendations for redistribution of criminal justice revenues if deemed necessary.

(d) An overall review of the entire criminal justice system, including crime prevention, criminal apprehension, prosecution, court administration and incarceration at the state and local levels as well as funding needs for the system.

(e) Recommendations for constitutional, statutory and administrative revisions that are necessary to develop and maintain a cohesive and effective criminal justice system.

5. Provide supplemental reports on criminal justice issues of special timeliness.

6. In coordination with other governmental agencies, gather information on programs that are designed to effectuate community crime prevention and education using citizen participation and on programs for alcohol and drug abuse prevention, education and treatment and disseminate that information to the public, political subdivisions, law enforcement agencies and the legislature.

7. Make recommendations to the legislature and the governor regarding the purposes and formula for allocation of fund monies as provided in section 41-2401, subsection D and section 41-2402 through the biennial agency budget request.

8. Adopt rules for the purpose of allocating fund monies as provided in sections 41-2401, 41-2402 and 41-2407 that are consistent with the purposes set forth in those sections and that promote effective and efficient use of the monies.

9. Make reports to the governor and the legislature as they require.

10. Oversee the research, ~~analysis~~ ANALYSES, studies, reports and publication of crime and criminal justice statistics prepared by the Arizona statistical analysis center, which is an operating section of the Arizona criminal justice commission.

11. Prepare an annual report on law enforcement activities in this state THAT ARE funded by the drug AND GANG enforcement ~~account~~ FUND or the criminal justice enhancement fund and ~~relating~~ THAT RELATE to illicit drugs and drug related gang activity. The report shall be submitted by October 31 of each year to the governor, the president of the senate and the speaker of the house of representatives AND A COPY SHALL BE SUBMITTED TO THE SECRETARY OF STATE. The report shall include:

(a) The name and a description of each law enforcement program dealing with illegal drug activity or street gang activity, or both.

(b) The objective and goals of each program.

(c) The source and amount of monies received by each program.

(d) The name of the agency or entity that administers each program.

(e) The effectiveness of each program.

12. Compile and disseminate information on best practices for cold case investigations, including effective victim communication procedures. For the purposes of this paragraph, "cold case" means a homicide or a felony sexual offense that remains unsolved for one year or more after being reported to a law enforcement agency and that has no viable and unexplored investigatory leads.

B. The Arizona criminal justice commission ~~may~~, as necessary to perform its functions, MAY:

1. Request any state or local criminal justice agency to submit any necessary information.

2. Form subcommittees, make studies, conduct inquiries and hold hearings.

3. Subject to chapter 4, article 4 of this title, employ consultants for special projects and such staff as deemed necessary or advisable to carry out this section.

4. Delegate its duties to carry out this section, including:

(a) The authority to enter into contracts and agreements on behalf of the commission.

(b) Subject to chapter 4, article 4 and, as applicable, articles 5 and 6 of this title, the authority to appoint, hire, terminate and discipline all personnel of the commission, including consultants.

5. Establish joint research and information facilities with governmental and private agencies.

6. Accept and expend public and private grants of monies, gifts and contributions and expend, distribute or allocate monies appropriated to ~~it~~ THE COMMISSION for the purpose of enhancing efforts to investigate or prosecute and adjudicate any crime and to implement this chapter.

Sec. 11. Laws 2015, chapter 17, section 11 is amended to read:

Sec. 11. State department of corrections; incarceration contracts implementation; fiscal year 2016-2017

~~A.~~ The state department of corrections shall award a contract or contracts to open up to one thousand beds on July 1, 2016 pursuant to requests for proposals issued by the state department of corrections for up to a total of ~~two~~ ONE thousand medium security prison beds at new or existing contracted bed facilities or expansions of contracted bed facilities in this state under the authority of section 41-1609, Arizona Revised Statutes.

~~B. The state department of corrections may award a contract or contracts for the remaining male medium security prison beds under the requests for proposals described in subsection A of this section only if specific legislative authorization for the award is provided.~~

Sec. 12. State department of corrections; conditional incarceration contracts implementation; fiscal year 2016-2017; authorization cessation

A. On or before November 30, 2016, the state department of corrections shall notify the joint committee on capital review if the male inmate population listed in the department's daily count sheet increases by at least one thousand inmates above the April 22, 2016 level of 38,762 inmates. After a notification pursuant to this subsection and before the issuance of a request for proposals for one thousand male medium security prison beds, the joint committee on capital review shall review and approve the state department of corrections' plan to issue a request for proposals and the department's timeline for the opening of the beds. The joint committee on capital review may not review or approve a request for proposals pursuant to this section after December 31, 2016.

B. After approval by the joint committee on capital review, the state department of corrections shall award a contract or contracts to open up to one thousand male medium security prison beds pursuant to a request for proposals issued by the state department of corrections for a total of one thousand male medium security prison beds at new or existing contracted bed facilities or expansions of contracted bed facilities in this state under the authority of section 41-1609, Arizona Revised Statutes.

C. Before a contract is awarded pursuant to subsection B of this section, the state department of corrections shall award a contract for the first two hundred fifty of the one thousand beds to a county that has a population of less than two hundred thousand persons if the county offers a contract that meets all of the requirements in the request for proposals and a per diem at the same rate or less than other competitive bidders that are not counties of this state. Two or more counties may offer one contract if each county has a population of less than two hundred thousand persons. Only the first two hundred fifty beds of the request for proposals are required to be awarded to all eligible counties combined pursuant to this subsection, except that the state department of corrections is not prohibited from

awarding a contract pursuant to this subsection for more than two hundred fifty beds. If all eligible counties combined do not offer a contract or contracts for two hundred fifty beds that meet the requirements in the request for proposals and a per diem at the same rate or less than other competitive bidders that are not counties of this state, the state department of corrections shall award a contract to a county that has a population of less than two hundred thousand persons pursuant to this subsection for the total number of beds that meet the requirements.

D. If the state department of corrections does not provide the notice required in subsection A of this section on or before November 30, 2016 and if the joint committee on capital review does not review and approve the department's plan to issue a request for proposals on or before December 31, 2016, the authorization to enter into a contract for one thousand male medium security prison beds pursuant to this section ceases.

Sec. 13. State department of corrections; authority to transfer monies

Notwithstanding any other law, in fiscal year 2016-2017, the state department of corrections may transfer monies from the special services fund established by section 41-1604.03, Arizona Revised Statutes, to the automation projects fund established by section 41-714, Arizona Revised Statutes, for costs related to the replacement of the adult inmate management system.

Sec. 14. State department of corrections; budget structure

Notwithstanding any other law, the state department of corrections shall report actual fiscal year 2015-2016, estimated fiscal year 2016-2017 and requested fiscal year 2017-2018 expenditures in the same structure and detail as the prior fiscal year when the department submits the fiscal year 2017-2018 budget request pursuant to section 35-113, Arizona Revised Statutes. The information submitted for each line item shall contain as much detail as submitted in previous years for prior line items.

Sec. 15. Department of public safety; highway monies; limitation

Notwithstanding section 28-6537, Arizona Revised Statutes, the statutory caps and transfers of Arizona highway user revenue fund monies available to fund department of public safety highway patrol costs are suspended for fiscal year 2016-2017.

Sec. 16. GIITEM border security and law enforcement subaccount; expenditure plan; review

Notwithstanding section 41-1724, subsection G, Arizona Revised Statutes, before the department of public safety spends any monies appropriated in the general appropriations act for fiscal year 2016-2017 from the gang and immigration intelligence team enforcement mission border security and law enforcement subaccount established by section 41-1724, Arizona Revised Statutes, the department shall submit the subaccount's entire expenditure plan to the joint legislative budget committee for review.

Sec. 17. GIITEM border security and law enforcement subaccount; use; fiscal year 2016-2017

Notwithstanding section 41-1724, subsection E, Arizona Revised Statutes, the department of public safety may use up to $137,700 of the amount appropriated in the fiscal year 2016-2017 general appropriations act from the gang and immigration intelligence team enforcement mission border security and law enforcement subaccount established by section 41-1724, Arizona Revised Statutes, in fiscal year 2016-2017 for costs related to an increase in the public safety personnel retirement system employer contribution rate.

Sec. 18. Nonsupplanting; suspension; report

Notwithstanding any other law, in fiscal year 2016-2017 the provisions relating to supplanting of state monies pursuant to section 12-102.02, subsection E, section 12-102.03, subsection D, section 12-135, subsection D, section 12-135.01, subsection D, section 12-267, subsection D, section 12-268, subsection D and section 12-299.01, subsection C, Arizona Revised Statutes, are suspended. The Arizona supreme court shall submit a report to the joint legislative budget committee identifying any decrease in county funding related to these suspended provisions, including the reasons for the decrease.

Sec. 19. Department of public safety; state aid to indigent defense fund; fiscal year 2016-2017

Notwithstanding section 11-588, Arizona Revised Statutes, in fiscal year 2016-2017, the department of public safety may use monies in the state aid to indigent defense fund established by section 11-588, Arizona Revised Statutes, for operating expenses.

Sec. 20. Department of public safety; automobile theft authority fund; fiscal year 2016-2017

Notwithstanding section 41-3451, Arizona Revised Statutes, in fiscal year 2016-2017, the department of public safety may use monies in the automobile theft authority fund established by section 41-3451, Arizona Revised Statutes, for costs associated with the border strike task force.

Sec. 21. Legislative intent; county contribution amount for committed youth in secure care facilities

It is the intent of the legislature that the amount of the annual committed youth confinement cost sharing fee that the director of the department of juvenile corrections must assess to each county for committed youth in secure care facilities pursuant to section 41-2832, Arizona Revised Statutes, is each county's proportional share of $11,260,000, using population data from the most recent United States decennial census.

Sec. 22. Department of public safety; concealed weapons permit fund; fiscal year 2016-2017

Notwithstanding section 41-1722, Arizona Revised Statutes, in fiscal year 2016-2017, the department of public safety may use monies in the

concealed weapons permit fund established by section 41-1722, Arizona Revised Statutes, to procure virtual training for law enforcement officers.

Sec. 23. Department of public safety; resource center fund; use; fiscal year 2016-2017

Notwithstanding section 41-2402, subsection G, Arizona Revised Statutes, as amended by this act, in fiscal year 2016-2017, the department of public safety may use monies in the resource center fund established by section 41-2402, subsection G, Arizona Revised Statutes, for costs associated with the border strike task force.

Sec. 24. Cost savings financing agreement; department of administration; state department of corrections; review

A. Notwithstanding any other law, the department of administration, in coordination with the state department of corrections, may enter into a financing agreement in fiscal year 2016-2017 that will generate a savings on the cost of housing prisoners by a combined total amount of at least $25,000,000 from fiscal year 2016-2017 through fiscal year 2024-2025. The state department of corrections' cost reductions as a result of the financing agreement may not vary by more than $1,000,000 in any fiscal year between fiscal year 2016-2017 and fiscal year 2024-2025. Any state department of corrections contractual payments that are reduced as a direct result of the financing agreement shall be included in calculating the savings.

B. Before the department of administration, in coordination with the state department of corrections, enters into a financing agreement pursuant to subsection A of this section, the department of administration, in coordination with the state department of corrections, shall submit for review to the joint committee on capital review the proposed terms of the agreement, the total annual cost savings for the term of the agreement and the state department of corrections' allocation of these savings.

Sec. 25. Study committee on incompetent, nonrestorable and dangerous defendants; membership; powers and duties; report; delayed repeal

A. The study committee on incompetent, nonrestorable and dangerous defendants is established consisting of the following members:

1. One member of the senate who is appointed by the president of the senate and who serves as cochairperson of the committee.

2. One member of the house of representatives who is appointed by the speaker of the house of representatives and who serves as cochairperson of the committee.

3. The director of the department of health services or the director's designee.

4. The chief executive officer of the Arizona state hospital or the chief executive officer's designee.

5. The director of the Arizona health care cost containment system or the director's designee.

6. Two county attorneys, or the county attorney's designee, one of whom is from a county with a population of one million two hundred thousand persons or more and one of whom is from a county with a population of less than one million two hundred thousand persons. The Arizona prosecuting attorneys' advisory council shall appoint these members.

7. The chief justice of the supreme court or the chief justice's designee.

8. An administrator of a jail-based restoration to competency program from a county that is not represented by a member appointed pursuant to paragraph 6 of this subsection, or the administrator's designee. The governor shall appoint this member.

9. A private attorney who has experience in behavioral health law. The president of the senate shall appoint this member.

10. A psychiatrist or psychologist who is licensed pursuant to title 32, Arizona Revised Statutes, and who has experience with court-ordered evaluation and treatment. The speaker of the house of representatives shall appoint this member.

11. An administrator of an in-patient psychiatric facility or the administrator's designee. The president of the senate shall appoint this member.

12. A peace officer who has experience with behavioral health programs. The speaker of the house of representatives shall appoint this member.

13. One member who has experience in health policy. The governor shall appoint this member.

B. The committee shall research and make recommendations for a program to provide long-term treatment and supervision of persons who have been charged with crimes involving violent or dangerous behavior and who have been found incompetent and nonrestorable pursuant to title 13, chapter 41, Arizona Revised Statutes, including:

1. The legal and administrative framework of such a program.

2. The number of people who might be eligible for such a program.

3. The types of facilities, staffing and treatment services that would be necessary for such a program.

4. The costs associated with the establishment, administration and staffing of such a program.

C. The committee may request information, data and reports from any state agency or political subdivision of this state, including the courts. The state agencies and political subdivisions shall provide the information electronically, if possible.

D. The committee may hold hearings, conduct fact-finding tours and take testimony from witnesses, including participants in the criminal justice system, who may assist the committee in fulfilling the committee's responsibilities. All of the committee's hearings shall be open to the public.

E. The legislature shall provide staff and support services to the committee.

F. Committee members are not eligible to receive compensation.

G. The committee shall submit a report regarding the committee's findings and recommendations on or before December 15, 2016 to the governor, the president of the senate and the speaker of the house of representatives and shall provide a copy of this report to the secretary of state.

H. This section is repealed from and after December 31, 2016.

Sec. 26. Retroactivity

Laws 2015, chapter 17, section 11, as amended by this act, applies retroactively to from and after June 30, 2016.