

State of Arizona
Senate
Fifty-second Legislature
Second Regular Session
2016

SENATE BILL 1298

AN ACT

AMENDING SECTIONS 8-341, 8-352, 8-355, 13-902, 13-914 AND 13-916, ARIZONA
REVISED STATUTES; RELATING TO PROBATION.

(TEXT OF BILL BEGINS ON NEXT PAGE)

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

2 Section 1. Section 8-341, Arizona Revised Statutes, is amended to
3 read:

4 8-341. Disposition and commitment; definitions

5 A. After receiving and considering the evidence on the proper
6 disposition of the case, the court may enter judgment as follows:

7 1. It may award a delinquent juvenile:

8 (a) To the care of the juvenile's parents, subject to the supervision
9 of a probation department.

10 (b) To a probation department, subject to any conditions the court may
11 impose, including a period of incarceration in a juvenile detention center of
12 not more than one year.

13 (c) To a reputable citizen of good moral character, subject to the
14 supervision of a probation department.

15 (d) To a private agency or institution, subject to the supervision of
16 a probation officer.

17 (e) To the department of juvenile corrections.

18 (f) To maternal or paternal relatives, subject to the supervision of a
19 probation department.

20 (g) To an appropriate official of a foreign country of which the
21 juvenile is a foreign national who is unaccompanied by a parent or guardian
22 in this state to remain on unsupervised probation for at least one year on
23 the condition that the juvenile cooperate with that official.

24 2. It may award an incorrigible child:

25 (a) To the care of the child's parents, subject to the supervision of
26 a probation department.

27 (b) To the protective supervision of a probation department, subject
28 to any conditions the court may impose.

29 (c) To a reputable citizen of good moral character, subject to the
30 supervision of a probation department.

31 (d) To a public or private agency, subject to the supervision of a
32 probation department.

33 (e) To maternal or paternal relatives, subject to the supervision of a
34 probation department.

35 B. If a juvenile is placed on probation pursuant to this section, the
36 period of probation may continue until the juvenile's eighteenth birthday,
37 except that the term of probation shall not exceed one year if all of the
38 following apply:

39 1. The juvenile is not charged with a subsequent offense.

40 2. The juvenile has not been found in violation of a condition of
41 probation.

42 3. The court has not made a determination that it is in the best
43 interests of the juvenile or the public to require continued supervision.

1 The court shall state by minute entry or written order its reasons for
2 finding that continued supervision is required.

3 4. The offense for which the juvenile is placed on probation does not
4 involve a dangerous offense as defined in section 13-105.

5 5. The offense for which the juvenile is placed on probation does not
6 involve a violation of title 13, chapter 14 or 35.1.

7 6. Restitution ordered pursuant to section 8-344 has been made.

8 7. The juvenile's parents have not requested that the court continue
9 the juvenile's probation for more than one year.

10 C. If a juvenile is adjudicated as a first time felony juvenile
11 offender, the court shall provide the following written notice to the
12 juvenile:

13 You have been adjudicated a first time felony juvenile
14 offender. You are now on notice that if you are adjudicated of
15 another offense that would be a felony offense if committed by
16 an adult and if you commit the other offense when you are
17 fourteen years of age or older, you ~~will~~ MAY be placed on
18 juvenile intensive probation, which may include home arrest and
19 electronic monitoring, or you may be placed on juvenile
20 intensive probation and may be incarcerated for a period of time
21 in a juvenile detention center, or you may be committed to the
22 department of juvenile corrections or you may be prosecuted as
23 an adult. If you are convicted as an adult of a felony offense
24 and you commit any other offense, you will be prosecuted as an
25 adult.

26 D. If a juvenile is fourteen years of age or older and is adjudicated
27 as a repeat felony juvenile offender, the juvenile court ~~shall~~ MAY place the
28 juvenile on juvenile intensive probation, which may include home arrest and
29 electronic monitoring, may place the juvenile on juvenile intensive
30 probation, which may include incarceration for a period of time in a juvenile
31 detention center, or may commit the juvenile to the department of juvenile
32 corrections pursuant to subsection A, paragraph 1, subdivision (e) of this
33 section for a significant period of time.

34 E. If the juvenile is adjudicated as a repeat felony juvenile
35 offender, the court shall provide the following written notice to the
36 juvenile:

37 You have been adjudicated a repeat felony juvenile
38 offender. You are now on notice that if you are arrested for
39 another offense that would be a felony offense if committed by
40 an adult and if you commit the other offense when you are
41 fifteen years of age or older, you will be tried as an adult in
42 the criminal division of the superior court. If you commit the
43 other offense when you are fourteen years of age or older, you
44 may be tried as an adult in the criminal division of the

1 superior court. If you are convicted as an adult, you will be
2 sentenced to a term of incarceration. If you are convicted as
3 an adult of a felony offense and you commit any other offense,
4 you will be prosecuted as an adult.

5 F. The failure or inability of the court to provide the notices
6 required under subsections C and E of this section does not preclude the use
7 of the prior adjudications for any purpose otherwise permitted.

8 G. Except as provided in subsection S of this section, after
9 considering the nature of the offense and the age, physical and mental
10 condition and earning capacity of the juvenile, the court shall order the
11 juvenile to pay a reasonable monetary assessment if the court determines that
12 an assessment is in aid of rehabilitation. If the director of the department
13 of juvenile corrections determines that enforcement of an order for monetary
14 assessment as a term and condition of conditional liberty is not
15 cost-effective, the director may require the youth to perform an equivalent
16 amount of community restitution in lieu of the payment ordered as a condition
17 of conditional liberty.

18 H. If a child is adjudicated incorrigible, the court may impose a
19 monetary assessment on the child of not more than one hundred fifty dollars.

20 I. A juvenile who is charged with unlawful purchase, possession or
21 consumption of spirituous liquor is subject to section 8-323. The monetary
22 assessment for a conviction of unlawful purchase, possession or consumption
23 of spirituous liquor by a juvenile shall not exceed five hundred dollars.
24 The court of competent jurisdiction may order a monetary assessment or
25 equivalent community restitution.

26 J. The court shall require the monetary assessment imposed under
27 subsection G or H of this section on a juvenile who is not committed to the
28 department of juvenile corrections to be satisfied in one or both of the
29 following forms:

30 1. Monetary reimbursement by the juvenile in a lump sum or installment
31 payments through the clerk of the superior court for appropriate
32 distribution.

33 2. A program of work, not in conflict with regular schooling, to
34 repair damage to the victim's property, to provide community restitution or
35 to provide the juvenile with a job for wages. The court order for
36 restitution or monetary assessment shall specify, according to the
37 dispositional program, the amount of reimbursement and the portion of wages
38 of either existing or provided work that is to be credited toward
39 satisfaction of the restitution or assessment, or the nature of the work to
40 be performed and the number of hours to be spent working. The number of
41 hours to be spent working shall be set by the court based on the severity of
42 the offense but shall not be less than sixteen hours.

1 K. If a juvenile is committed to the department of juvenile
2 corrections, the court shall specify the amount of the monetary assessment
3 imposed pursuant to subsection G or H of this section.

4 L. After considering the length of stay guidelines developed pursuant
5 to section 41-2816, subsection C, the court may set forth in the order of
6 commitment the minimum period during which the juvenile shall remain in
7 secure care while in the custody of the department of juvenile corrections.
8 When the court awards a juvenile to the department of juvenile corrections or
9 an institution or agency, it shall transmit with the order of commitment
10 copies of a diagnostic psychological evaluation and educational assessment if
11 one has been administered, copies of the case report, all other psychological
12 and medical reports, restitution orders, any request for postadjudication
13 notice that has been submitted by a victim and any other documents or records
14 pertaining to the case requested by the department of juvenile corrections or
15 an institution or agency. The department shall not release a juvenile from
16 secure care before the juvenile completes the length of stay determined by
17 the court in the commitment order unless the county attorney in the county
18 from which the juvenile was committed requests the committing court to reduce
19 the length of stay. The department may temporarily escort the juvenile from
20 secure care pursuant to section 41-2804, may release the juvenile from secure
21 care without a further court order after the juvenile completes the length of
22 stay determined by the court or may retain the juvenile in secure care for
23 any period subsequent to the completion of the length of stay in accordance
24 with the law.

25 M. Written notice of the release of any juvenile pursuant to
26 subsection L of this section shall be made to any victim requesting notice,
27 the juvenile court that committed the juvenile and the county attorney of the
28 county from which the juvenile was committed.

29 N. Notwithstanding any law to the contrary, if a person is under the
30 supervision of the court as an adjudicated delinquent juvenile at the time
31 the person reaches eighteen years of age, treatment services may be provided
32 until the person reaches twenty-one years of age if the court, the person and
33 the state agree to the provision of the treatment and a motion to transfer
34 the person pursuant to section 8-327 has not been filed or has been
35 withdrawn. The court may terminate the provision of treatment services after
36 the person reaches eighteen years of age if the court determines that any of
37 the following applies:

- 38 1. The person is not progressing toward treatment goals.
- 39 2. The person terminates treatment.
- 40 3. The person commits a new offense after reaching eighteen years of
41 age.
- 42 4. Continued treatment is not required or is not in the best interests
43 of the state or the person.

1 O. On the request of a victim of an act that may have involved
2 significant exposure as defined in section 13-1415 or that if committed by an
3 adult would be a sexual offense, the prosecuting attorney shall petition the
4 adjudicating court to require that the juvenile be tested for the presence of
5 the human immunodeficiency virus. If the victim is a minor the prosecuting
6 attorney shall file this petition at the request of the victim's parent or
7 guardian. If the act committed against a victim is an act that if committed
8 by an adult would be a sexual offense or the court determines that sufficient
9 evidence exists to indicate that significant exposure occurred, it shall
10 order the department of juvenile corrections or the department of health
11 services to test the juvenile pursuant to section 13-1415. Notwithstanding
12 any law to the contrary, the department of juvenile corrections and the
13 department of health services shall release the test results only to the
14 victim, the delinquent juvenile, the delinquent juvenile's parent or guardian
15 and a minor victim's parent or guardian and shall counsel them regarding the
16 meaning and health implications of the results.

17 P. If a juvenile has been adjudicated delinquent for an offense that
18 if committed by an adult would be ~~a felony~~ AN OFFENSE LISTED IN SECTION
19 41-1750, SUBSECTION C, the court shall provide the department of public
20 safety Arizona automated fingerprint identification system established in
21 section 41-2411 with the juvenile's TEN-PRINT fingerprints, personal
22 identification data and other pertinent information. If a juvenile has been
23 committed to the department of juvenile corrections the department shall
24 provide the fingerprints and information required by this subsection to the
25 Arizona automated fingerprint identification system. If the juvenile's
26 fingerprints and information have been previously submitted to the Arizona
27 automated fingerprint identification system the information is not required
28 to be resubmitted.

29 Q. Access to fingerprint records submitted pursuant to subsection P of
30 this section shall be limited to the administration of criminal justice as
31 defined in section 41-1750. Dissemination of fingerprint information shall
32 be limited to the name of the juvenile, juvenile case number, date of
33 adjudication and court of adjudication.

34 R. If a juvenile is adjudicated delinquent for an offense that if
35 committed by an adult would be a misdemeanor, the court may prohibit the
36 juvenile from carrying or possessing a firearm while the juvenile is under
37 the jurisdiction of the department of juvenile corrections or the juvenile
38 court.

39 S. If a juvenile is adjudicated delinquent for a violation of section
40 13-1602, subsection A, paragraph 5, the court shall order the juvenile to pay
41 a fine of at least three hundred dollars but not more than one thousand
42 dollars. Any restitution ordered shall be paid in accordance with section
43 13-809, subsection A. The court may order the juvenile to perform community
44 restitution in lieu of the payment for all or part of the fine if it is in

1 the best interests of the juvenile. The amount of community restitution
2 shall be equivalent to the amount of the fine by crediting any service
3 performed at a rate of ten dollars per hour. If the juvenile is convicted of
4 a second or subsequent violation of section 13-1602, subsection A, paragraph
5 5 and is ordered to perform community restitution, the court may order the
6 parent or guardian of the juvenile to assist the juvenile in the performance
7 of the community restitution if both of the following apply:

8 1. The parent or guardian had knowledge that the juvenile intended to
9 engage in or was engaging in the conduct that gave rise to the violation.

10 2. The parent or guardian knowingly provided the juvenile with the
11 means to engage in the conduct that gave rise to the violation.

12 T. If a juvenile is adjudicated delinquent for an offense involving
13 the purchase, possession or consumption of spirituous liquor or a violation
14 of title 13, chapter 34 and is placed on juvenile probation, the court may
15 order the juvenile to submit to random drug and alcohol testing at least two
16 times per week as a condition of probation.

17 U. A juvenile who is adjudicated delinquent for an offense involving
18 the purchase, possession or consumption of spirituous liquor or a violation
19 of title 13, chapter 34, who is placed on juvenile probation and who is found
20 to have consumed any spirituous liquor or to have used any drug listed in
21 section 13-3401 while on probation is in violation of the juvenile's
22 probation. IF a juvenile ~~who~~ commits a third or subsequent violation of a
23 condition of probation as prescribed by this subsection, THE JUVENILE shall
24 be brought before the juvenile court and, if the allegations are proven, the
25 court shall either revoke probation and hold a disposition hearing pursuant
26 to this section or select additional conditions of probation as it deems
27 necessary, including detention, global position system monitoring, additional
28 alcohol or drug treatment, community restitution, additional drug or alcohol
29 testing or a monetary assessment.

30 V. For the purposes of this section:

31 1. "First time felony juvenile offender" means a juvenile who is
32 adjudicated delinquent for an offense that would be a felony offense if
33 committed by an adult.

34 2. "Repeat felony juvenile offender" means a juvenile to whom both of
35 the following apply:

36 (a) Is adjudicated delinquent for an offense that would be a felony
37 offense if committed by an adult.

38 (b) Previously has been adjudicated a first time felony juvenile
39 offender.

40 3. "Sexual offense" means oral sexual contact, sexual contact or
41 sexual intercourse as defined in section 13-1401.

1 5. Meeting any other conditions imposed by the court, including
2 electronic monitoring, to meet the needs of the juvenile or to limit the
3 risks to the community.

4 F. Probation fees shall be deposited in the juvenile probation fund
5 established pursuant to section 12-268.

6 Sec. 3. Section 8-355, Arizona Revised Statutes, is amended to read:
7 8-355. School; employment; community restitution programs

8 The juvenile intensive probation team shall ensure that each juvenile
9 under its supervision is ~~either employed, attending school, participating in~~
10 ~~a community restitution program or attending a court ordered treatment~~
11 ~~program or any combination thereof as ordered by the court~~ PARTICIPATING IN
12 ONE OR MORE OF THE FOLLOWING, IF APPROVED BY THE COURT OR PROBATION OFFICER,
13 for not less than thirty-two hours each week.— THROUGHOUT THE TERM OF
14 INTENSIVE PROBATION:

- 15 1. SCHOOL.
- 16 2. A TREATMENT PROGRAM.
- 17 3. EMPLOYMENT.
- 18 4. A COMMUNITY RESTITUTION PROGRAM.
- 19 5. AN ACTIVITY THAT IMPROVES THE JUVENILE'S PROSOCIAL SKILL
20 DEVELOPMENT, INCLUDING ENHANCING THE JUVENILE'S RELATIONSHIP WITH THE
21 JUVENILE'S FAMILY.

22 Sec. 4. Section 13-902, Arizona Revised Statutes, is amended to read:
23 13-902. Periods of probation; monitoring; fees; definition

24 A. Unless terminated sooner, probation may continue for the following
25 periods:

- 26 1. For a class 2 felony, seven years.
- 27 2. For a class 3 felony, five years.
- 28 3. For a class 4 felony, four years.
- 29 4. For a class 5 or 6 felony, three years.
- 30 5. For a class 1 misdemeanor, three years.
- 31 6. For a class 2 misdemeanor, two years.
- 32 7. For a class 3 misdemeanor, one year.

33 B. Notwithstanding subsection A of this section, unless terminated
34 sooner, probation may continue for the following periods:

- 35 1. For a violation of section 28-1381 or 28-1382, five years.
- 36 2. For a violation of section 28-1383, ten years.

37 C. ~~When~~ IF the court has required, as a condition of probation, that
38 the defendant make restitution for any economic loss related to the
39 defendant's offense and that condition has not been satisfied, the court at
40 any time before the termination or expiration of probation may extend the
41 period within the following limits:

- 42 1. For a felony, not more than five years.
- 43 2. For a misdemeanor, not more than two years.

1 D. Notwithstanding any other provision of law, justice courts and
2 municipal courts may impose the probation periods specified in subsection A,
3 paragraphs 5, 6 and 7 and subsection B, paragraph 1 of this section.

4 E. After conviction of a felony offense or an attempt to commit any
5 offense that is included in chapter 14 or 35.1 of this title or section
6 13-2308.01, 13-2923 or 13-3623, if probation is available, probation may
7 continue for a term of not less than the term that is specified in subsection
8 A of this section up to and including life and that the court believes is
9 appropriate for the ends of justice.

10 F. After conviction of a violation of section 13-3824, subsection A,
11 if a term of probation is imposed and the offense for which the person was
12 required to register was a felony, probation may continue for a term of not
13 less than the term that is specified in subsection A of this section up to
14 and including life and that the court believes is appropriate for the ends of
15 justice.

16 G. If a person is convicted on or after November 1, 2006 of a
17 dangerous crime against children as defined in section 13-705, a term of
18 probation is imposed, the person is required to register pursuant to section
19 13-3821 and the person is classified as a level three offender pursuant to
20 section 13-3825, the court shall require global position system or electronic
21 monitoring for the duration of the term of probation, **UNLESS THE COURT
22 DETERMINES THAT THE DEFENDANT IS IN A SECURE FACILITY OR IS PHYSICALLY
23 INCAPACITATED TO THE EXTENT THAT GLOBAL POSITION SYSTEM OR ELECTRONIC
24 MONITORING IS UNNECESSARY.** The court may impose a fee on the probationer to
25 offset the cost of the monitoring device required by this subsection. The
26 fee shall be deposited in the adult probation services fund pursuant to
27 section 12-267, subsection A, paragraph 3. This subsection does not preclude
28 global position system or electronic monitoring of any other person who is
29 serving a term of probation.

30 **H. FOR THE PURPOSES OF THIS SECTION, "SECURE FACILITY" MEANS A
31 FACILITY WHOSE PURPOSE IS TO PREVENT A PERSON FROM LEAVING THE FACILITY
32 BECAUSE OF THE DANGER THE PERSON MAY PRESENT TO ONESELF OR THE COMMUNITY.**

33 Sec. 5. Section 13-914, Arizona Revised Statutes, is amended to read:

34 **13-914. Intensive probation; evaluation; sentence; criteria;
35 limit; conditions**

36 A. An adult probation officer shall prepare a presentence report for
37 every offender who has either:

38 1. Been convicted of a felony and for whom the granting of probation
39 is not prohibited by law.

40 2. Violated probation by commission of a technical violation that was
41 not chargeable or indictable as a criminal offense.

42 B. The adult probation officer shall evaluate the needs of the
43 offender and the offender's risk to the community, including the nature of
44 the offense and criminal history of the offender. If the nature of the

1 offense and the prior criminal history of the offender indicate that the
2 offender should be included in an intensive probation program pursuant to
3 supreme court guidelines for intensive probation, the adult probation officer
4 may recommend to the court that the offender be granted intensive probation.

5 C. The court may suspend the imposition or execution of the sentence
6 and grant the offender a period of intensive probation in accordance with
7 this chapter. Except for sentences that are imposed pursuant to section
8 13-3601, the sentence is tentative to the extent that it may be altered or
9 revoked pursuant to this chapter, but for all other purposes it is a final
10 judgment of conviction. This subsection does not preclude the court from
11 imposing a term of intensive probation pursuant to section 13-3601.

12 D. When granting intensive probation the court shall set forth on the
13 record the factual and legal reasons in support of the sentence.

14 E. Intensive probation shall be conditioned on the offender:

15 1. Maintaining employment or ~~maintaining~~ full-time student status at a
16 school subject to title 15 or title 32, chapter 30, **OR A COMBINATION OF**
17 **EMPLOYMENT AND STUDENT STATUS**, and making progress deemed satisfactory to the
18 probation officer, ~~or both~~, or being involved in supervised job searches and
19 community restitution work at least six days a week throughout the offender's
20 term of intensive probation.

21 2. Paying restitution and probation fees of not less than seventy-five
22 dollars unless, after determining the inability of the offender to pay the
23 fee, the court assesses a lesser fee. Probation fees shall be deposited in
24 the adult probation services fund established by section 12-267. Any amount
25 assessed pursuant to this paragraph shall be used to supplement monies used
26 for the salaries of adult probation and surveillance officers and for support
27 of programs and services of the superior court adult probation departments.

28 3. Establishing a residence at a place approved by the intensive
29 probation team and not changing the offender's residence without the team's
30 prior approval.

31 4. Remaining at the offender's place of residence at all times except
32 to go to work, to attend school, to perform community restitution and as
33 specifically allowed in each instance by the adult probation officer.

34 5. Allowing administration of drug and alcohol tests if requested by a
35 member of the intensive probation team.

36 6. Performing not less than forty hours of community restitution each
37 month. **OFFENDERS WHO ARE** full-time students, **EMPLOYED OR IN A TREATMENT**
38 **PROGRAM APPROVED BY THE COURT OR THE PROBATION DEPARTMENT** may be exempted or
39 required to perform fewer hours of community restitution. For good cause,
40 the court may reduce the number of community restitution hours performed to
41 not less than twenty hours each month.

42 7. Meeting any other conditions imposed by the court to meet the needs
43 of the offender and limit the risks to the community, including participation

1 in a program of community punishment authorized in title 12, chapter 2,
2 article 11.

3 Sec. 6. Section 13-916, Arizona Revised Statutes, is amended to read:

4 13-916. Intensive probation teams; adult probation officer
5 qualifications; duties; case load limit

6 A. The chief adult probation officer in each county, with approval of
7 the presiding judge of the superior court, shall appoint intensive probation
8 teams consisting of one adult probation officer and one surveillance officer,
9 two adult probation officers or one adult probation officer and two
10 surveillance officers.

11 B. A two person intensive probation team shall supervise no more than
12 twenty-five persons at one time, and a three person intensive probation team
13 shall supervise no more than forty persons at one time.

14 C. The adult probation officers shall meet the bonding requirements
15 and experience and education standards established pursuant to section
16 12-251.

17 D. The intensive probation team may serve warrants on, make arrests of
18 and bring before the court persons who have violated the terms of intensive
19 probation.

20 E. The adult probation and surveillance officers both have the
21 authority of a peace officer in the performance of their duties but are not
22 eligible to participate in the public safety personnel retirement system.

23 F. The intensive probation team shall:

24 1. Secure and keep a complete identification record of each person
25 supervised by the team and a written statement of the conditions of the
26 probation.

27 2. Exercise close supervision and observation over persons sentenced
28 to intensive probation including both of the following:

29 (a) Visual contact with each probationer at least four times per week.

30 (b) Weekly ~~contact with the employer of the probationer~~ VERIFICATION
31 OF THE PROBATIONER'S EMPLOYMENT.

32 3. Obtain and assemble information concerning the conduct of persons
33 sentenced to intensive probation, including weekly arrest records, and report
34 the information to the court.

35 4. Report to the court if the probationer engages in conduct
36 constituting an offense.

37 5. Bring a defaulting probationer into court if, in the judgment of
38 the adult probation officer, the probationer's conduct justifies revoking the
39 intensive probation.

40 6. Monitor the payment of restitution and probation fees and bring
41 into court any probationer who fails to pay restitution or fees.

42 7. Perform any other responsibilities required by the terms and
43 conditions imposed by the court.

