

ARIZONA HOUSE OF REPRESENTATIVES
Fifty-fourth Legislature - First Regular Session

HOUSE AD HOC COMMITTEE ON EARNED RELEASE CREDITS FOR PRISONERS

Report of Interim Meeting
Monday, December 2, 2019
House Hearing Room 4 -- 9:00 A.M.

MINUTES RECEIVED
CHIEF CLERK'S OFFICE

12-4-19

Convened 9:52 A.M.
Recessed
Reconvened
Adjourned 11:59 A.M.

Members Present

Representative Blackman, Chairman
Representative Toma, Vice-Chairman
Representative Bolding, Jr.
Representative Bolick
Representative DeGrazia
Representative Roberts
Representative Rodriguez

Members Absent

Representative Espinoza
Representative Rivero

Agenda

Original Agenda – Attachment 1

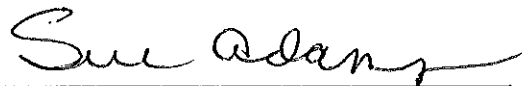
Committee Attendance

Report – Attachment 2

Presentations

School of Criminal Justice – U of Cincinnati	Dr. Edward Latessa	Via Skype
Arizona Adult Probation Services	Kathy Waters	Attachment 3 & 4
American Civil Liberties Union, Arizona	Carol Williams for Ruben Lucio	
Valley of the Sun – Parents of Murdered Children	Beckie Miller	
Arizonans for Rational Sex Offense laws	Patricia Borden	
Moms for Justice Reform	Stephanie Adams and Joey Fish	Attachment 5 & 6

Recommendations:	Items 1-10 Unanimously approved	Attachment 7
Voice vote on all recommendations		



Sue Adams, Committee Secretary
December 4, 2019

(Original attachments on file in the Office of the Chief Clerk; video archives available at <http://www.azleg.gov>)

Convened 9:52 AM

ARIZONA HOUSE OF REPRESENTATIVES

Adj: 11:59 am

INTERIM MEETING NOTICE OPEN TO THE PUBLIC

HOUSE AD HOC COMMITTEE ON EARNED RELEASE CREDITS FOR PRISONERS

Date: Monday, December 2, 2019

Time: 9:00 A.M.

Place: HHR 4

AGENDA

1. Call to Order
2. Presentations (Victims and Programming)
 - Dr. Edward Latessa – Professor and Director of the School of Criminal Justice, University of Cincinnati
 - Kathy Waters – Director, Adult Probation Services
 - Ruben Lucio – Program Director, ACLU Smart Justice
 - Boaz Witbeck – Americans for Prosperity
 - Steve Twist – Phoenix Lawyer
 - Colleen Clase – Chief Counsel, Arizona Voice for Crime Victims
 - Beckie Miller – Chapter Leader, The Valley of the Sun Chapter of Parents of Murdered Children
 - Patricia Borden – Arizonans for Rational Sex Offense Laws
 - Jennifer Dadesho - Activist
 - Stephanie Adams and Joey Fish – Moms for Justice Reform
3. Committee Discussion
4. Committee Recommendations
5. Adjourn

not attending →

not attending →
not here →

Members:

Representative Walter Blackman, Chair
 Representative Reginald Bolding, Jr.
 Representative Domingo DeGrazia
 Representative Tony Rivero
 Representative Diego Rodriguez

Representative Ben Toma, Vice Chair
 Representative Shawna Bolick
 Representative Diego Espinoza
 Representative Bret Roberts

11/26/19
JY

People with disabilities may request reasonable accommodations such as interpreters, alternative formats, or assistance with physical accessibility. If you require accommodations, please contact the Chief Clerk's Office at (602) 926-3032 or through Arizona Relay Service 7-1-1.

ARIZONA STATE LEGISLATURE
Fifty-fourth Legislature -- First Regular Session

INTERIM COMMITTEE ATTENDANCE RECORD

COMMITTEE ON HOUSE AD HOC COMMITTEE ON EARNED RELEASE CREDITS FOR PRISONERS

CHAIRMAN: Walter Blackman VICE-CHAIRMAN: Ben Toma

DATE	8/5/19	12/2/19	/19	/19	/19
CONVENED	am	9:52			
RECESSED					
RECONVENED					
ADJOURNED		11:59			
MEMBERS					
Representative Reginald Bolding, Jr		✓			
Representative Shawwna Bolick		✓			
Representative Domingo DeGrazia		✓			
Representative Diego Espinoza		exc			
Representative Tony Rivero		---			
Representative Bret Roberts		✓			
Representative Diego Rodriguez		✓			
Ben Toma, Vice-Chairman		✓			
Walter Blackman, Chairman		✓			

✓ Present --- Absent exc Excused

FY 2018 Adult Probation Fact Sheet

Population

- Average **total probation** population (includes Administrative cases): **85,922**
- Average # of probationers on Supervised Standard Probation Supervision (SPS): **47,818**
 - 20,327 excluding Maricopa
- Average # of probationers on Supervised Intensive Probation Supervision (IPS): **2,674**
 - 1,297 Excluding Maricopa
- Number of **Convicted Sex Offenders** on supervised probation: **4,279**
- **Offenders who were sentenced** to supervised probation: **21,553**
 - (An average of more than **86** offenders per business day)
- Number of badged Officers: **1,491** includes Maricopa (600 excluding Maricopa)
 - Note: Badged Officers include Probation Officers, Surveillance Offices, Probation Supervisors, Pre-trial Officers, Presentence Officers, Warrants Officers, etc.
- **Absconders apprehended** during the fiscal year: **13,852**
 - (an average of **38** absconders per calendar day)

Cost Comparisons

SPS	IPS	ADC
\$1,131/year p/offender	\$7,695/year p/offender	\$25,021/ year p/offender
\$ 3.10/day p/offender	\$ 21.07/day p/offender	\$ 66.67/day p/offender

Safe Communities

- **Probation Revocations**
 - **22% reduction** from FY 2008 base line to FY 2018 in **probationers** who were **revoked to prison**
 - Based on the statewide cost avoidance of \$178,230,735 for FY 2018, an appropriation of \$71,292,294 (based on reduction of revocation to prison and new felony convictions).
 - **\$494,585,210 cost avoidance** to Arizona from FY 2009 to FY 2018 based on a reduction to prison revocations.
 - **3.6% reduction** from FY 2008 base line to FY 2018 in **probationers** who had a **new felony conviction**

Collections

- Restitution collected for victims: **\$12,697,822**
- Fines and surcharges collected: **\$15,271,686**
- Fees collected: **\$13,711,354**

Flathy Waters



ADULT PROBATION DATA

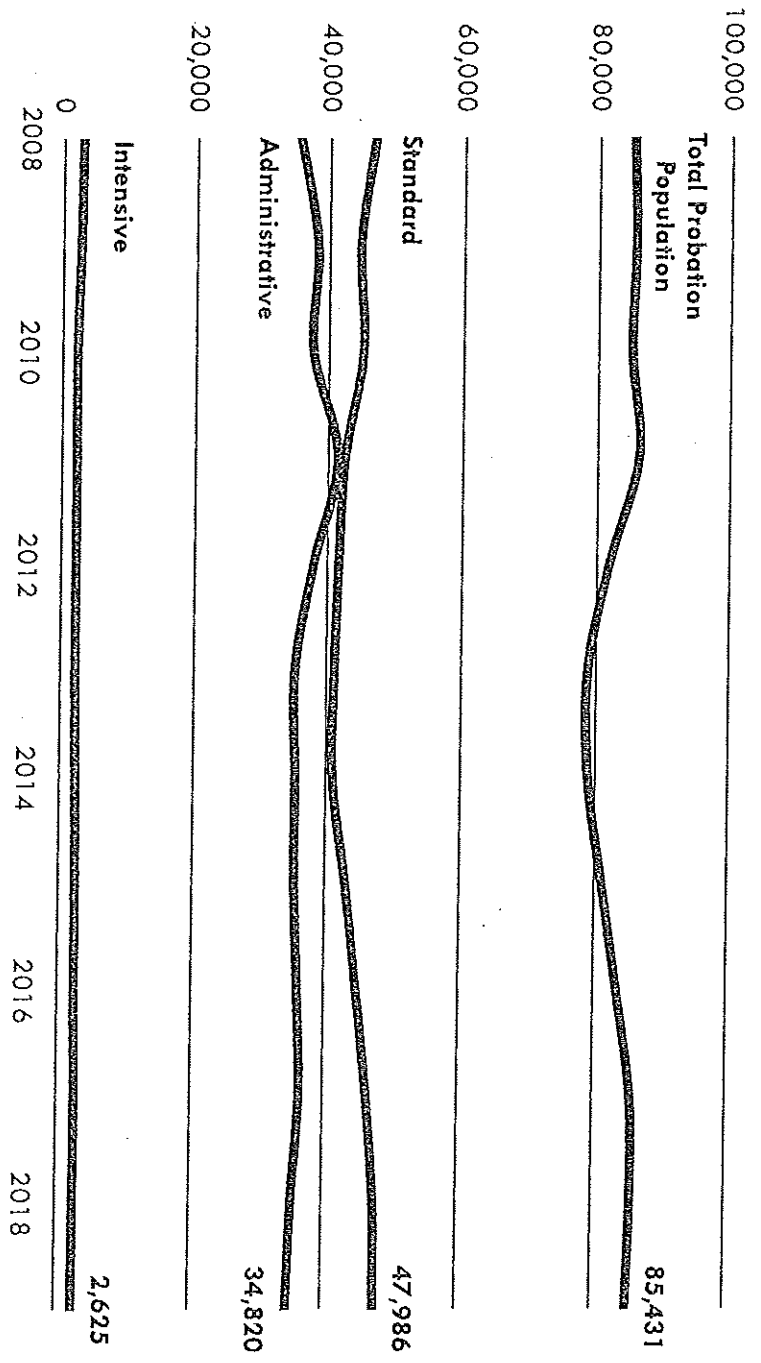
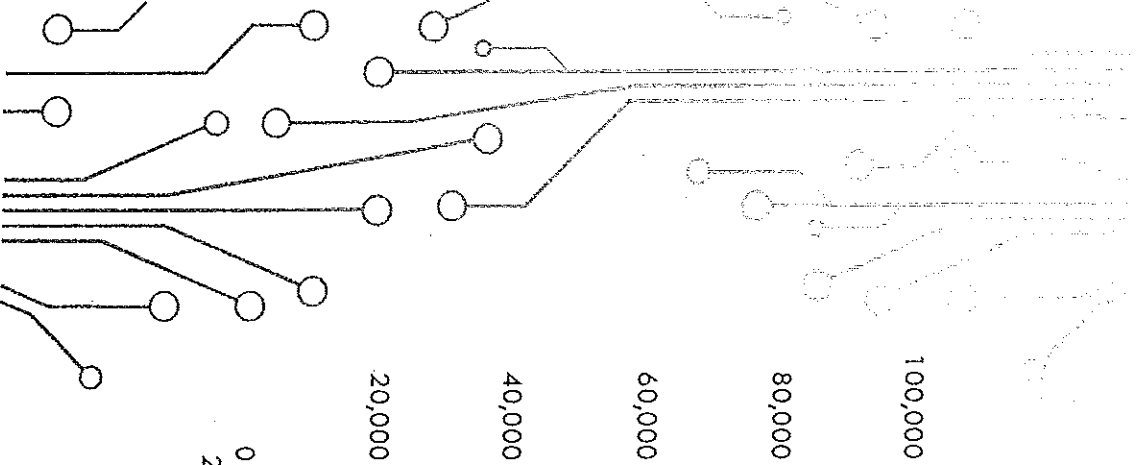
HOUSE COMMITTEE ON EARNED TIME CREDITS

DECEMBER 2, 2019

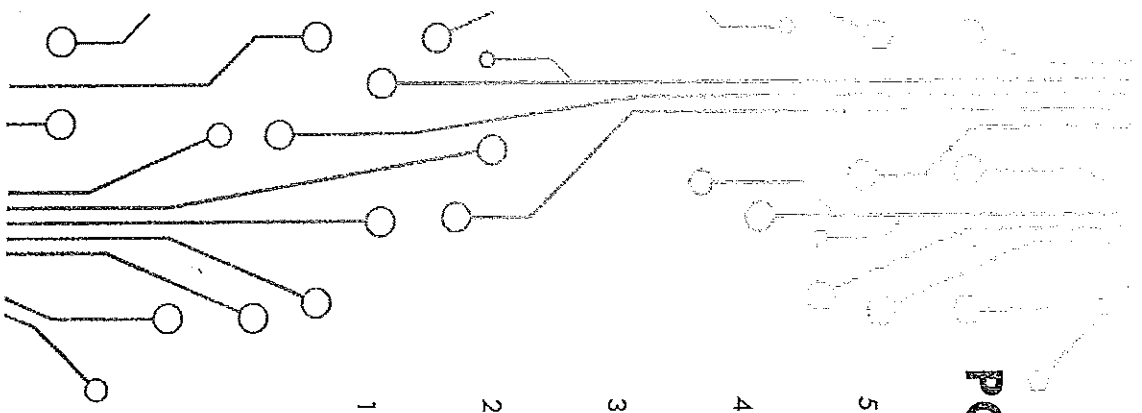
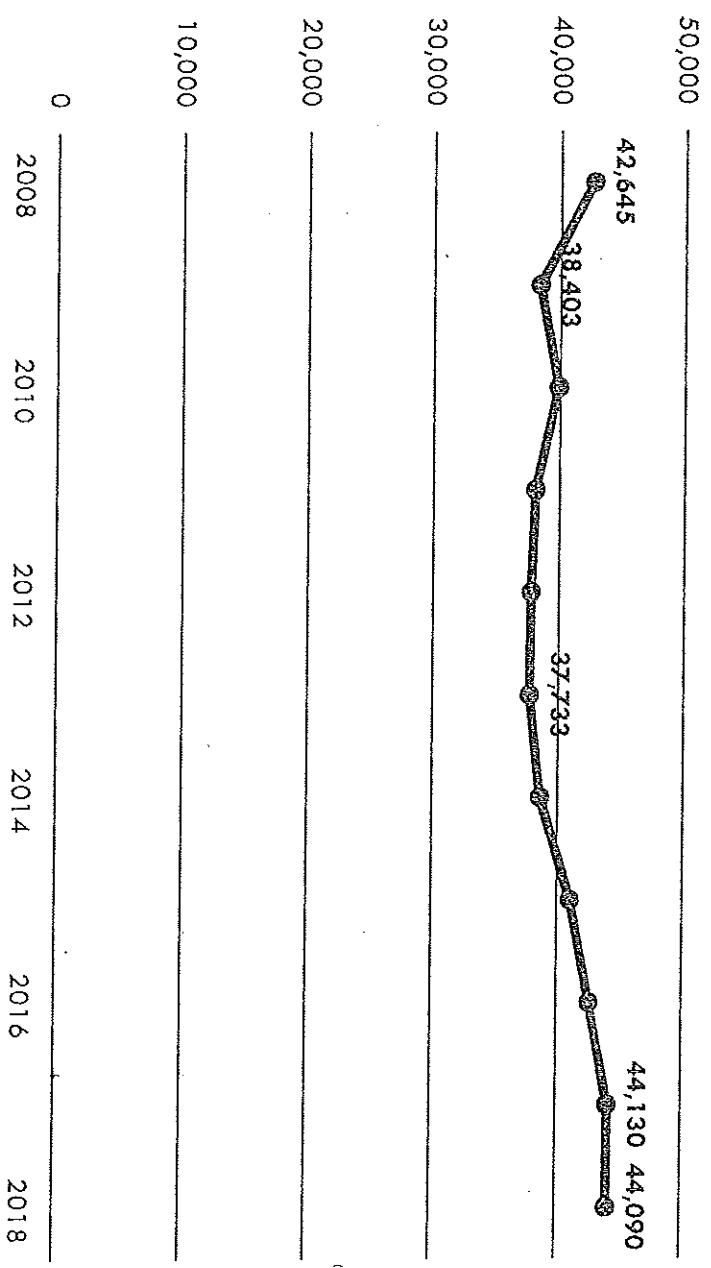
KATHY WATERS, DIRECTOR, ADULT PROBATION SERVICES DIVISION

FY 2019: AVERAGE PROBATION POPULATION

Apache	399	270	236	904
Cochise	832	230	431	1,494
Cocconino	951	429	475	1,854
Gila	350	135	354	839
Graham	444	180	326	950
Greenlee	104	38	86	229
La Paz	96	123	87	306
Maricopa	26,641	2,151	25,681	54,473
Mohave	1,510	351	908	2,768
Navajo	655	385	413	1,453
Pima	5,699	490	2,112	8,301
Pinal	2,528	793	1,467	4,788
Santa Cruz	205	82	245	532
Yavapai	2,407	861	1,504	4,772
Yuma	1,114	155	494	1,763
Statewide	43,936	6,670	34,817	85,422



AFTER A DECLINE, ARIZONA'S PROBATION POPULATION HAS REBOUNDED TO SURPASS FY2008 LEVELS



DIRECT PROBATION POPULATION

SPS

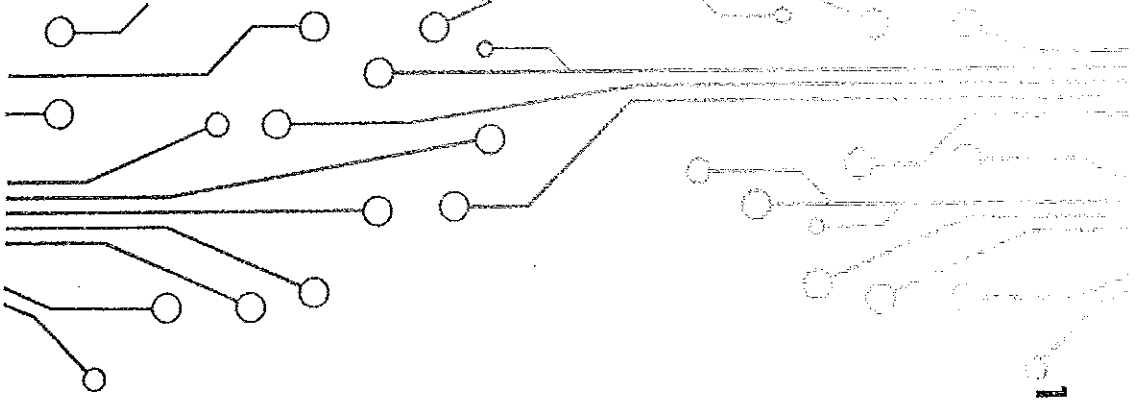
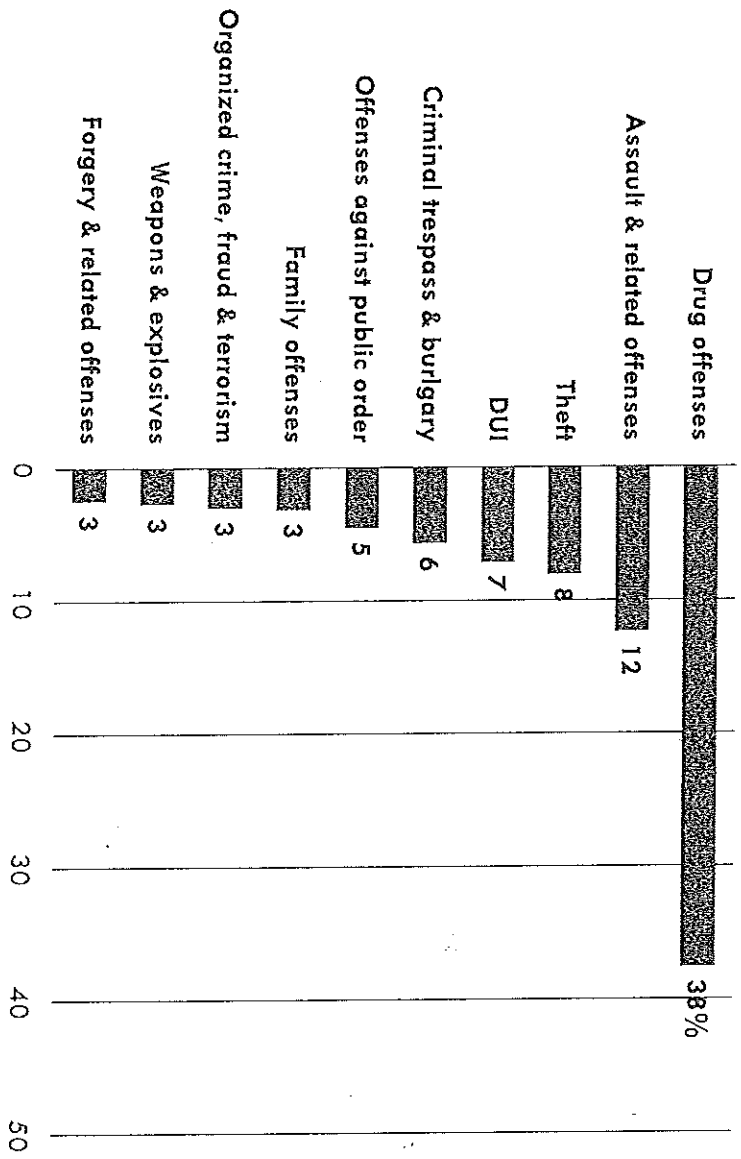
Apache	308	346	352	361
Cochise	539	662	727	739
Cocconino	769	802	816	843
Gila	329	337	325	328
Graham	379	412	424	406
Greenlee	101	105	99	97
La Paz	75	76	93	90
Maricopa	24,282	25,004	25,395	25,456
Mohave	1,316	1,339	1,405	1,462
Navajo	647	647	617	584
Pima	5,518	5,436	5,363	5,250
Pinal	2,055	2,238	2,462	2,442
Santa Cruz	188	182	174	181
Yavapai	2,140	2,253	2,376	2,312
Yuma	941	972	966	950
Statewide	39,588	40,810	41,592	41,502

DIRECT PROBATION POPULATION

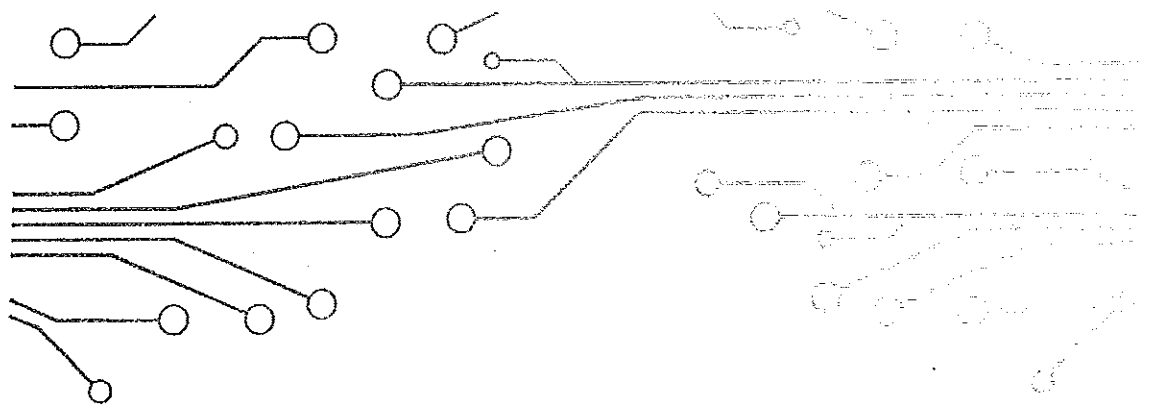
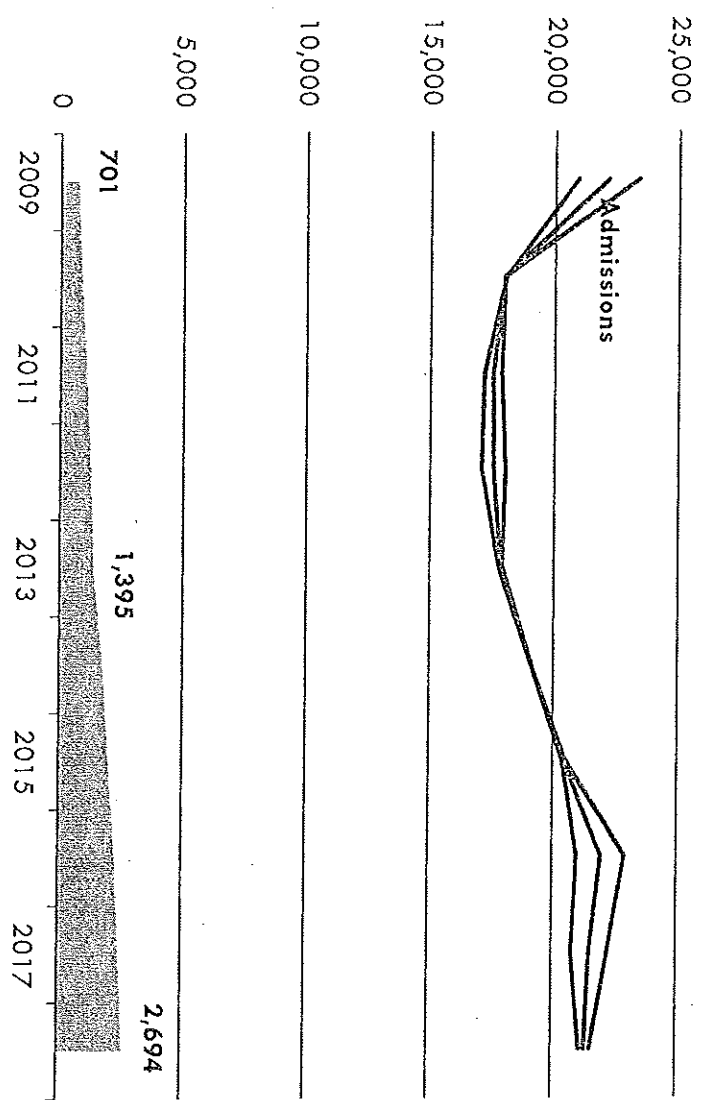
IPS

Apache	39	48	43	38
Cochise	95	116	79	94
Cocconino	120	100	105	108
Gila	23	25	27	22
Graham	53	46	47	38
Greenlee	17	24	19	7
La Paz	4	4	3	5
Maricopa	1,104	1,269	1,340	1,185
Mohave	28	34	32	48
Navajo	82	80	67	72
Pima	469	461	402	448
Pinal	75	77	68	86
Santa Cruz	23	16	19	24
Yavapai	100	101	90	95
Yuma	144	152	154	163
Statewide	2,377	2,553	2,496	2,433

10 CHARGES ALSO MADE UP 87% OF UNDERLYING OFFENSES AMONG PROBATION ADMISSIONS IN FY2019



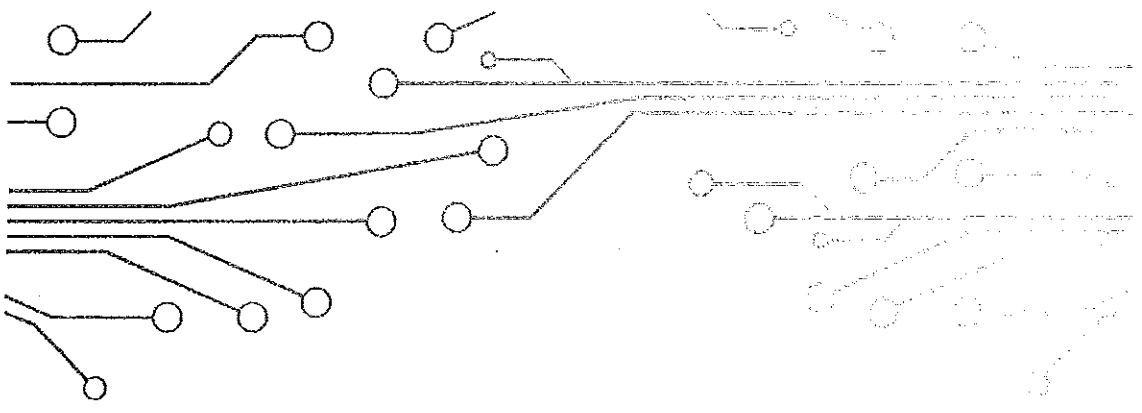
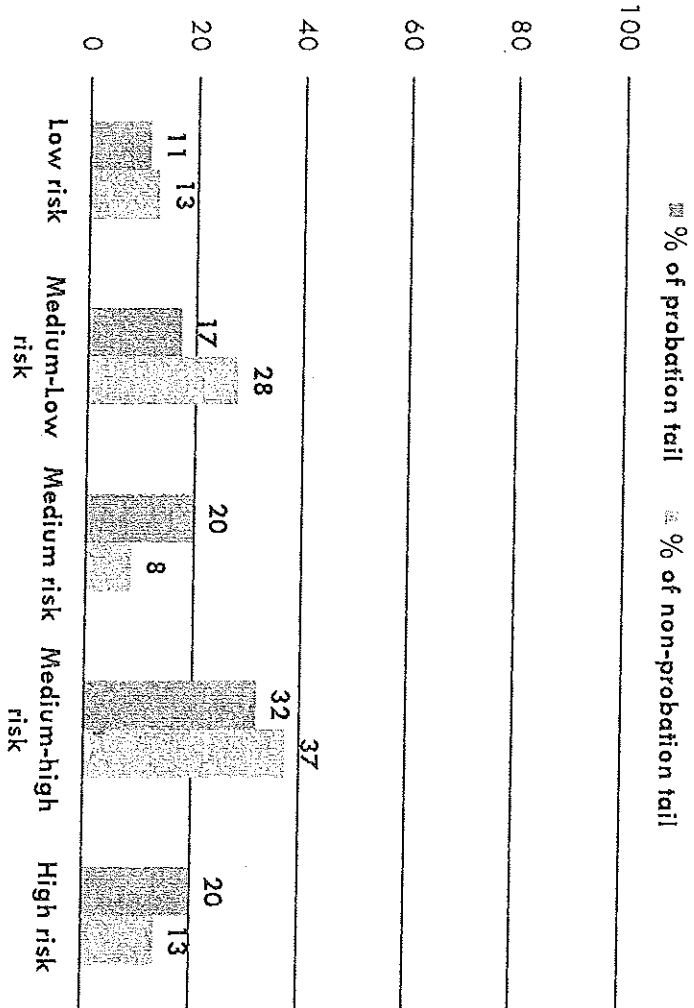
PROBATION TAILS HAVE RISEN FROM 3% TO 13% OF ALL PROBATION ADMISSIONS.



FY 2019: PROBATION TAILS

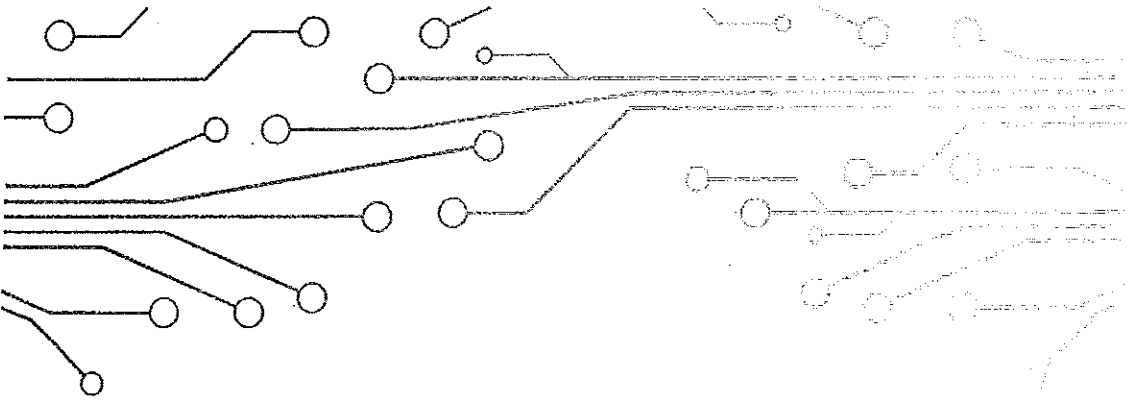
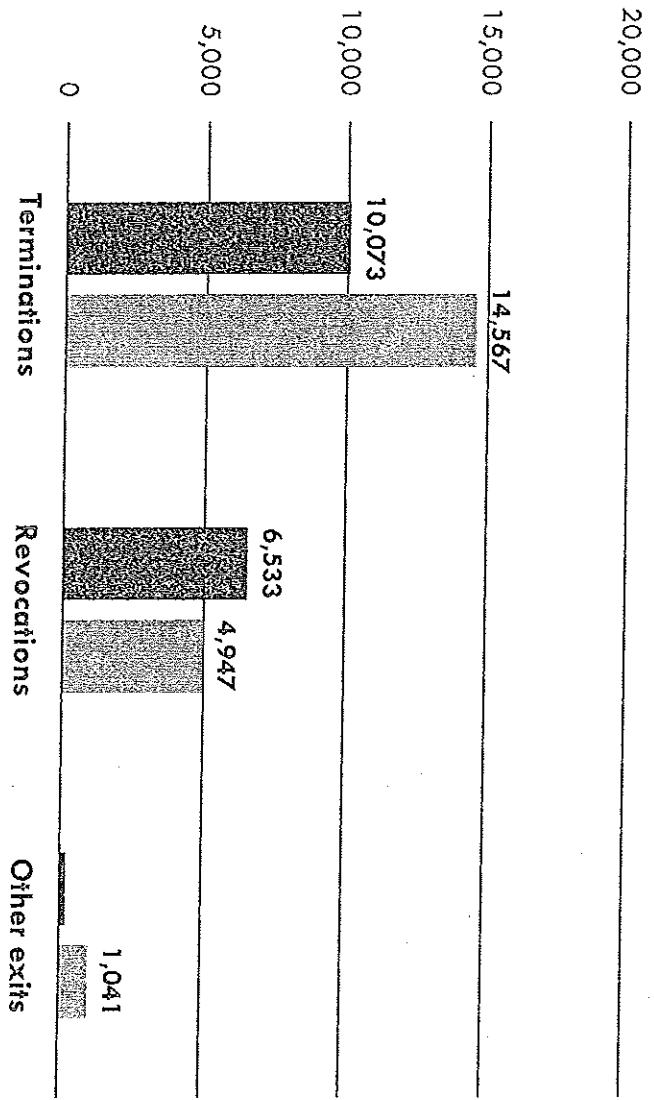
Apache	21	4	1	12	0	32	5	1	76
Cochise	77	15	1	32	2	120	72	11	330
Coconino	85	14	0	39	8	19	74	2	241
Gila	69	9	0	27	1	98	15	3	222
Graham	62	6	1	28	4	88	43	1	233
Greenlee	9	0	0	3	1	22	12	0	47
La Paz	3	0	0	6	0	11	0	0	20
Maricopa	5,361	405	62	608	14	11,479	1,371	96	19,396
Mohave	56	2	0	8	0	80	4	1	151
Navajo	47	7	1	19	1	66	7	1	149
Pima	517	48	8	79	3	553	98	10	1,316
Pinal	441	25	2	164	5	640	24	14	1,315
Santa Cruz	14	1	0	6	0	7	5	0	33
Yavapai	199	5	12	79	7	272	33	31	638
Yuma	46	16	0	8	3	58	80	24	235
Statewide	7,007	557	88	1,118	49	13,545	1,843	195	24,402

INDIVIDUALS WITH PROBATION TAILS ARE MORE LIKELY TO BE CLASSIFIED AS HIGH RISK

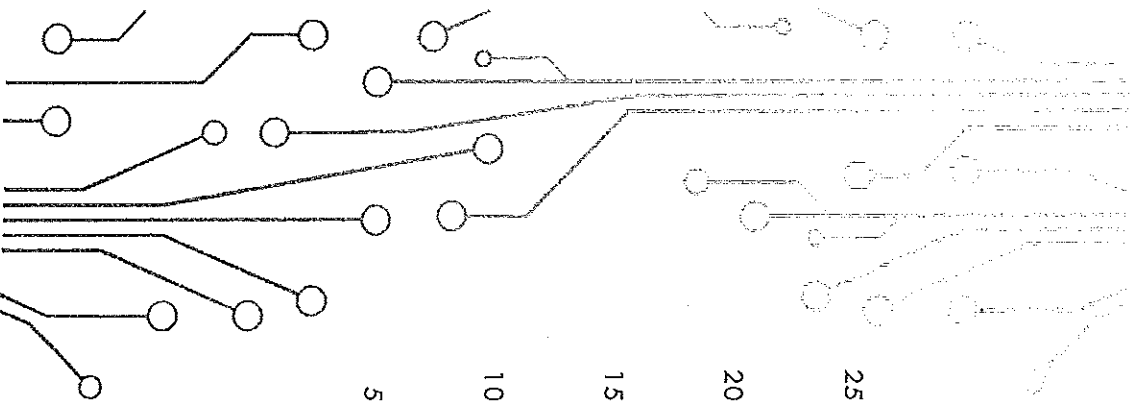
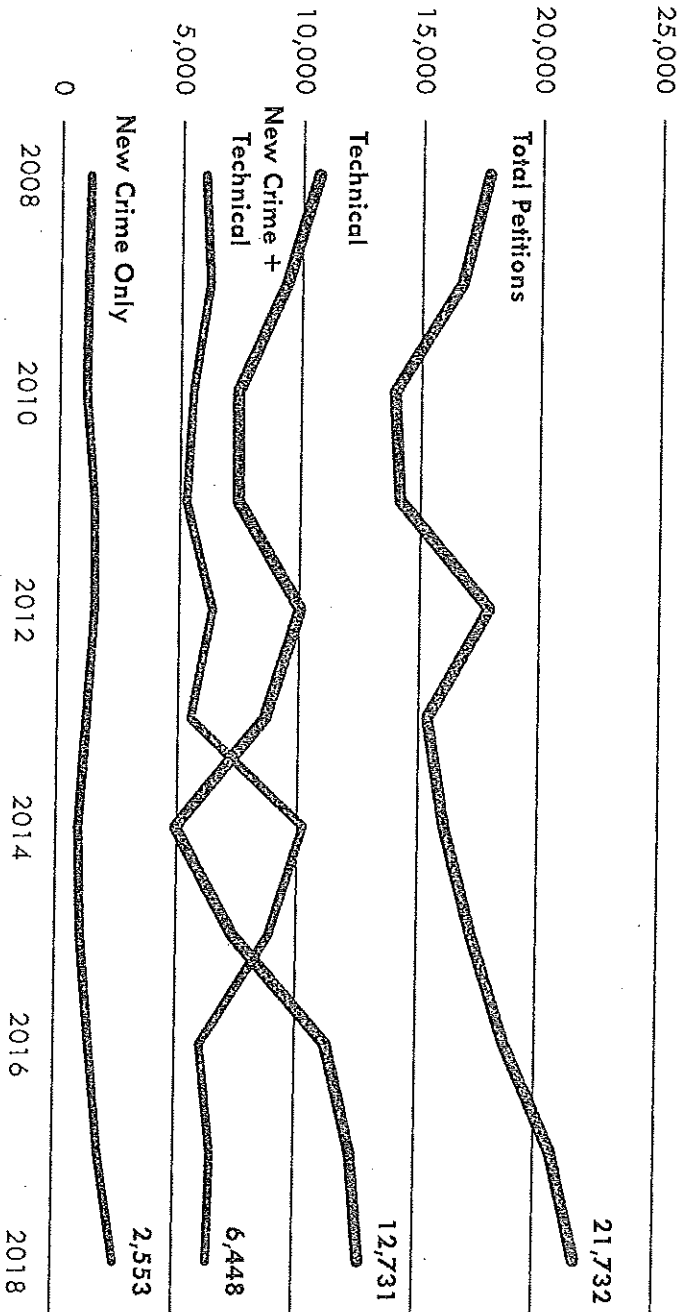


SUCCESSFUL TERMINATIONS HAVE BEEN INCREASING AND REVOCATIONS HAVE BEEN DECREASING

■ FY2008 ■ FY2018

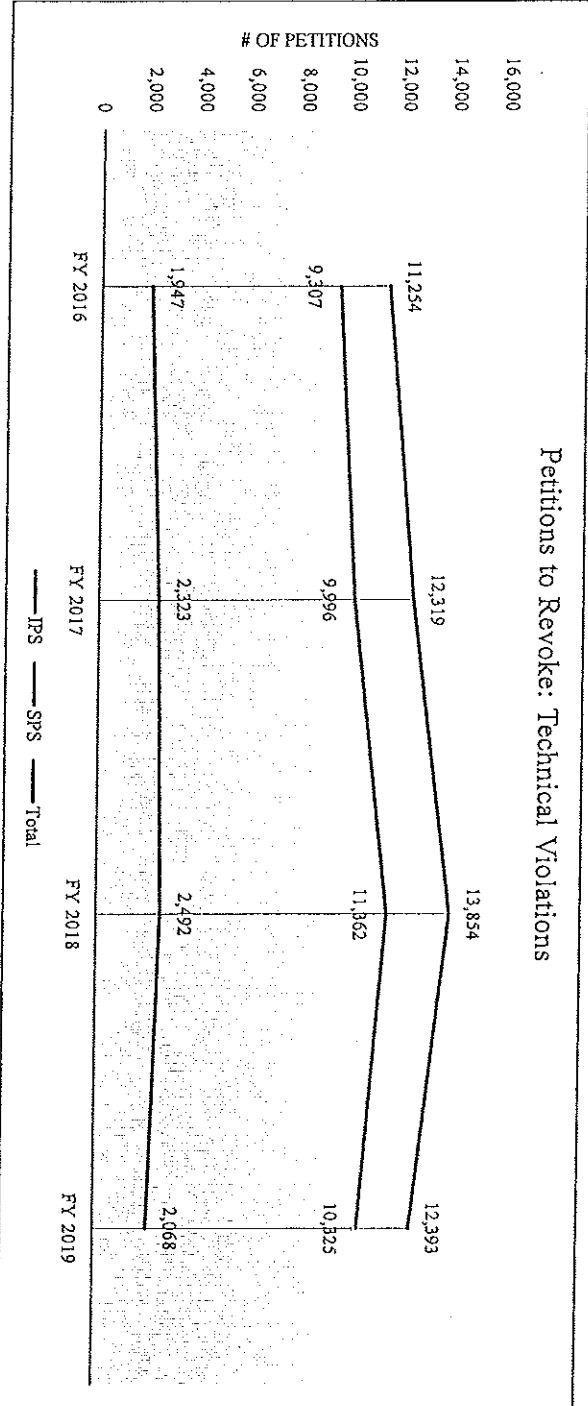


TECHNICAL VIOLATIONS ARE DRIVING PETITIONS TO REVOKE



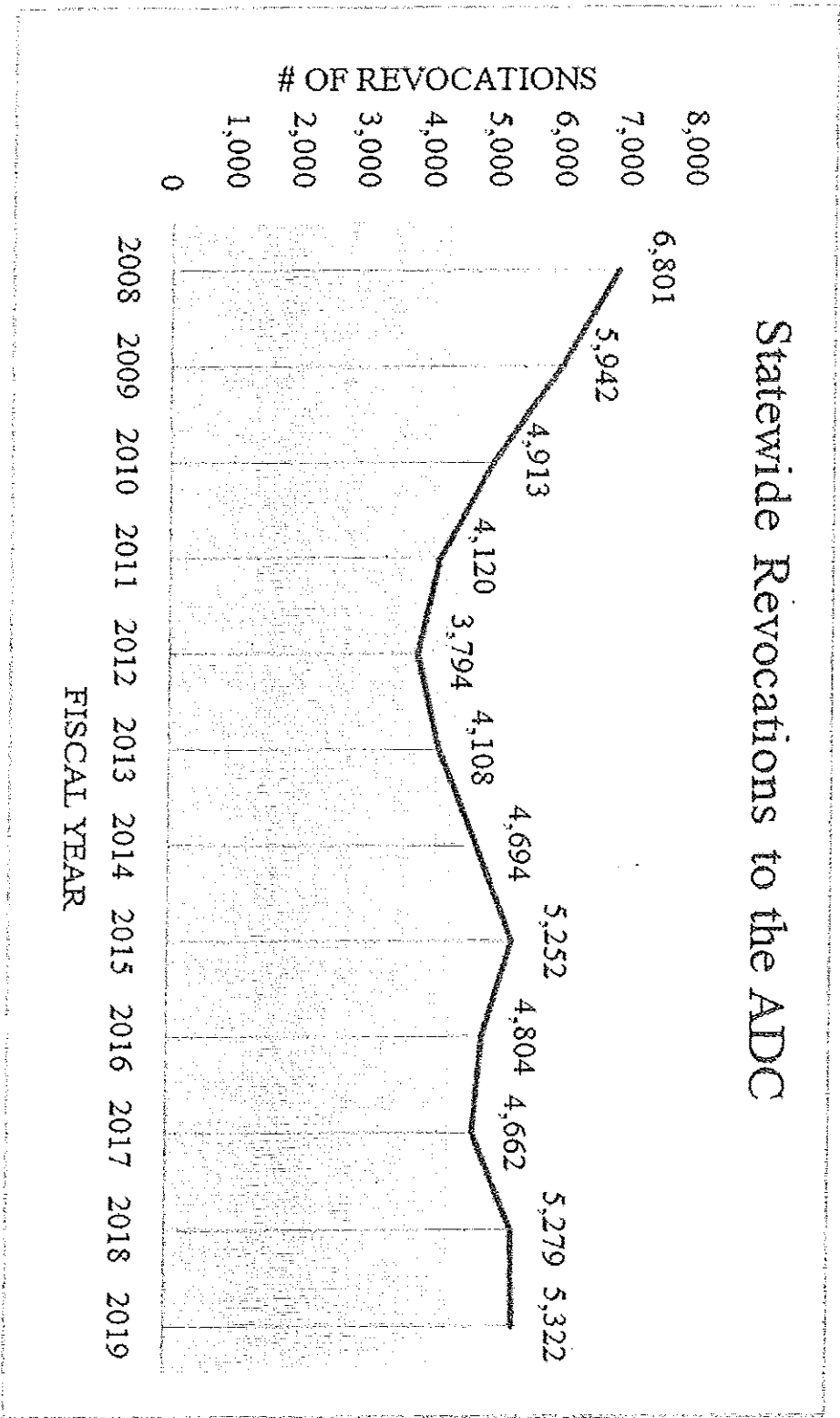
TECHNICAL VIOLATIONS

	FY 2016	FY 2017	FY 2018	FY 2019
IPS	1,947	2,323	2,492	2,068
SPS	9,307	9,996	11,362	10,325
Total	11,254	12,319	13,854	12,393

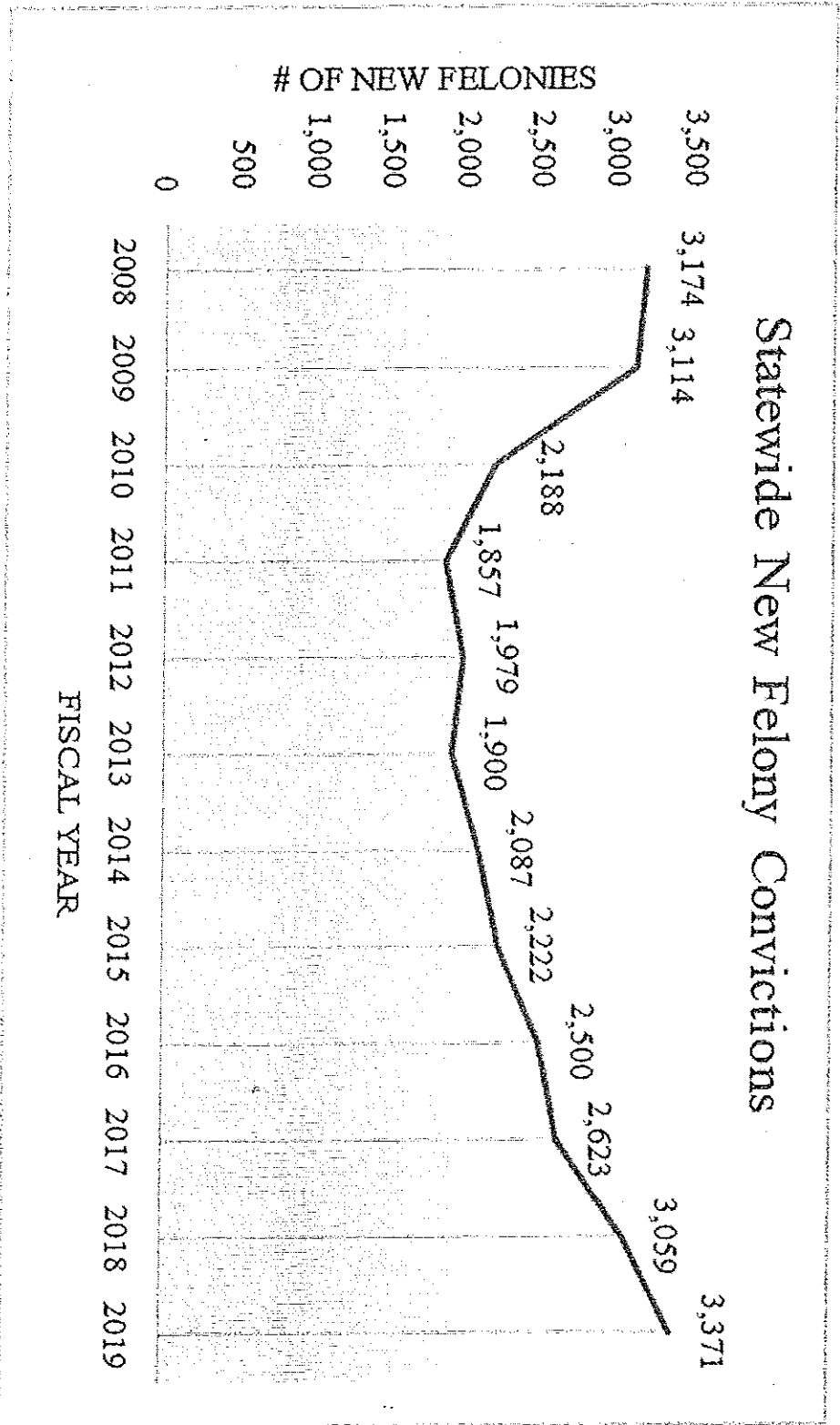


NUMBER OF REVOCATIONS: FY 2008 BASELINE TO FY 2019

Statewide Revocations to the ADC



NUMBER OF NEW FELONY CONVICTIONS: FY 2008 BASELINE TO FY 2019



POPULATION PROJECTIONS

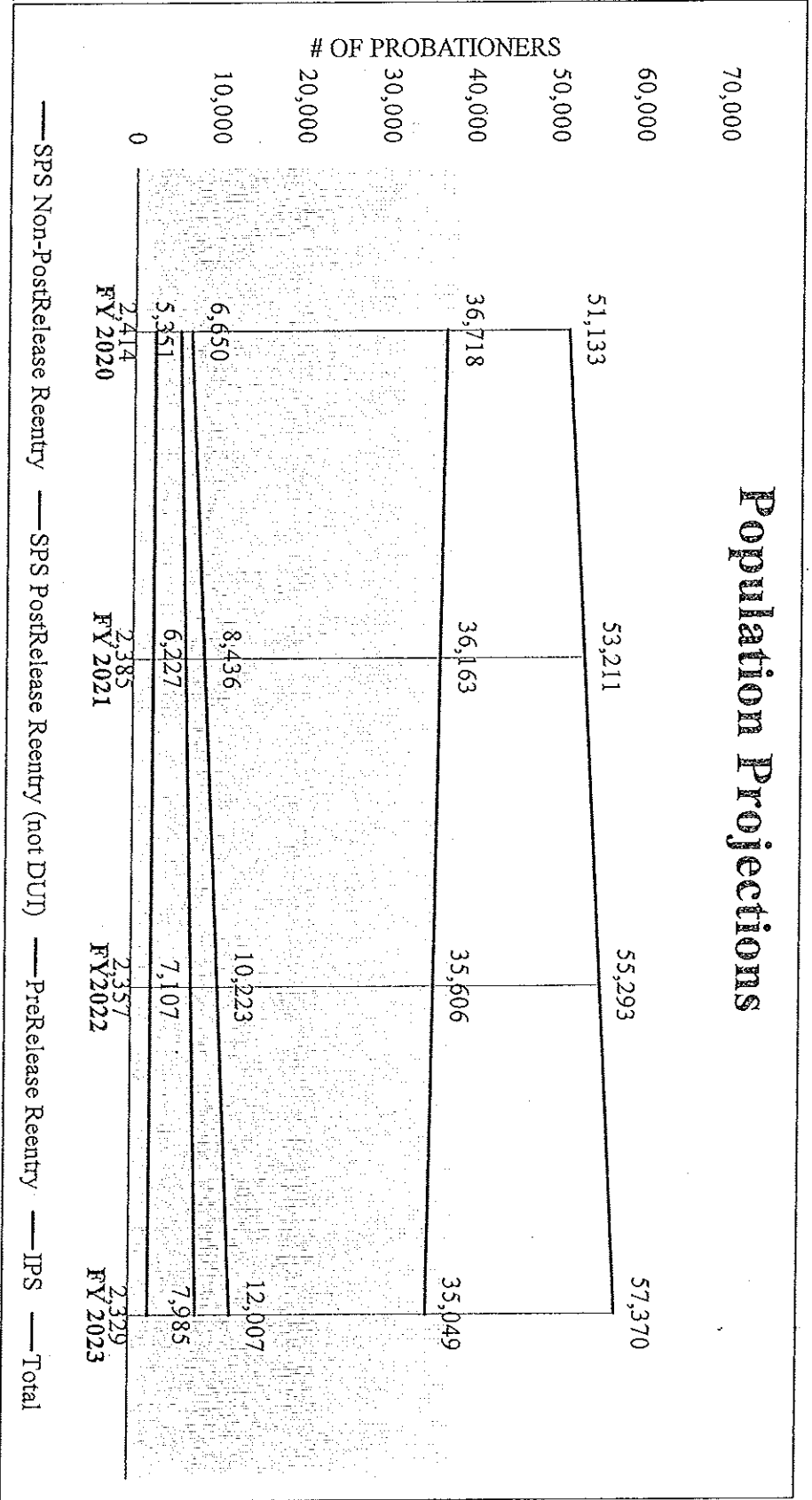
SPS

Apache	376	385	395	404
Cochise	791	826	860	894
Cocconino	888	915	941	967
Gila	322	318	315	312
Graham	397	391	385	379
Greenlee	93	90	87	84
La Paz	99	104	109	114
Maricopa	25,612	25,761	25,910	26,059
Mohave	1,523	1,575	1,626	1,678
Navajo	559	534	510	485
Pima	5,257	5,212	5,168	5,124
Pinal	2,662	2,774	2,886	2,998
Santa Cruz	179	179	179	179
Yavapai	2,376	2,402	2,429	2,455
Yuma	935	924	913	902
Statewide	42,069	42,390	42,713	43,034

IPS

Apache	29	23	17	11
Cochise	79	71	64	56
Cocconino	115	119	123	128
Gila	20	18	17	15
Graham	34	30	26	22
Greenlee	0	0	0	0
La Paz	5	6	6	7
Maricopa	1,176	1,141	1,105	1,069
Mohave	59	67	75	84
Navajo	71	70	69	68
Pima	451	454	458	462
Pinal	88	93	97	101
Santa Cruz	26	28	31	33
Yavapai	85	81	77	73
Yuma	176	184	192	200
Statewide	2,414	2,385	2,357	2,329

Population Projections



OF PROBATIONERS

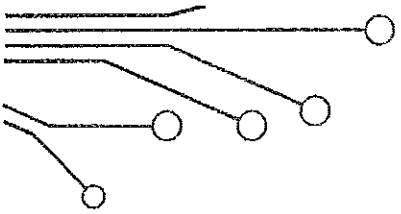
SPS Non-PostRelease Reentry
 SPS PostRelease Reentry (not DUI)
 PreRelease Reentry
 IPS
 Total



PROBATION FACT SHEET



- Overview of many of the probation facts and stats year to year. Handout provided.



Remove Unlawful Imprisonment from Sex Offender Registry

By: Stephanie Adams (Mom's for Justice Reform)

Reference Materials:

Unlawful imprisonment is easy to commit, even unintentionally, and difficult to defend against.

13-1303. Unlawful imprisonment; classification; definition

- A. A person commits unlawful imprisonment by knowingly restraining another person.
- B. In any prosecution for unlawful imprisonment, it is a defense that:
1. The restraint was accomplished by a peace officer or detention officer acting in good faith in the lawful performance of his duty; or
 2. The defendant is a relative of the person restrained and the defendant's sole intent is to assume lawful custody of that person and the restraint was accomplished without physical injury.
- C. Unlawful imprisonment is a class 6 felony unless the victim is released voluntarily by the defendant without physical injury in a safe place before arrest in which case it is a class 1 misdemeanor.
- D. For the purposes of this section, "detention officer" means a person other than an elected official who is employed by a county, city or town and who is responsible for the supervision, protection, care, custody or control of inmates in a county or municipal correctional institution. Detention officer does not include counselors or secretarial, clerical or professionally trained personnel. (Arizona State Legislature, View Document, 13-1303, 2019)

13- 3821 included in its entirety for ease of reference, Subsection A and C are mentioned in the presentation. Please note how the wording as it stands does not require any kind of aggravating factors to be present and does not clarify between felony vs. misdemeanor convictions of unlawful imprisonment. The assumption is that common sense will prevail, but that is not taking place and there is currently no defense.

13-3821. Persons required to register; procedure; identification card; assessment; definitions

▲ A person who ~~has been convicted~~ of or adjudicated guilty except insane for a violation or attempted violation of any of the following offenses or who has been convicted of or adjudicated guilty except insane or not guilty by reason of insanity for an offense committed in another jurisdiction that if committed in this state would be a violation or attempted violation of any of the following offenses or an offense that was in effect before September 1,

1978 and that, if committed on or after September 1, 1978, has the same elements of an offense listed in this section or who is required to register by the convicting or adjudicating jurisdiction, within ten days after the conviction or adjudication or within ten days after entering and remaining in any county of this state, **shall register** with the sheriff of that county:

1. Unlawful imprisonment pursuant to section 13-1303 if the victim is under eighteen years of age and the unlawful imprisonment was not committed by the child's parent.

2. Kidnapping pursuant to section 13-1304 if the victim is under eighteen years of age and the kidnapping was not committed by the child's parent.
3. Sexual abuse pursuant to section 13-1404 if the victim is under eighteen years of age.
4. Sexual conduct with a minor pursuant to section 13-1405.
5. Sexual assault pursuant to section 13-1406.
6. Sexual assault of a spouse if the offense was committed before August 12, 2005.
7. Molestation of a child pursuant to section 13-1410.
8. Continuous sexual abuse of a child pursuant to section 13-1417.
9. Taking a child for the purpose of prostitution pursuant to section 13-3206.
10. Child prostitution pursuant to section 13-3212, subsection A or subsection B, paragraph 1 or 2 committed before August 9, 2017.
11. Child sex trafficking pursuant to section 13-3212, subsection A or subsection B, paragraph 1 or 2 committed on or after August 9, 2017.
12. Commercial sexual exploitation of a minor pursuant to section 13-3552.
13. Sexual exploitation of a minor pursuant to section 13-3553.
14. Luring a minor for sexual exploitation pursuant to section 13-3554.
15. A second or subsequent violation of indecent exposure to a person who is under fifteen years of age pursuant to section 13-1402.
16. A second or subsequent violation of public sexual indecency to a minor who is under fifteen years of age pursuant to section 13-1403, subsection B.
17. A third or subsequent violation of indecent exposure pursuant to section 13-1402.
18. A third or subsequent violation of public sexual indecency pursuant to section 13-1403.
19. A violation of section 13-3822 or 13-3824.

20. Unlawful age misrepresentation.

21. Aggravated luring a minor for sexual exploitation pursuant to section 13-3560.

22. Sexual extortion pursuant to section 13-1428 if the victim is under fifteen years of age.

B. Before the person is released from confinement the state department of corrections in conjunction with the department of public safety and each county sheriff shall complete the registration of any person who was convicted of or adjudicated guilty except insane for a violation of any offense listed under subsection A of this section. Within three days after the person's release from confinement, the state department of corrections shall forward the registered person's records to the department of public safety and to the sheriff of the county in which the registered person intends to reside. Registration pursuant to this subsection shall be consistent with subsection E of this section.

Notwithstanding subsection A of this section, the judge who sentences a defendant for any violation of chapter 14 or 35.1 of this title or for an offense ~~at which there was a finding of sexual motivation pursuant to section 13-1428 may require the person who committed the offense to register pursuant to this section~~ (If Unlawful Imprisonment or Kidnapping were moved to this section it would require the judge as a neutral party to determine if the circumstances require registration.)

D. The court may require a person who has been adjudicated delinquent for an act that would constitute an offense specified in subsection A or C of this section to register pursuant to this section. Any duty to register under this subsection shall terminate when the person reaches twenty-five years of age.

E. A person who has been convicted, adjudicated guilty except insane or adjudicated delinquent and who is required to register in the convicting or adjudicating state for an act that would constitute an offense specified in subsection A or C of this section and who is not a resident of this state shall be required to register pursuant to this section if the person is either:

1. Employed full-time or part-time in this state, with or without compensation, for more than fourteen consecutive days or for an aggregate period of more than thirty days in a calendar year.

2. Enrolled as a full-time or part-time student in any school in this state for more than fourteen consecutive days or for an aggregate period of more than thirty days in a calendar year. For the purposes of this paragraph, "school" means an educational institution of any description, public or private, wherever located in this state.

F. Any duty to register under subsection D or E of this section for a juvenile adjudication terminates when the person reaches twenty-five years of age.

G. The court may order the termination of any duty to register under this section on successful completion of probation if the person was under eighteen years of age when the offense for which the person was convicted or adjudicated guilty except insane was committed.

H. The court may order the suspension or termination of any duty to register under this section after a hearing held pursuant to section 13-923.

I. At the time of registering, the person shall sign or affix an electronic fingerprint to a statement giving such information as required by the director of the department of public safety, including all names by which the person is known, any required online identifier and the name of any website or internet communication service where the identifier is being used. The sheriff shall fingerprint and photograph the person and within three days thereafter shall send copies of the statement, fingerprints and photographs to the department of public safety and the chief of police, if any, of the place where the person resides. The information that is required by this subsection shall include the physical location of the person's residence and the person's address. If the person has a place of residence that is different from the person's address, the person shall provide the person's address, the physical location of the person's residence and the name of the owner of the residence if the residence is privately owned and not offered for rent or lease. If the person receives mail at a post office box, the person shall provide the location and number of the post office box. If the person has more than one residence or does not have an address or a permanent place of residence, the person shall provide a description and physical location of any temporary residence and shall register as a transient not less than every ninety days with the sheriff in whose jurisdiction the transient is physically present.

J. On the person's initial registration and every year after the person's initial registration, the person shall confirm any required online identifier and the name of any website or internet communication service where the identifier is being used and the person shall obtain a new nonoperating identification license or a driver license from the motor vehicle division in the department of transportation and shall carry a valid nonoperating identification license or a driver license. Notwithstanding sections 28-3165 and 28-3171, the license is valid for one year from the date of issuance, and the person shall submit to the department of transportation proof of the person's address and place of residence. The motor vehicle division shall annually update the person's address and photograph and shall make a copy of the photograph available to the department of public safety or to any law enforcement agency. The motor vehicle division shall provide to the department of public safety daily address updates for persons required to register pursuant to this section.

K. Except as provided in subsection E or L of this section, the clerk of the superior court in the county in which a person has been convicted of or adjudicated guilty except insane for a violation of any offense listed under subsection A of this section or has been ordered to register pursuant to subsection C or D of this section shall notify the sheriff in that county of the conviction or adjudication within ten days after entry of the judgment.

L. Within ten days after entry of judgment, a court not of record shall notify the arresting law enforcement agency of an offender's conviction of or adjudication of guilty except insane for a violation of section 13-1402. Within ten days after receiving this information, the law enforcement agency shall determine if the offender is required to register pursuant to this section. If the law enforcement agency determines that the offender is required to register, the law enforcement agency shall provide the information required by section 13-3825 to the department of public safety and shall make community notification as required by law.

M. A person who is required to register pursuant to this section because of a conviction or adjudication of guilty except insane for the unlawful imprisonment of a minor or the kidnapping of a minor is required to register, absent additional or subsequent convictions or adjudications, for a period of ten years from the date that the person is released from prison,

jail, probation, community supervision or parole and the person has fulfilled all restitution obligations. Notwithstanding this subsection, a person who has a prior conviction or adjudication of guilty except insane for an offense for which registration is required pursuant to this section is required to register for life.

N. A person who is required to register pursuant to this section and who is a student at a public or private institution of postsecondary education or who is employed, with or without compensation, at a public or private institution of postsecondary education or who carries on a vocation at a public or private institution of postsecondary education shall notify the county sheriff having jurisdiction of the institution of postsecondary education. The person who is required to register pursuant to this section shall also notify the sheriff of each change in enrollment or employment status at the institution.

O. At the time of registering, the sheriff shall secure a sufficient sample of blood or other bodily substances for deoxyribonucleic acid testing and extraction from a person who has been convicted of or adjudicated guilty except insane for an offense committed in another jurisdiction that if committed in this state would be a violation or attempted violation of any of the offenses listed in subsection A of this section or an offense that was in effect before September 1, 1978 and that, if committed on or after September 1, 1978, has the same elements of an offense listed in subsection A of this section or who is required to register by the convicting or adjudicating jurisdiction. The sheriff shall transmit the sample to the department of public safety.

P. Any person who is required to register under subsection A of this section shall register the person's required online identifier and the name of any website or internet communication service where the identifier is being used or is intended to be used with the sheriff from and after December 31, 2007, regardless of whether the person was required to register an identifier at the time of the person's initial registration under this section.

Q. On conviction of or adjudication of guilty except insane for any offense for which a person is required to register pursuant to this section, in addition to any other penalty prescribed by law, the court shall order the person to pay an additional assessment of two hundred fifty dollars. This assessment is not subject to any surcharge. The court shall transmit the monies received pursuant to this section to the county treasurer. The county treasurer shall transmit the monies received to the state treasurer. The state treasurer shall deposit the monies received in the state general fund. Notwithstanding any other law, the court shall not waive the assessment imposed pursuant to this section.

R. A person who is required to register pursuant to this section shall verify the person's address if requested by the department of public safety pursuant to section 13-3827, subsection G.

S. For the purposes of this section:

1. "Address" means the location at which the person receives mail.
2. "Required online identifier" means any electronic e-mail address information or instant message, chat, social networking or other similar internet communication name, but does not include a social security number, date of birth or pin number.
3. "Residence" means the person's dwelling place, whether permanent or temporary.

(Arizona State Legislature. View Document, 13-3821. 2019)

Other Materials Referenced on Power Point

Common Wealth V Muniz. Justice Daughtry. Leagle. July 19, 2017.
<https://www.leagle.com/decision/inpaco20170719669>

Restoration of Rights Project . 2019. ,<http://ccresourcecenter.org/state-restoration-profiles/50-state-comparison-relief-from-sex-offender-registration-obligations>

The State of Arizona, Appellee, v. Craig Victor Coleman, Appellant. Court of Appeals of Arizona, Division 2. Judge Howard. Find law. November 22, 2016.
<https://caselaw.findlaw.com/az-court-of-appeals/1755566.html>

Sex Offender Registry Reform

Remove **Unlawful Imprisonment** from the
Registry

Protect our Right to Due Process

Stephanie Adams

Attachment 6

NO Sexual Motivation

- Not Guilty for Kidnapping
- Not Guilty for Sexual Abuse

Jury Found Their Was **No**
Sexual Motivation

Judge Does Not Want Registry

- Did Not Think it Should Apply in My Case
- Did Not Think it is What Law Makers Intended
- **Judge Had No Power to Override** How the Law was Written
- AZ V Coleman Appellate Decision

Unlawful Imprisonment is very Easy to Commit 13-1303

“A person commits unlawful imprisonment by knowingly restraining another person.”

- Grab an arm
- Hold onto shirt
- Give them a hug
- Playfully Tussle
- No specified period of time from seconds to hours
- No specified intent, playful or in anger

It is really that simple!

Unlawful Imprisonment Defense

There are only 2 listed defenses:

1. Peace Officer
2. Family Member

If you are charged You will almost
certainly be found guilty

This Law is Very Broad and Liberally
Applied To Pull People into the Judicial
System

27 States DO NOT Include Unlawful Imprisonment on their Sex Offense Registry

Alabama	Mississippi	South Dakota
Alaska	Missouri	Utah
California	Nevada	Vermont
Colorado	North Carolina	Virginia
Delaware	North Dakota	West Virginia
Idaho	Ohio	
Indiana	Oklahoma	
Kansas	Oregon	
Maine	Pennsylvania	
Massachusetts	Rhode Island	

~~Michigan~~ ~~Arkansas~~ ~~Delaware~~ ~~Florida~~ ~~Georgia~~ ~~Illinois~~ ~~Indiana~~ ~~Iowa~~ ~~Kansas~~ ~~Kentucky~~ ~~Michigan~~ ~~Minnesota~~ ~~Mississippi~~ ~~Missouri~~ ~~Montana~~ ~~Nebraska~~ ~~Nevada~~ ~~New Hampshire~~ ~~New Jersey~~ ~~New Mexico~~ ~~New York~~ ~~North Carolina~~ ~~North Dakota~~ ~~Ohio~~ ~~Oklahoma~~ ~~Oregon~~ ~~Rhode Island~~ ~~South Carolina~~ ~~South Dakota~~ ~~Tennessee~~ ~~Texas~~ ~~Utah~~ ~~Vermont~~ ~~Virginia~~ ~~Washington~~ ~~West Virginia~~ ~~Wisconsin~~ ~~Wyoming~~

Michigan Rights Project . 2019. <http://www.michiganrightsproject.org/state-restoration-profiles/50-state-comparison-relief-from-sex-offender-registration-obligations>

13-3821 PERSONS REQUIRED TO REGISTER Subsection A

A. A person who has been convicted...shall register

1. Unlawful imprisonment pursuant to section 13-1303 if the victim is under eighteen years of age and the unlawful imprisonment was not committed by the child's parent.

- No Aggravating Factors needed
- No age Difference Stipulated
- No Distinction between Felony VS. Misdemeanor
- No Requirement for Sexual Motivation
- The Judge Does Not Decide

13-3821 PERSONS REQUIRED TO REGISTER, Subsection C

C. Notwithstanding subsection A of this section, **the judge... may require** the person...to register pursuant to this section

The Judge Decides

- Impartial
- Has heard the Facts of the case
- Can use Discernment and **Common Sense**

Right to Due Process

- Is it fundamentally fair to be punished for a crime you have not committed?
- Is it fair to be punished with sex registry when the jury found you not guilty of sexual motivation or intent?
- Why has this issue not been repaired by the judicial branch?

AZ State V Coleman 2016 Decision

- **Legislative Intent** is that all who are convicted of Unlawful imprisonment should register regardless of sexual motivation or other circumstances
- Sex Offense Registry is **Not a Punishment** so it can be applied **Without Proof** of sexual misconduct

Is This What YOU Intended?

Pennsylvania Common Wealth V Muniz 2017 Found Registry Is Punitive

- Includes Relatively Minor Offenses within its Net
- Advancing Tech has Increased Access to Personal Data
- Public Shaming is Happening it's just Online now
- Personal Information Published Long Past Sentence Completion
- Harassment and Ostracism
- Subject to Incarceration for Violations
- Work and Housing Limitations

Punitive VS Regulatory Scheme

Service Limitations

- Military
- Church Service
- Youth Sports

Work Limitations

- Medical Field
- Law Enforcement
- Education
- Entry Level Walmart Position
- Almost any large company or really anyone who doesn't know you and your whole story

We Suggest 2 Options

1. Remove Unlawful Imprisonment Entirely from the Registry

- This law is too Broad for such Devastating consequences
- The Majority of States Do Not include it.

2. Require a Judge to Decide Based on Facts

- Compromise
- Will require aggravating factors
- Allows possibility of common sense
- Move to Subsection C

Make the State Prove It **Before** They Punish for It!

I move the House Ad Hoc Committee on Earned Release Credits for Prisoners adopt the following recommendation:

- Require local and state criminal justice agencies to report complete, accurate, and timely data, and making such data available to the Executive, House of Representatives and Senate, and the Ad Hoc Committee on Earned Release Credit.

Members, you heard the motion. All those in favor say aye. All those opposed say nay. It appears the _____ have it, do have it, so ordered.

I move the House Ad Hoc Committee on Earned Release Credits for Prisoners adopt the following recommendation:

- Increase public-private partnerships for re-entry programs

Members, you heard the motion. All those in favor say aye. All those opposed say nay. It appears the _____ have it, do have it, so ordered.

I move the House Ad Hoc Committee on Earned Release Credits for Prisoners adopt the following recommendation:

- Utilize the Teach Academies to help fully staff GED programs

Members, you heard the motion. All those in favor say aye. All those opposed say nay. It appears the _____ have it, do have it, so ordered.

I move the House Ad Hoc Committee on Earned Release Credits for Prisoners adopt the following recommendation:

- Expand Earned Release Credits to 60% (3 days for every 5 days served) for inmates convicted of a Class 4, 5, or 6 felony.

Members, you heard the motion. All those in favor say aye. All those opposed say nay. It appears the _____ have it, do have it, so ordered.

I move the House Ad Hoc Committee on Earned Release Credits for Prisoners adopt the following recommendation:

- Expand deferred prosecution pursuant to ARS 11-361 and ensure that it is available state-wide.

Members, you heard the motion. All those in favor say aye. All those opposed say nay. It appears the _____ have it, do have it, so ordered.

I move the House Ad Hoc Committee on Earned Release Credits for Prisoners adopt the following recommendation:

- Fund and increase capacity for drug treatment and education programs, as well as for transition and reentry into the community.

Members, you heard the motion. All those in favor say aye. All those opposed say nay. It appears the _____ have it, do have it, so ordered.

I move the House Ad Hoc Committee on Earned Release Credits for Prisoners adopt the following recommendation:

- Require the implementation of a state-wide, publicly accessible database of criminal justice system data that includes data from prosecutor's offices regarding the charging and sentencing of defendants, and prison demographic data.

Members, you heard the motion. All those in favor say aye. All those opposed say nay. It appears the _____ have it, do have it, so ordered.

I move the House Ad Hoc Committee on Earned Release Credits for Prisoners adopt the following recommendation:

- Prohibit the use of drug priors as an allegeable prior for non-drug related offenses.

Members, you heard the motion. All those in favor say aye. All those opposed say nay. It appears the _____ have it, do have it, so ordered.

I move the House Ad Hoc Committee on Earned Release Credits for Prisoners adopt the following recommendation:

- **Establish a Citizen Oversight Board for the Department of Corrections. Members, you heard the motion. All those in favor say aye. All those opposed say nay. It appears the _____ have it, do have it, so ordered.**

I move the House Ad Hoc Committee on Earned Release Credits for Prisoners adopt the following recommendation:

- **Remove the functional literacy requirement of A.R.S. 41-1604.07(F). Members, you heard the motion. All those in favor say aye. All those opposed say nay. It appears the _____ have it, do have it, so ordered.**