

REFERENCE TITLE: probation; facilities; safe communities act

State of Arizona
Senate
Forty-eighth Legislature
Second Regular Session
2008

SB 1476

Introduced by
Senators Huppenthal, Gray L

AN ACT

AMENDING SECTIONS 12-267, 13-901, 13-903 AND 13-917, ARIZONA REVISED STATUTES; AMENDING TITLE 12, CHAPTER 2, ARTICLE 7, ARIZONA REVISED STATUTES, BY ADDING SECTION 12-270; AMENDING TITLE 41, CHAPTER 11, ARTICLE 1, ARIZONA REVISED STATUTES, BY ADDING SECTION 41-1608; 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 12-267, Arizona Revised Statutes, is amended to
3 read:
4 12-267. Adult probation services fund; accounts; expenditure
5 plan; use
6 A. The board of supervisors shall designate a chief fiscal officer who
7 shall establish and administer an adult probation services fund consisting
8 of:
9 1. County general fund appropriations for adult probation.
10 2. State appropriations for adult probation including:
11 (a) Monies for adult probation officers authorized by article 6 of
12 this chapter.
13 (b) Monies for state aid for adult probation services authorized by
14 this article.
15 (c) Monies for adult community punishment programs established
16 pursuant to article 11 of this chapter.
17 (d) Monies for adult intensive probation pursuant to title 13,
18 chapter 9.
19 (e) MONIES RECEIVED PURSUANT TO SECTION 12-270 THAT EACH COUNTY SHALL
20 USE FOR THE FOLLOWING:
21 (i) ADULT PROBATION SERVICES.
22 (ii) GRANTS TO MUNICIPAL LAW ENFORCEMENT PARTNERSHIPS WITH PROBATION
23 OFFICERS.
24 (iii) GRANTS TO NONPROFIT VICTIM SERVICES ORGANIZATIONS TO PARTNER
25 WITH PROBATION OFFICERS AND ASSIST VICTIMS OF CRIME.
26 3. Probation fees collected pursuant to section 13-901.
27 4. Federal monies provided for adult probation.
28 5. Adult probation monies from any other source.
29 B. The chief fiscal officer shall establish and maintain separate
30 accounts in the fund showing receipts and expenditures of monies from each
31 source listed in subsection A of this section. The presiding judge of the
32 superior court shall annually present to the board of supervisors for
33 approval a detailed expenditure plan for the adult probation services fund
34 accounts. Any modifications to the expenditure plan affecting state
35 appropriations shall be made in accordance with the rules and procedures
36 established by the supreme court. Any modifications to the expenditure plan
37 affecting county appropriated funds shall be made in accordance with the
38 policies established by the county. The chief fiscal officer shall disburse
39 monies from the fund accounts only at the direction of the presiding judge of
40 the superior court. The chief fiscal officer of each county ~~shall~~, on or
41 before August 31 of each year for the preceding fiscal year, ~~shall~~ submit an
42 annual report to the supreme court showing the total amount of receipts and
43 expenditures in each account of the adult probation services fund.

1 C. The state monies in the adult probation services fund shall be used
2 in accordance with guidelines established by the supreme court or the
3 granting authority.

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

7 E. Up to twenty-five thousand dollars annually deposited in the adult
8 probation services fund shall be used to pay the annual assessment on member
9 states of the interstate compact for the supervision of adult offenders
10 established in section 31-467, [ARTICLE X](#), subsection B.

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

14 Sec. 2. Title 12, chapter 2, article 7, Arizona Revised Statutes, is
15 amended by adding section 12-270, to read:

16 [12-270. Probation revocation and crime reduction performance](#)
17 [funding](#)

18 A. THE JOINT LEGISLATIVE BUDGET COMMITTEE SHALL ANNUALLY CALCULATE:

19 1. IF THERE ARE COSTS THAT HAVE BEEN AVERTED FROM REDUCTIONS IN THE
20 PERCENTAGE OF PEOPLE FROM EACH COUNTY WHOSE PROBATION IS REVOKED AND WHO ARE
21 SENTENCED TO SERVE A TERM OF IMPRISONMENT IN THE STATE DEPARTMENT OF
22 CORRECTIONS OR WHO ARE PLACED IN A PROBATION VIOLATION CENTER PURSUANT TO
23 SECTION 13-901, SUBSECTION K. THE BASELINE REVOCATION PERCENTAGE RATE SHALL
24 BE THE REVOCATION PERCENTAGE RATE IN FISCAL YEAR 2007-2008.

25 2. THE PERCENTAGE OF VICTIM RESTITUTION PAYMENTS COLLECTED FROM
26 PERSONS WHO ARE ON SUPERVISED PROBATION IN EACH COUNTY. THE BASELINE
27 RESTITUTION PAYMENT COLLECTION PERCENTAGE RATE SHALL BE THE PERCENTAGE OF
28 RESTITUTION PAYMENTS IN FISCAL YEAR 2007-2008.

29 B. THE LEGISLATURE SHALL ANNUALLY APPROPRIATE TO THE ADULT PROBATION
30 SERVICES FUND OF EACH COUNTY ESTABLISHED PURSUANT TO SECTION 12-267 UP TO
31 FIFTY PER CENT OF ANY COST SAVINGS CALCULATED IN SUBSECTION A OF THIS SECTION
32 FOR THAT COUNTY, BASED ON THE FOLLOWING PROVISIONS:

33 1. TWENTY PER CENT OF THE CALCULATED SAVINGS SHALL BE APPROPRIATED IF
34 THERE IS A REDUCTION IN THE PERCENTAGE OF PEOPLE FROM EACH COUNTY ON
35 SUPERVISED PROBATION WHOSE TERMS OF SUPERVISED PROBATION ARE REVOKED AND WHO
36 ARE ADMITTED TO THE STATE DEPARTMENT OF CORRECTIONS OR WHO ARE ADMITTED TO A
37 PROBATION VIOLATION CENTER PURSUANT TO SECTION 13-901, SUBSECTION K.

38 2. TWENTY PER CENT OF THE CALCULATED SAVINGS SHALL BE APPROPRIATED IF
39 THERE IS A REDUCTION FROM FISCAL YEAR 2007-2008 IN THE PERCENTAGE OF PEOPLE
40 FROM EACH COUNTY WHO ARE ON SUPERVISED PROBATION AND WHO ARE ADMITTED TO THE
41 STATE DEPARTMENT OF CORRECTIONS FOR CONVICTION OF A NEW CRIME.

42 3. TEN PER CENT OF THE CALCULATED SAVINGS SHALL BE APPROPRIATED IF
43 THERE IS NO REDUCTION FROM FISCAL YEAR 2007-2008 IN THE RATE OF COLLECTION OF
44 VICTIM RESTITUTION PAYMENTS FOR PEOPLE ON SUPERVISED PROBATION FROM EACH
45 COUNTY.

1 Sec. 3. Section 13-901, Arizona Revised Statutes, is amended to read:

2 13-901. Probation

3 A. If a person who has been convicted of an offense is eligible for
4 probation, the court may suspend the imposition or execution of sentence and,
5 if so, shall without delay place the person on intensive probation
6 supervision pursuant to section 13-913 or supervised or unsupervised
7 probation on such terms and conditions as the law requires and the court
8 deems appropriate, including participation in any programs authorized in
9 title 12, chapter 2, article 11. If a person is not eligible for probation,
10 imposition or execution of sentence shall not be suspended or delayed. If
11 the court imposes probation, it may also impose a fine as authorized by
12 chapter 8 of this title. If probation is granted the court shall impose a
13 condition that the person waive extradition for any probation revocation
14 procedures and it shall order restitution pursuant to section 13-603,
15 subsection C where there is a victim who has suffered economic loss. When
16 granting probation to an adult the court, as a condition of probation, shall
17 assess a monthly fee of not less than fifty dollars unless, after determining
18 the inability of the probationer to pay the fee, the court assesses a lesser
19 fee. In justice and municipal courts the fee shall only be assessed when the
20 person is placed on supervised probation. For persons placed on probation in
21 the superior court, the fee shall be paid to the clerk of the superior court
22 and the clerk of the court shall pay all monies collected from this fee to
23 the county treasurer for deposit in the adult probation services fund
24 established by section 12-267. For persons placed on supervised probation in
25 the justice court, the fee shall be paid to the justice court and the justice
26 court shall transmit all of the monies to the county treasurer for deposit in
27 the adult probation services fund established by section 12-267. For persons
28 placed on supervised probation in the municipal court, the fee shall be paid
29 to the municipal court. The municipal court shall transmit all of the monies
30 to the city treasurer who shall transmit the monies to the county treasurer
31 for deposit in the adult probation services fund established by section
32 12-267. Any amount greater than forty dollars of the fee assessed pursuant
33 to this subsection shall only be used to supplement monies currently used for
34 the salaries of adult probation and surveillance officers and for support of
35 programs and services of the superior court adult probation departments.

36 B. The period of probation shall be determined according to section
37 13-902, except that if a person is released pursuant to section 31-233,
38 subsection B and community supervision is waived pursuant to section 13-603,
39 subsection K, the court shall extend the period of probation by the amount of
40 time the director of the state department of corrections approves for the
41 inmate's temporary release.

42 C. The court, in its discretion, may issue a warrant for the rearrest
43 of the defendant and may modify or add to the conditions or, if the defendant
44 commits an additional offense or violates a condition, may revoke probation
45 in accordance with the rules of criminal procedure at any time before the

1 expiration or termination of the period of probation. If the court revokes
2 the defendant's probation and the defendant is serving more than one
3 probationary term concurrently, the court may sentence the person to terms of
4 imprisonment to be served consecutively.

5 D. At any time during the probationary term of the person released on
6 probation, any probation officer, without warrant or other process and at any
7 time until the final disposition of the case, may rearrest any person and
8 bring the person before the court.

9 E. The court, on its own initiative or on application of the
10 probationer, after notice and an opportunity to be heard for the prosecuting
11 attorney and, on request, the victim, may terminate the period of probation
12 or intensive probation and discharge the defendant at a time earlier than
13 that originally imposed if in the court's opinion the ends of justice will be
14 served and if the conduct of the defendant on probation warrants it.

15 F. When granting probation the court may require that the defendant be
16 imprisoned in the county jail OR A PROBATION VIOLATION CENTER at whatever
17 time or intervals, consecutive or nonconsecutive, the court shall determine,
18 within the period of probation, as long as the period actually spent in
19 confinement does not exceed one year or the maximum period of imprisonment
20 permitted under chapter 7 of this title, whichever is the shorter.

21 G. If restitution is made a condition of probation, the court shall
22 fix the amount of restitution and the manner of performance pursuant to
23 chapter 8 of this title.

24 H. When granting probation, the court shall set forth at the time of
25 sentencing and on the record the factual and legal reasons in support of each
26 sentence.

27 I. If the defendant meets the criteria set forth in section 13-901.01
28 or 13-3422, the court may place the defendant on probation pursuant to either
29 section. If a defendant is placed on probation pursuant to section 13-901.01
30 or 13-3422, the court may impose any term of probation that is authorized
31 pursuant to this section and that is not in violation of section 13-901.01.

32 J. NOTWITHSTANDING ANY OTHER LAW, THE COURT SHALL ADJUST THE PERIOD OF
33 A DEFENDANT'S SUPERVISED PROBATION IF THE CHIEF ADULT PROBATION OFFICER
34 REQUESTS AN ADJUSTMENT TO THE DEFENDANT'S TERM OF PROBATION FOR EARNED TIME
35 CREDIT. THE CHIEF ADULT PROBATION OFFICER HAS SOLE DISCRETION TO REQUEST AN
36 EARNED TIME CREDIT ADJUSTMENT. FOR THE PURPOSES OF THIS SUBSECTION, EARNED
37 TIME CREDIT EQUALS TWENTY DAYS FOR EVERY MONTH THAT A DEFENDANT SUCCESSFULLY
38 COMPLETES SUPERVISED PROBATION.

39 K. IF A DEFENDANT WHO IS PLACED ON PROBATION COMMITS AN ADDITIONAL
40 OFFENSE OR VIOLATES A CONDITION OF PROBATION THE COURT, IF APPROPRIATE, MAY
41 SUSPEND THE PROBATION REVOCATION DISPOSITION PROCEEDING FOR NINETY DAYS TO
42 ALLOW THE DEFENDANT TO COMPLETE A REHABILITATION PROGRAM IN A PROBATION
43 VIOLATION CENTER ESTABLISHED PURSUANT TO SECTION 41-1608. IF THE DEFENDANT
44 SUCCESSFULLY COMPLETES THE REHABILITATION PROGRAM IN THE PROBATION VIOLATION
45 CENTER THE COURT SHALL REINSTATE THE DEFENDANT'S PROBATION. IF THE DEFENDANT

1 FAILS TO SUCCESSFULLY COMPLETE OR REFUSES TO COMPLETE THE REHABILITATION
2 PROGRAM THE COURT SHALL REVOKE THE DEFENDANT'S PROBATION AND SENTENCE THE
3 DEFENDANT TO A TERM OF IMPRISONMENT.

4 Sec. 4. Section 13-903, Arizona Revised Statutes, is amended to read:

5 13-903. Calculation of periods of probation

6 A. A period of probation commences on the day it is imposed or as
7 designated by the court, and an extended period of probation commences on the
8 day the original period lapses.

9 B. If a court determines that the defendant violated a condition of
10 the defendant's probation but reinstates probation, the period between the
11 date of the violation and the date of restoration of probation is not
12 computed as part of the period of probation. If it is determined that the
13 defendant is not a violator, there is no interruption of the period.

14 C. The running of the period of probation shall cease during the
15 unauthorized absence of the defendant from the jurisdiction or from any
16 required supervision and shall resume only upon the defendant's voluntary or
17 involuntary return to the probation service.

18 D. The running of the period of probation shall cease during the
19 period from the filing of the petition to revoke probation to the termination
20 of revocation of probation proceedings, except that if a court determines
21 that the defendant is not a violator, there is no interruption of the period
22 of probation.

23 E. If probation is imposed on one who at the time is serving a
24 sentence of imprisonment imposed on a different conviction, service of the
25 sentence of imprisonment shall not satisfy the probation.

26 F. Time spent in custody under section 13-901, subsection F OR K shall
27 be credited to any sentence of imprisonment imposed upon revocation of
28 probation.

29 Sec. 5. Section 13-917, Arizona Revised Statutes, is amended to read:

30 13-917. Modification of supervision

31 A. The adult probation officer shall periodically examine the needs of
32 each person granted intensive probation and the risks of modifying the level
33 of supervision of the person. The court may at any time modify the level of
34 supervision of a person granted intensive probation, ~~or~~ may transfer the
35 person to supervised probation or MAY terminate the period of intensive
36 probation pursuant to section 13-901, subsection E.

37 B. The court may issue a warrant for the arrest of a person granted
38 intensive probation. If the person commits an additional offense or violates
39 a condition of probation, the court may revoke intensive probation at any
40 time before the expiration or termination of the period of intensive
41 probation. If a petition to revoke the period of intensive probation is
42 filed and the court finds that the person has committed an additional felony
43 offense or has violated a condition of intensive probation which poses a
44 serious threat or danger to the community, the court ~~shall~~ MAY revoke the
45 period of intensive probation and impose a term of imprisonment as authorized

1 by law. If the court finds that the person has violated any other condition
2 of intensive probation, it shall modify the conditions of intensive probation
3 as appropriate or shall revoke the period of intensive probation and impose a
4 term of imprisonment as authorized by law.

5 C. The court shall notify the prosecuting attorney, and the victim on
6 request, of any proposed modification of a person's intensive probation if
7 that modification will substantially affect the person's contact with or
8 safety of the victim or if the modification involves restitution or
9 incarceration status.

10 Sec. 6. Title 41, chapter 11, article 1, Arizona Revised Statutes, is
11 amended by adding section 41-1608, to read:

12 41-1608. Probation violation center

13 A. THE DEPARTMENT SHALL DESIGNATE A CORRECTIONAL FACILITY IN WHOLE OR
14 IN PART AS A PROBATION VIOLATION CENTER FOR PROBATIONERS WHOSE REVOCATION
15 DISPOSITION IS SUSPENDED PURSUANT TO SECTION 13-901, SUBSECTION K. THE
16 DEPARTMENT MAY CONTRACT WITH COUNTIES WITH A POPULATION OF TWO MILLION
17 PERSONS OR MORE TO ESTABLISH AND OPERATE A PROBATION VIOLATION CENTER FOR
18 PROBATIONERS FROM THAT COUNTY.

19 B. THE PROBATION VIOLATION CENTER SHALL:

20 1. PROVIDE TREATMENT AND REHABILITATION SERVICES BASED ON AN INMATE'S
21 RISK FOR RECIDIVISM AND NEED FOR TREATMENT, INCLUDING:

- 22 (a) SUBSTANCE ABUSE EDUCATION AND TREATMENT.
- 23 (b) LIFE SKILLS PROGRAMMING.
- 24 (c) EMPLOYMENT PREPARATION.
- 25 (d) ANGER MANAGEMENT.
- 26 (e) PARENTING SKILLS.
- 27 (f) COGNITIVE SKILLS TRAINING.

28 2. PREPARE INMATES TO SUCCESSFULLY COMPLETE PROBATION.

29 3. INCREASE PUBLIC SAFETY AND REDUCE RECIDIVISM.

30 Sec. 7. Legislative findings

31 The legislature finds that:

32 1. Arizona's crime rate is unacceptably high and among the highest in
33 the nation.

34 2. Arizona's prison population is projected to increase by fifty per
35 cent from 2007 to 2017 and is estimated to cost taxpayers an additional two
36 to three billion dollars in construction and operating costs over the next
37 decade.

38 3. Each year over four thousand probationers are revoked to prison in
39 Arizona for failing to comply with the conditions of their probation
40 supervision and not necessarily for committing a new crime. The cost of
41 housing these probation revocations in state prison costs taxpayers an
42 estimated fifty to eighty million dollars annually.

43 4. Nearly eighty per cent of the persons whose probation is revoked
44 and who are sent to prison are property or drug offenders, and alcohol or
45 drug use was a factor in forty-five per cent of the revocations.

1 5. Half of the individuals revoked from probation in Maricopa county
2 chose to be sentenced to prison rather than be placed back on probation
3 supervision in the community.

4 6. Just a few "high stakes" neighborhoods in Arizona account for a
5 majority of criminal activity and involvement in the criminal justice system.
6 A single neighborhood in Phoenix is home to just one per cent of the state's
7 total resident population, but accounts for six and one-half per cent of the
8 state's prison population.

9 7. To increase public safety, state, county and local governments must
10 work together to integrate efforts by law enforcement, probation officers,
11 parole officers, prosecutors, social service organizations and community
12 based organizations in these high stakes communities to fight crime.

13 Sec. 8. Short title

14 This act shall be known as the "Safe Communities Act".