

REFERENCE TITLE: *criminal justice; budget reconciliation*

State of Arizona  
House of Representatives  
Forty-ninth Legislature  
Third Special Session  
2009

## **HB 2010**

Introduced by  
Representatives Adams: McComish, Tobin, Yarbrough (with permission of  
Committee on Rules)

### **AN ACT**

AMENDING SECTIONS 8-358, 12-114.01, 12-251, 12-299.03, 12-2456, 13-901.02, 13-914, 13-916, 21-222, 25-323.01, 25-323.02, 28-3396, 31-466, 31-467.06, 38-842 AND 38-902, ARIZONA REVISED STATUTES; AMENDING TITLE 41, CHAPTER 11, ARTICLE 1, ARIZONA REVISED STATUTES, BY ADDING SECTION 41-1608; AMENDING SECTION 41-1722, ARIZONA REVISED STATUTES; AMENDING TITLE 41, CHAPTER 12, ARTICLE 5, ARIZONA REVISED STATUTES, BY ADDING SECTION 41-1772; AMENDING SECTION 41-2401, ARIZONA REVISED STATUTES; AMENDING LAWS 2007, CHAPTER 261, SECTION 16; MAKING APPROPRIATIONS; RELATING TO CRIMINAL JUSTICE BUDGET RECONCILIATION.

(TEXT OF BILL BEGINS ON NEXT PAGE)

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

2 Section 1. Section 8-358, Arizona Revised Statutes, is amended to  
3 read:

4 8-358. Juvenile intensive probation guidelines; report

5 A. The supreme court shall establish juvenile intensive probation  
6 guidelines. In establishing these guidelines, the supreme court shall ensure  
7 that both:

8 1. Juveniles who are granted intensive probation meet the requirements  
9 of section 8-352.

10 2. Based on the nature of the offense and the delinquent history of  
11 the juvenile, there are reasonable grounds to believe that the juvenile is  
12 able to remain at liberty without posing a substantial risk to the community.

13 B. The supreme court shall annually submit a report stating the number  
14 of juveniles supervised on intensive probation during the prior year, the  
15 nature of the offense and the delinquent history of each of these juveniles  
16 to the governor, the speaker of the house of representatives and the  
17 president of the senate at the time of its annual budget request. **BEGINNING**  
18 **JULY 1, 2011, THE REPORT SHALL BE SUBMITTED ELECTRONICALLY.**

19 C. The supreme court shall contract for an evaluation to determine if  
20 the provisions of this article reduce the number of serious repetitive  
21 offenses committed by juveniles on intensive probation supervision and shall  
22 submit the results of the study to the governor, the speaker of the house of  
23 representatives and the president of the senate.

24 Sec. 2. Section 12-114.01, Arizona Revised Statutes, is amended to  
25 read:

26 12-114.01. Probation surcharge; deposit

27 A. Except as provided in section 12-269, in addition to any other  
28 penalty assessment provided by law, a probation surcharge of ~~ten~~ **TWENTY**  
29 dollars shall be levied on every fine, penalty and forfeiture imposed and  
30 collected by the superior, justice and municipal courts for criminal offenses  
31 and any civil penalty imposed and collected for a civil traffic violation and  
32 fine, penalty or forfeiture for a violation of the motor vehicle statutes,  
33 for a violation of any local ordinance relating to the stopping, standing or  
34 operation of a vehicle, except parking violations, or for a violation of the  
35 game and fish statutes in title 17.

36 B. The monies collected pursuant to this section shall be deposited,  
37 pursuant to sections 35-146 and 35-147, in the judicial collection  
38 enhancement fund established by section 12-113 to be used to supplement  
39 monies currently used for the salaries of adult and juvenile probation and  
40 surveillance officers and for support of programs and services of the  
41 superior court adult and juvenile probation departments.

42 C. The court may waive all or part of a probation surcharge in the  
43 same manner and subject to the same limitations provided for the waiver of  
44 penalty assessments in section 12-116.01, subsection ~~E~~ **F** and section  
45 12-116.02, subsection D.

1           Sec. 3. Section 12-251, Arizona Revised Statutes, is amended to read:

2           12-251. Adult probation officers and support staff:  
3                           appointment; qualifications

4           A. The presiding judge of the superior court in each county shall  
5           appoint a chief adult probation officer who shall serve at the pleasure of  
6           the presiding judge. Such chief adult probation officer, with the approval  
7           of the presiding judge of the superior court, shall appoint such deputy adult  
8           probation officers and support staff as are necessary to provide presentence  
9           investigations and supervision services to the court. Presentence  
10          investigations and probation services may be provided to the justice courts  
11          in each county for persons who are convicted of violating section 28-1381 or  
12          28-1382 or title 13, chapter 14, 35.1 or 36 and who are placed on supervised  
13          probation by the court. Presentence investigations and supervised probation  
14          services may be provided by a county probation office to a municipal court  
15          through an intergovernmental agreement entered into by the respective county  
16          and municipality. On approval of the presiding judge and in accordance with  
17          policies and procedures developed by the supreme court, the presiding judge  
18          of the superior court may direct that presentence investigations and  
19          supervised probation services be provided for other persons if a risk of  
20          violence exists or if it would be in the best interest of justice. Those  
21          deputy adult probation officers engaged in case supervision shall supervise  
22          no more than an average of ~~sixty~~ SIXTY-FIVE adults who reside in the county  
23          on probation to the court. Such deputy adult probation officers shall hold  
24          office under rules and procedures established by the supreme court.

25          B. Each adult probation officer appointed pursuant to subsection A of  
26          this section shall give bond in the principal amount to be fixed by the court  
27          and approved by the judge making the appointment, conditioned upon the  
28          faithful performance by such officer of the officer's official duties and the  
29          payment of all monies coming into the officer's possession as such officer to  
30          the person, officer or body entitled to receive the monies. Any adult  
31          probation officer covered by a blanket faithful performance bond payable to  
32          the county or covered by state risk management shall be deemed to be in  
33          compliance with this section.

34          C. Probation department personnel shall qualify under minimum  
35          standards of experience and education established by the supreme court. Such  
36          standards may differ for counties of less than three hundred thousand persons  
37          from counties with three hundred thousand persons or more. Notwithstanding  
38          section 12-265, any additional salary costs that might be required as a  
39          result of the adoption of minimum salary standards by the supreme court may  
40          be paid by funds made available to the probation department pursuant to  
41          sections 12-267 and 12-268 or by the supreme court.

42          D. Presently appointed adult probation officers who qualify under ~~the~~  
43          ~~provisions of~~ subsection C of this section shall be retained in their  
44          position as long as they are qualified.

1           Sec. 4. Section 12-299.03, Arizona Revised Statutes, is amended to  
2 read:

3           12-299.03. Duties of the supreme court; evaluation

4           A. The supreme court shall:

5           1. Implement and administer the community punishment program.

6           2. Adopt necessary guidelines, rules, standards and policies to  
7 implement this article.

8           3. Facilitate the development of local plans.

9           4. Develop and implement an application process and procedures.

10          5. Review and approve plans and budgets.

11          6. Allocate funding.

12          7. Provide statewide training and technical assistance to the superior  
13 court, adult probation departments and advisory committees regarding  
14 community punishment.

15          8. Conduct an evaluation of all programs on a periodic basis to ensure  
16 program accountability. The evaluation report shall include information for  
17 the superior court in each participating county on the number of offenders  
18 serving suspended sentences on probation and intensive probation, the average  
19 cost per offender, the amount of restitution, fines and fees paid, the number  
20 of community restitution hours contributed by offenders and the number of  
21 offenders who have successfully completed terms of probation. The report  
22 shall be submitted to the governor, the speaker of the house of  
23 representatives and the president of the senate. The supreme court may  
24 contract with a private consultant to prepare this evaluation report.  
25 **BEGINNING JULY 1, 2011, THE REPORT SHALL BE SUBMITTED ELECTRONICALLY.**

26          B. The supreme court may contract directly with private human service  
27 agencies to develop, implement and operate community punishment programs.

28          Sec. 5. Section 12-2456, Arizona Revised Statutes, is amended to read:

29          12-2456. Emancipation administrative costs fund; purpose;  
30                 report; collection of information

31          A. Each county treasurer shall establish an emancipation  
32 administrative costs fund consisting of monies received pursuant to section  
33 12-284, subsection J.

34          B. The presiding judge of the juvenile court shall use fund monies for  
35 administrative costs associated with this article.

36          C. On notice of the presiding judge, the county treasurer shall invest  
37 monies in the fund and monies earned from investment shall be credited to the  
38 fund.

39          D. On or before November 15 of each year, the county treasurer shall  
40 submit a report to the presiding judge that shows the amount of monies in the  
41 fund. **BEGINNING JULY 1, 2011, THE REPORT SHALL BE SUBMITTED ELECTRONICALLY.**

42          E. Beginning October 1, 2005, the administrative office of the courts  
43 shall collect information relating to emancipation of minors pursuant to this  
44 ~~title~~ **CHAPTER**, including the following:



1 supreme court guidelines for intensive probation, the adult probation officer  
2 may recommend to the court that the offender be granted intensive probation.

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

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

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

13 1. Maintaining employment or maintaining full-time student status at a  
14 school subject to title 15 or title 32, chapter 30 and making progress deemed  
15 satisfactory to the probation officer, or both, or being involved in  
16 supervised job searches and community restitution work at least six days a  
17 week throughout the offender's term of intensive probation.

18 2. Paying restitution and probation fees of not less than ~~fifty~~  
19 ~~SEVENTY-FIVE~~ dollars unless, after determining the inability of the offender  
20 to pay the fee, the court assesses a lesser fee. Probation fees shall be  
21 deposited in the adult probation services fund established by section 12-267.  
22 Any amount ~~greater than forty dollars of the fee~~ assessed pursuant to this  
23 ~~subsection~~ PARAGRAPH shall ~~only~~ be used to supplement monies ~~currently~~  
24 for the salaries of adult probation and surveillance officers and for support  
25 of programs and services of the superior court adult probation departments.

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

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

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

34 6. Performing not less than forty hours of community restitution each  
35 month. Full-time students may be exempted or required to perform fewer hours  
36 of community restitution. For good cause, the court may reduce the number of  
37 community restitution hours performed to not less than twenty hours each  
38 month.

39 7. Meeting any other conditions imposed by the court to meet the needs  
40 of the offender and limit the risks to the community, including participation  
41 in a program of community punishment authorized in title 12, chapter 2,  
42 article 11.

1           Sec. 8. Section 13-916, Arizona Revised Statutes, is amended to read:  
2           13-916. Intensive probation teams: adult probation officer  
3                                   qualifications; duties; case load limit

4           A. The chief adult probation officer in each county, with approval of  
5 the presiding judge of the superior court, shall appoint intensive probation  
6 teams consisting of one adult probation officer and one surveillance officer,  
7 **TWO ADULT PROBATION OFFICERS** or one adult probation officer and two  
8 surveillance officers.

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

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

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

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

21           F. The intensive probation team shall:

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

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

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

28           (b) Weekly contact with the employer of the probationer.

29           3. Obtain and assemble information concerning the conduct of persons  
30 sentenced to intensive probation, including weekly arrest records, and report  
31 the information to the court.

32           4. Report to the court if the probationer engages in conduct  
33 constituting an offense.

34           5. Bring a defaulting probationer into court if, in the judgment of  
35 the adult probation officer, the probationer's conduct justifies revoking the  
36 intensive probation.

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

39           7. Perform any other responsibilities required by the terms and  
40 conditions imposed by the court.

41           Sec. 9. Section 21-222, Arizona Revised Statutes, is amended to read:  
42           21-222. Arizona lengthy trial fund

43           A. The Arizona lengthy trial fund is established consisting of monies  
44 received from the additional fees paid on all filings, appearances, responses

1 and answers pursuant to section 12-115. The monies in the fund shall not be  
2 used for any purpose other than as prescribed in this section.

3 B. The supreme court shall administer the fund and shall adopt rules  
4 for the administration of the fund. Not more than three per cent of the  
5 monies in the fund shall be used for the reasonable and necessary costs of  
6 administering the fund. On or before the fifteenth day of each month, on  
7 receipt of a request for reimbursement the supreme court shall transmit  
8 monies from the fund to a jury commissioner for monies paid to a juror under  
9 this section, together with a fee of not less than the amount prescribed in  
10 section 12-284, subsection A, class E for each application for payment of  
11 replacement or supplemental earnings by a juror.

12 C. Subject to the availability of monies, monies in the fund shall be  
13 used to pay full or partial earnings replacement or supplementation to jurors  
14 who serve as petit jurors for more than five days and who receive less than  
15 full compensation. The amount of replacement or supplemental earnings shall  
16 be at least forty dollars but not more than three hundred dollars per day per  
17 juror beginning on the fourth day of jury service.

18 D. A juror whose jury service lasts more than five days may submit a  
19 request for payment from the fund. The amount a juror receives from the fund  
20 is limited to the difference between the jury fee prescribed in section  
21 21-221 and the actual amount of earnings a juror earns, not less than forty  
22 dollars, up to the maximum level payable under subsection C of this section,  
23 minus any amount the juror actually received from the juror's employer during  
24 the same time period. A juror who requests payment from the fund:

25 1. Shall disclose on the form the juror's regular earnings, the amount  
26 the juror's employer will pay during the term of jury service starting on the  
27 fourth day and thereafter, the amount of replacement or supplemental earnings  
28 being requested and any other information that the jury commissioner deems  
29 necessary.

30 2. Before receiving payment from the fund, shall submit verification  
31 from the juror's employer, if any, regarding the earnings information that is  
32 provided under paragraph 1. This verification may include the employee's  
33 most recent earnings statement or a similar document.

34 3. In order to verify the weekly income if the juror is self-employed  
35 or receives compensation other than wages, shall provide a sworn affidavit  
36 attesting to the juror's approximate gross weekly income, together with any  
37 other information that the supreme court requires.

38 E. Jurors who are unemployed and are not eligible for payment pursuant  
39 to subsections C and D of this section are eligible to be paid forty dollars  
40 per day, even if they receive income in the form of spousal maintenance,  
41 pensions, retirement, unemployment compensation, disability benefits or other  
42 similar income. Commissioners shall not deduct these other forms of income  
43 in calculating the amount these jurors are to be paid from the fund.

44 F. The supreme court shall annually report to the joint legislative  
45 budget committee on the amount of monies collected and disbursed from the



1 fund and the number of jurors who received monies from the fund. BEGINNING  
2 JULY 1, 2011, THE REPORT SHALL BE SUBMITTED ELECTRONICALLY.

3 Sec. 10. Section 25-323.01, Arizona Revised Statutes, is amended to  
4 read:

5 25-323.01. Child support committee; membership; duties; report

6 A. The child support committee is established consisting of the  
7 following members:

8 1. The director of the department of economic security or the  
9 director's designee.

10 2. The assistant director of the division of child support enforcement  
11 of the department of economic security.

12 3. A division or section chief from the office of the attorney general  
13 who has knowledge of or experience in child support enforcement and related  
14 issues and who is appointed by the attorney general.

15 4. The director of the administrative office of the supreme court or  
16 the director's designee.

17 5. Two presiding judges from the domestic relations division of the  
18 superior court who are appointed by the chief justice of the supreme court.  
19 One judge shall be from an urban county and one judge shall be from a rural  
20 county.

21 6. A title IV-D court commissioner who is appointed by the chief  
22 justice of the supreme court.

23 7. A clerk of the superior court who is appointed by the chief justice  
24 of the supreme court.

25 8. One county attorney who is appointed by the director of the  
26 department of economic security and who is from a county that is currently  
27 contracting with the state to provide child support enforcement services.

28 9. An executive assistant from the office of the governor who is  
29 appointed by the governor.

30 10. One person who is knowledgeable in child support issues and who is  
31 a noncustodial parent and one person who is knowledgeable in child support  
32 issues and who is a custodial parent. The president of the senate shall  
33 appoint these members.

34 11. One person who is knowledgeable in child support issues and who is  
35 a noncustodial parent and one person who is knowledgeable in child support  
36 issues and who is a custodial parent. The speaker of the house of  
37 representatives shall appoint these members.

38 12. One parent who is knowledgeable in child support issues, who has  
39 joint custody and who is appointed jointly by the president of the senate and  
40 the speaker of the house of representatives.

41 13. One person from the executive committee of the family law section  
42 of the state bar of Arizona who is appointed by the chief justice of the  
43 supreme court.

44 14. One person from the business community who is appointed jointly by  
45 the president of the senate and the speaker of the house of representatives.



- 1           8. A professional domestic relations mediator who is appointed by the  
2 president of the senate.
- 3           9. A psychologist who is experienced in performing child custody  
4 evaluations and who is appointed by the speaker of the house of  
5 representatives.
- 6           10. A domestic relations educator who is experienced in matters  
7 relating to parenting or divorce classes and who is appointed by the  
8 governor.
- 9           11. A representative of a statewide domestic violence coalition who is  
10 appointed by the president of the senate.
- 11           12. A representative of a conciliation court who is appointed by the  
12 chief justice of the supreme court.
- 13           13. A marriage and family therapist who is knowledgeable in domestic  
14 relations issues and who is appointed by the speaker of the house of  
15 representatives.
- 16           14. A representative from a faith-based organization who is  
17 knowledgeable in domestic relations issues and who is appointed by the  
18 governor.
- 19           15. An administrative officer of the supreme court who is appointed by  
20 the chief justice of the supreme court or the officer's designee.
- 21           16. A member of a law enforcement agency in this state who is appointed  
22 by the speaker of the house of representatives.
- 23           17. A member of an agency that advocates for children who is appointed  
24 by the president of the senate.
- 25           18. One member of the family law section of the state bar of Arizona  
26 who is appointed by the chief justice of the supreme court.
- 27           19. Four members of the senate, not more than two of whom are members  
28 of the same political party. The president of the senate shall appoint these  
29 members and shall designate one of them as the cochairperson.
- 30           20. Four members of the house of representatives, not more than two of  
31 whom are members of the same political party. The speaker of the house of  
32 representatives shall appoint these members and designate one of them as the  
33 cochairperson.
- 34           B. The committee shall prepare a statewide plan for an integrated  
35 family court with comprehensive subject matter jurisdiction over all matters  
36 involving the family and submit this plan to the governor, the president of  
37 the senate, the speaker of the house of representatives and the chief justice  
38 of the supreme court on or before December 31, 2002. Based on this plan or  
39 on other formal recommendations from the committee, beginning July 1, 2006,  
40 the supreme court shall implement a two year integrated family court pilot  
41 program in one county with a population of less than five hundred thousand  
42 persons. The supreme court shall submit quarterly reports on the pilot  
43 program to the committee. The committee shall include information from these  
44 reports in its annual report prepared pursuant to subsection C of this  
45 section.

1 C. The committee shall prepare an annual written report regarding  
2 recommended changes to the domestic relations statutes, rules and procedures  
3 and other related issues designed to lead to a reform of the state's domestic  
4 relations statutes. The committee shall submit this report to the governor,  
5 the president of the senate, the speaker of the house of representatives and  
6 the chief justice of the supreme court on or before December 31 of each year  
7 and shall provide a copy of the report to the secretary of state and the  
8 director of the Arizona state library, archives and public records.  
9 **BEGINNING JULY 1, 2011, THE REPORT SHALL BE SUBMITTED ELECTRONICALLY.**

10 D. The committee shall develop minimum training standards on domestic  
11 violence and child abuse issues for persons conducting an investigation or  
12 preparing a report concerning child custodial arrangements pursuant to  
13 section 25-406. The committee shall approve the standards on or before  
14 December 31, 2004. The committee may modify the standards on or before  
15 December 31 of each year.

16 E. Nonlegislative members of the committee are not eligible to receive  
17 compensation but are eligible for reimbursement of expenses pursuant to title  
18 38, chapter 4, article 2.

19 Sec. 12. Section 28-3396, Arizona Revised Statutes, is amended to  
20 read:

21 **28-3396. Court diversion fee**

22 A. The presiding judge of each court shall:

23 1. Set the amount of the court diversion fee that an individual who  
24 attends a defensive driving school may be assessed.

25 2. Charge an individual a forty-five dollar surcharge if the  
26 individual attends a defensive driving school.

27 3. Immediately inform the supreme court in writing of the amount of  
28 the court diversion fee that is established for the court and the total cost  
29 to attend a defensive driving school.

30 4. Immediately inform the supreme court in writing of any changes in  
31 the total cost to attend a defensive driving school.

32 B. Payment of the court diversion fee and surcharge is in lieu of  
33 payment of a civil penalty or criminal fine and any surcharge that are  
34 imposed for a traffic violation.

35 C. The driving school shall collect the court diversion fee and  
36 surcharge before or at the time an individual attends the school. On receipt  
37 of the diversion fee, the defensive driving school shall transmit the fee  
38 promptly to the appropriate court pursuant to procedures prescribed by the  
39 supreme court. On receipt of the surcharge, the defensive driving school  
40 shall transmit the surcharge promptly to the state treasurer for deposit,  
41 pursuant to sections 35-146 and 35-147, **AS FOLLOWS:**

42 **1. THE FIRST TEN MILLION FOUR HUNDRED THOUSAND DOLLARS IN REVENUE**  
43 **ANNUALLY IN THE CRIME LABORATORY OPERATIONS FUND ESTABLISHED BY SECTION**  
44 **41-1772.**

45 **2. ALL REMAINING MONEY** in the state general fund.

1           Sec. 13. Section 31-466, Arizona Revised Statutes, is amended to read:  
2           31-466. Supervision fee; deposit

3           A. A person being supervised in this state pursuant to this article  
4 shall pay, as a condition of probation or parole, a monthly supervision fee  
5 of not less than fifty dollars **IF THE PERSON IS ON PAROLE AND NOT LESS THAN**  
6 **SIXTY-FIVE DOLLARS IF THE PERSON IS ON STANDARD PROBATION OR NOT LESS THAN**  
7 **SEVENTY-FIVE DOLLARS IF THE PERSON IS ON INTENSIVE PROBATION**, unless, after  
8 determining the inability of the person to pay the fee, the supervising  
9 agency requires payment of a lesser amount. The supervising parole or  
10 probation officer shall monitor the collection of the fee.

11           B. Seventy per cent of the monies collected pursuant to subsection A  
12 of this section shall be deposited, pursuant to sections 35-146 and 35-147,  
13 in the victim compensation and assistance fund established by section 41-2407  
14 and thirty per cent shall be deposited in the adult probation services fund  
15 established by section 12-267.

16           Sec. 14. Section 31-467.06, Arizona Revised Statutes, is amended to  
17 read:

18           31-467.06. Supervision fee; deposit

19           A. A person being supervised in this state pursuant to this article  
20 shall pay, as a condition of probation or parole, a monthly supervision fee  
21 of ~~at least~~ **NOT LESS THAN** fifty dollars **IF THE PERSON IS ON PAROLE AND NOT**  
22 **LESS THAN SIXTY-FIVE DOLLARS IF THE PERSON IS ON STANDARD PROBATION OR NOT**  
23 **LESS THAN SEVENTY-FIVE DOLLARS IF THE PERSON IS ON INTENSIVE PROBATION**,  
24 unless, after determining the inability of the person to pay the fee, the  
25 supervising agency requires payment of a lesser amount. The supervising  
26 parole or probation officer shall monitor the collection of the fee.

27           B. Seventy per cent of the monies collected pursuant to this section  
28 shall be deposited, pursuant to sections 35-146 and 35-147, in the victim  
29 compensation and assistance fund established by section 41-2407 and thirty  
30 per cent shall be deposited in the adult probation services fund established  
31 by section 12-267.

32           Sec. 15. Section 38-842, Arizona Revised Statutes, is amended to read:  
33           38-842. Definitions

34           In this article, unless the context otherwise requires:

35           1. "Accidental disability" means a physical or mental condition that  
36 the local board finds totally and permanently prevents an employee from  
37 performing a reasonable range of duties within the employee's job  
38 classification and that was incurred in the performance of the employee's  
39 duty.

40           2. "Accumulated contributions" means, for each member, the sum of the  
41 amount of the member's aggregate contributions made to the fund and the  
42 amount, if any, attributable to the employee's contributions prior to the  
43 member's effective date under another public retirement system, other than  
44 the federal social security act, and transferred to the fund minus the  
45 benefits paid to or on behalf of the member.

1           3. "Actuarial equivalent" means equality in present value of the  
2 aggregate amounts expected to be received under two different forms of  
3 payment, based on mortality and interest assumptions adopted by the fund  
4 manager. The fund manager may from time to time change the mortality and  
5 interest assumptions.

6           4. "Alternate payee" means the spouse or former spouse of a  
7 participant as designated in a domestic relations order.

8           5. "Alternate payee's portion" means benefits that are payable to an  
9 alternate payee pursuant to a plan approved domestic relations order.

10          6. "Average monthly benefit compensation" means the result obtained by  
11 dividing the total compensation paid to an employee during a considered  
12 period by the number of months, including fractional months, in which such  
13 compensation was received. The considered period shall be the three  
14 consecutive years within the last twenty completed years of credited service  
15 that yield the highest average. In the computation under this paragraph a  
16 period of nonpaid or partially paid industrial leave shall be considered  
17 based on the compensation the employee would have received in the employee's  
18 job classification if the employee was not on industrial leave.

19          7. "Catastrophic disability" means a physical and not a psychological  
20 condition that the local board determines prevents the employee from totally  
21 and permanently engaging in any gainful employment and that results from a  
22 physical injury incurred in the performance of the employee's duty.

23          8. "Certified peace officer" means a peace officer certified by the  
24 Arizona peace officers standards and training board.

25          9. "Claimant" means any member or beneficiary who files an application  
26 for benefits pursuant to this article.

27          10. "Compensation" means, for the purpose of computing retirement  
28 benefits, base salary, overtime pay, shift differential pay and holiday pay  
29 paid to an employee by the employer on a regular monthly, semimonthly or  
30 biweekly payroll basis and longevity pay paid to an employee at least every  
31 six months for which contributions are made to the system pursuant to section  
32 38-843, subsection D. Compensation does not include, for the purpose of  
33 computing retirement benefits, payment for unused sick leave, payment in lieu  
34 of vacation, payment for compensatory time or payment for any fringe  
35 benefits. **IN ADDITION, COMPENSATION DOES NOT INCLUDE, FOR THE PURPOSE OF**  
36 **COMPUTING RETIREMENT BENEFITS, PAYMENTS MADE DIRECTLY OR INDIRECTLY BY THE**  
37 **EMPLOYER TO THE EMPLOYEE FOR WORK PERFORMED FOR A THIRD PARTY ON A CONTRACTED**  
38 **BASIS OR ANY OTHER TYPE OF AGREEMENT UNDER WHICH THE THIRD PARTY PAYS OR**  
39 **REIMBURSES THE EMPLOYER FOR THE WORK PERFORMED BY THE EMPLOYEE FOR THAT THIRD**  
40 **PARTY, EXCEPT FOR THIRD PARTY CONTRACTS BETWEEN PUBLIC AGENCIES FOR LAW**  
41 **ENFORCEMENT, TRAINING, WILDFIRE AND EMERGENCY MANAGEMENT ACTIVITIES.** For the  
42 purposes of this paragraph, "base salary" means the amount of compensation  
43 each employee is regularly paid for personal services rendered to an employer  
44 before the addition of any extra monies, including overtime pay, shift

1 differential pay, holiday pay, longevity pay, fringe benefit pay and similar  
2 extra payments.

3 11. "Credited service" means the member's total period of service prior  
4 to the member's effective date of participation, plus those compensated  
5 periods of the member's service thereafter for which the member made  
6 contributions to the fund.

7 12. "Cure period" means the ninety-day period in which a participant or  
8 alternate payee may submit an amended domestic relations order and request a  
9 determination, calculated from the time the system issues a determination  
10 finding that a previously submitted domestic relations order did not qualify  
11 as a plan approved domestic relations order.

12 13. "Depository" means a bank in which all monies of the system are  
13 deposited and held and from which all expenditures for benefits, expenses and  
14 investments are disbursed.

15 14. "Determination" means a written document that indicates to a  
16 participant and alternate payee whether a domestic relations order qualifies  
17 as a plan approved domestic relations order.

18 15. "Determination period" means the ninety-day period in which the  
19 system must review a domestic relations order that is submitted by a  
20 participant or alternate payee to determine whether the domestic relations  
21 order qualifies as a plan approved domestic relations order, calculated from  
22 the time the system mails a notice of receipt to the participant and  
23 alternate payee.

24 16. "Domestic relations order" means an order of a court of this state  
25 that is made pursuant to the domestic relations laws of this state and that  
26 creates or recognizes the existence of an alternate payee's right to, or  
27 assigns to an alternate payee the right to, receive a portion of the benefits  
28 payable to a participant.

29 17. "Effective date of participation" means July 1, 1968, except with  
30 respect to employers and their covered employees whose contributions to the  
31 fund commence thereafter, the effective date of their participation in the  
32 system is as specified in the applicable joinder agreement.

33 18. "Effective date of vesting" means the date a member's rights to  
34 benefits vest pursuant to section 38-844.01.

35 19. "Eligible child" means the unmarried child of a deceased member who  
36 is under the age of eighteen or a full-time student who is under the age of  
37 twenty-three or under a disability that began before the child attained the  
38 age of twenty-three and who remains a dependent of the surviving spouse or  
39 guardian.

40 20. "Eligible groups" means only the following who are regularly  
41 assigned to hazardous duty:

42 (a) Municipal police officers who are certified peace officers.

43 (b) Municipal fire fighters.

44 (c) Paid full-time fire fighters employed directly by a fire district  
45 organized pursuant to section 48-803 or 48-804 with three or more full-time

1 fire fighters, but not including fire fighters employed by a fire district  
2 pursuant to a contract with a corporation.

3 (d) State highway patrol officers who are certified peace officers.

4 (e) State fire fighters.

5 (f) County sheriffs and deputies who are certified peace officers.

6 (g) Game and fish wardens who are certified peace officers.

7 (h) Police officers who are certified peace officers and fire fighters  
8 of a nonprofit corporation operating a public airport pursuant to sections  
9 28-8423 and 28-8424. A police officer shall be designated pursuant to  
10 section 28-8426 to aid and supplement state and local law enforcement  
11 agencies and a fire fighter's sole duty shall be to perform fire fighting  
12 services, including services required by federal regulations.

13 (i) Police officers who are certified peace officers and who are  
14 appointed by the Arizona board of regents.

15 (j) Police officers who are certified peace officers and who are  
16 appointed by a community college district governing board.

17 (k) State attorney general investigators who are certified peace  
18 officers.

19 (l) County attorney investigators who are certified peace officers.

20 (m) Police officers who are certified peace officers and who are  
21 employed by an Indian reservation police agency.

22 (n) Fire fighters who are employed by an Indian reservation fire  
23 fighting agency.

24 (o) Police officers who are certified peace officers and who are  
25 appointed by the department of administration.

26 (p) Department of liquor licenses and control investigators who are  
27 certified peace officers.

28 (q) Arizona department of agriculture officers who are certified peace  
29 officers.

30 (r) Arizona state parks board rangers and managers who are certified  
31 peace officers.

32 (s) County park rangers who are certified peace officers.

33 21. "Employee" means any person who is employed by a participating  
34 employer and who is a member of an eligible group but does not include any  
35 persons compensated on a contractual or fee basis. If an eligible group  
36 requires certified peace officer status and at the option of the local board,  
37 employee may include a person who is training to become a certified peace  
38 officer.

39 22. "Employers" means:

40 (a) Cities contributing to the fire fighters' relief and pension fund  
41 as provided in sections 9-951 through 9-971 or statutes amended thereby and  
42 antecedent thereto, as of June 30, 1968 on behalf of their full-time paid  
43 fire fighters.

44 (b) Cities contributing under the state police pension laws as  
45 provided in sections 9-911 through 9-934 or statutes amended thereby and



1 antecedent thereto, as of June 30, 1968 on behalf of their municipal  
2 policemen.

3 (c) The state highway patrol covered under the state highway patrol  
4 retirement system.

5 (d) The state, or any political subdivision of this state, including  
6 towns, cities, fire districts, counties and nonprofit corporations operating  
7 public airports pursuant to sections 28-8423 and 28-8424, that has elected to  
8 participate in the system on behalf of an eligible group of public safety  
9 personnel pursuant to a joinder agreement entered into after July 1, 1968.

10 (e) Indian tribes that have elected to participate in the system on  
11 behalf of an eligible group of public safety personnel pursuant to a joinder  
12 agreement entered into after July 1, 1968.

13 23. "Fund" means the public safety personnel retirement fund, which is  
14 the fund established to receive and invest contributions accumulated under  
15 the system and from which benefits are paid.

16 24. "Fund manager" means the fund manager of the system, who are the  
17 persons appointed to invest and operate the fund.

18 25. "Local board" means the retirement board of the employer, who are  
19 the persons appointed to administer the system as it applies to their members  
20 in the system.

21 26. "Member" means any employee who meets all of the following  
22 qualifications:

23 (a) Who is either a full-time paid municipal police officer, a  
24 full-time paid fire fighter, a law enforcement officer who is employed by  
25 this state including the director thereof, a state fire fighter who is  
26 primarily assigned to fire fighting duties, a fire fighter or police officer  
27 of a nonprofit corporation operating a public airport pursuant to sections  
28 28-8423 and 28-8424, all ranks designated by the Arizona law enforcement  
29 merit system council, a state attorney general investigator who is a  
30 certified peace officer, a county attorney investigator who is a certified  
31 peace officer, a police officer who is appointed by the department of  
32 administration and who is a certified peace officer, a department of liquor  
33 licenses and control investigator who is a certified peace officer, an  
34 Arizona department of agriculture officer who is a certified peace officer,  
35 an Arizona state parks board ranger or manager who is a certified peace  
36 officer, a county park ranger who is a certified peace officer, a person who  
37 is a certified peace officer and who is employed by an Indian reservation  
38 police agency, a fire fighter who is employed by an Indian reservation fire  
39 fighting agency or an employee included in a group designated as eligible  
40 employees under a joinder agreement entered into by their employer after July  
41 1, 1968 and who is or was regularly assigned to hazardous duty.

42 (b) Who, on or after the employee's effective date of participation,  
43 is receiving compensation for personal services rendered to an employer or  
44 would be receiving compensation except for an authorized leave of absence.

1 (c) Whose employment with an employer commenced prior to attainment of  
2 age fifty.

3 (d) Whose customary employment is at least forty hours per week and  
4 for more than six months in a calendar year.

5 (e) Who has not attained age sixty-five prior to the employee's  
6 effective date of participation or who was over age sixty-five with  
7 twenty-five years or more of service prior to the employee's effective date  
8 of participation.

9 27. "Normal retirement date" means the first day of the calendar month  
10 immediately following an employee's completion of twenty years of service or  
11 the employee's sixty-second birthday and the employee's completion of fifteen  
12 years of service.

13 28. "Notice of receipt" means a written document that is issued by the  
14 system to a participant and alternate payee and that states that the system  
15 has received a domestic relations order and a request for a determination  
16 that the domestic relations order is a plan approved domestic relations  
17 order.

18 29. "Ordinary disability" means a physical condition that the local  
19 board determines will prevent an employee totally and permanently from  
20 performing a reasonable range of duties within the employee's department or a  
21 mental condition that the local board determines will prevent an employee  
22 totally and permanently from engaging in any substantial gainful activity.

23 30. "Participant" means a member who is subject to a domestic relations  
24 order.

25 31. "Participant's portion" means benefits that are payable to a  
26 participant pursuant to a plan approved domestic relations order.

27 32. "Pension" means a series of monthly amounts that are payable to a  
28 person who is entitled to receive benefits under the plan.

29 33. "Personal representative" means the personal representative of a  
30 deceased alternate payee.

31 34. "Plan approved domestic relations order" means a domestic relations  
32 order that the system approves as meeting all the requirements for a plan  
33 approved domestic relations order as otherwise prescribed in this article.

34 35. "Regularly assigned to hazardous duty" means regularly assigned to  
35 duties of the type normally expected of municipal police officers, municipal  
36 or state fire fighters, eligible fire district fire fighters, state highway  
37 patrol officers, county sheriffs and deputies, fish and game wardens, fire  
38 fighters and police officers of a nonprofit corporation operating a public  
39 airport pursuant to sections 28-8423 and 28-8424, police officers who are  
40 appointed by the Arizona board of regents or a community college district  
41 governing board, state attorney general investigators who are certified peace  
42 officers, county attorney investigators who are certified peace officers,  
43 police officers who are appointed by the department of administration and who  
44 are certified peace officers, department of liquor licenses and control  
45 investigators who are certified peace officers, Arizona department of

1 agriculture officers who are certified peace officers, Arizona state parks  
2 board rangers and managers who are certified peace officers, county park  
3 rangers who are certified peace officers, police officers who are certified  
4 peace officers and who are employed by an Indian reservation police agency or  
5 fire fighters who are employed by an Indian reservation fire fighting agency.  
6 Those individuals who are assigned solely to support duties such as  
7 secretaries, stenographers, clerical personnel, clerks, cooks, maintenance  
8 personnel, mechanics and dispatchers are not assigned to hazardous duty  
9 regardless of their position classification title. Since the normal duties  
10 of those jobs described in this paragraph are constantly changing, questions  
11 as to whether a person is or was previously regularly assigned to hazardous  
12 duty shall be resolved by the local board on a case-by-case basis.  
13 Resolutions by local boards are subject to rehearing and appeal.

14 36. "Retirement" means termination of employment after a member has  
15 fulfilled all requirements for a pension. Retirement shall be considered as  
16 commencing on the first day of the month immediately following a member's  
17 last day of employment or authorized leave of absence, if later.

18 37. "Segregated funds" means the amount of benefits that would  
19 currently be payable to an alternate payee pursuant to a domestic relations  
20 order under review by the system, or a domestic relations order submitted to  
21 the system that failed to qualify as a plan approved domestic relations  
22 order, if the domestic relations order were determined to be a plan approved  
23 domestic relations order.

24 38. "Service" means the last period of continuous employment of an  
25 employee by the employers prior to the employee's retirement or the  
26 employee's sixty-fifth birthday, whichever first occurs, except that if such  
27 period includes employment during which the employee would not have qualified  
28 as a member had the system then been effective, such as employment as a  
29 volunteer fire fighter, then only twenty-five per cent of such noncovered  
30 employment shall be considered as service. Any absence that is authorized by  
31 an employer shall not be considered as interrupting continuity of employment  
32 if the employee returns within the period of authorized absence. Transfers  
33 between employers also shall not be considered as interrupting continuity of  
34 employment. Any period during which a member is receiving sick leave  
35 payments or a temporary disability pension shall be considered as service.  
36 Notwithstanding any other provision of this paragraph, any period during  
37 which a person was employed as a full-time paid fire fighter for a  
38 corporation that contracted with an employer to provide firefighting services  
39 on behalf of the employer shall be considered as service if the employer has  
40 elected at its option to treat part or all of the period the firefighter  
41 worked for the company as service in its applicable joinder agreement. Any  
42 reference in this system to the number of years of service of an employee  
43 shall be deemed to include fractional portions of a year.

44 39. "State" means the state of Arizona, including any department,  
45 office, board, commission, agency or other instrumentality of the state.

1           40. "System" means the public safety personnel retirement system  
2 established by this article.

3           41. "Temporary disability" means a physical or mental condition that  
4 the local board finds totally and temporarily prevents an employee from  
5 performing a reasonable range of duties within the employee's department and  
6 that was incurred in the performance of the employee's duty.

7           Sec. 16. Section 38-902, Arizona Revised Statutes, is amended to read:  
8 38-902. Joinder agreement

9           A. County detention officers and nonuniformed employees of a sheriff's  
10 department whose primary duties require direct contact with inmates may  
11 participate in this plan if the board of supervisors of the county enters  
12 into a joinder agreement with the fund manager to bring such employees into  
13 this plan. The joinder agreement shall be in accordance with the provisions  
14 of this plan. All such employees shall be designated for membership in the  
15 joinder agreement unless written consent to the contrary is obtained from the  
16 fund manager.

17           B. City or town detention officers may participate in this plan if the  
18 governing body of the city or town enters into a joinder agreement with the  
19 fund manager to bring its detention officers into this plan. The joinder  
20 agreement shall be in accordance with the provisions of the plan. The  
21 governing body of the city or town shall designate all detention officers for  
22 membership in the plan unless written consent to the contrary is obtained  
23 from the fund manager.

24           C. Full-time dispatchers may participate in this plan if the governing  
25 body or agency of the employer of an eligible group as defined in  
26 section 38-842 enters into a joinder agreement with the fund manager to bring  
27 its full-time dispatchers into this plan **BEFORE THE EFFECTIVE DATE OF THIS**  
28 **AMENDMENT TO THIS SECTION AND IF THE PERSON WAS EMPLOYED BY THE EMPLOYER AS A**  
29 **FULL-TIME DISPATCHER BEFORE THE EFFECTIVE DATE OF THIS AMENDMENT TO THIS**  
30 **SECTION**. The joinder agreement shall be in accordance with the provisions of  
31 this plan and for those dispatchers designated for membership in the plan on  
32 the joinder date all credited service from any other Arizona defined benefit  
33 state retirement system or plan that represents credited service in a  
34 designated position shall be transferred to the corrections officer  
35 retirement plan. The governing body or agency of the employer shall  
36 designate all full-time dispatchers for membership in the plan except for a  
37 full-time dispatcher who signs an irrevocable agreement before the joinder  
38 agreement becomes effective electing not to become a member of the plan. A  
39 full-time dispatcher employed by an employer who becomes eligible for  
40 membership in the plan pursuant to this section may elect to participate in  
41 the plan within the deadlines and pursuant to the terms prescribed for such  
42 participation by the fund manager.

43           D. Probation, surveillance and juvenile detention officers may  
44 participate in this plan if the administrative office of the courts enters  
45 into a joinder agreement with the fund manager to bring its probation,

1 surveillance and juvenile detention officers into this plan. The joinder  
2 agreement shall be in accordance with the provisions of this plan. The  
3 administrative office of the courts shall designate all probation,  
4 surveillance and juvenile detention officers for membership in this plan  
5 unless written consent to the contrary is obtained from the fund manager.

6 E. Detention officers who are employed by the department of public  
7 safety may participate in this plan if the director of the department of  
8 public safety enters into a joinder agreement with the fund manager to bring  
9 the department's detention officers into this plan. The joinder agreement  
10 shall be in accordance with the provisions of this plan. The director of the  
11 department of public safety shall designate all detention officers for  
12 membership in this plan unless written consent to the contrary is obtained  
13 from the fund manager.

14 F. The new employer shall designate the groups of employees who are  
15 eligible to participate in the plan and shall agree to make contributions  
16 each year that are sufficient to meet both the normal cost of a level cost  
17 method attributable to inclusion of its employees and the prescribed interest  
18 on the past service cost for its employees.

19 G. Before the execution of any joinder agreement each employer  
20 contemplating participation in the plan shall have an actuarial valuation  
21 made, which is payable by the employer, to determine the estimated cost of  
22 participation in accordance with section 38-894.

23 H. Assets under any existing public employee defined benefit  
24 retirement program, except a military retirement program, that are necessary  
25 to equal the actuarial present value of projected benefits to the extent  
26 funded on a market value basis as of the most recent actuarial valuation  
27 attributable to the employer's designated employee group, calculated using  
28 the actuarial methods and assumptions adopted by the existing public employee  
29 retirement program, shall be transferred from the program to this fund no  
30 later than ninety days after the employer's effective date. That portion of  
31 the transferred assets that is attributable to employee contributions,  
32 including interest credits, shall be properly allocated to each affected  
33 employee of the employer and credited to the employee's initial accumulated  
34 contributions in accordance with a schedule furnished by the employer to the  
35 fund manager.

36 Sec. 17. Title 41, chapter 11, article 1, Arizona Revised Statutes, is  
37 amended by adding section 41-1608, to read:

38 41-1608. Inmate medical services; rate structure

39 IF A PRISONER IN A SECURE CARE FACILITY REQUIRES HEALTH CARE SERVICES  
40 THAT THE DEPARTMENT, THE FACILITY OR A PRIVATE PRISON PROVIDER CONTRACTED BY  
41 THE DEPARTMENT CANNOT PROVIDE, THE DEPARTMENT SHALL PAY APPROVED CLAIMS FROM  
42 A FACILITY OR PROVIDER THAT PROVIDES THESE SERVICES AS FOLLOWS:

43 1. FOR INPATIENT AND OUTPATIENT HOSPITAL SERVICES, THE DEPARTMENT  
44 SHALL REIMBURSE AT A LEVEL THAT DOES NOT EXCEED THE REIMBURSEMENT METHODOLOGY  
45 ESTABLISHED PURSUANT TO SECTION 36-2903.01, SUBSECTION H.

1           2. FOR HEALTH AND MEDICAL SERVICES, THE DEPARTMENT SHALL REIMBURSE AT  
2 A LEVEL THAT DOES NOT EXCEED THE CAPPED FEE-FOR-SERVICE SCHEDULE THAT IS  
3 ADOPTED BY THE ARIZONA HEALTH CARE COST CONTAINMENT SYSTEM ADMINISTRATION  
4 PURSUANT TO TITLE 36, CHAPTER 29, ARTICLE 1 AND THAT IS IN EFFECT AT THE TIME  
5 THE SERVICES ARE DELIVERED.

6           Sec. 18. Section 41-1722, Arizona Revised Statutes, is amended to  
7 read:

8           41-1722. State photo enforcement system; penalties; fund

9           A. Notwithstanding any other law, the department shall enter into a  
10 contract or contracts with a private vendor or vendors pursuant to chapter 23  
11 of this title to establish a state photo enforcement system consisting of  
12 cameras placed throughout this state as determined by the director to enforce  
13 the provisions of title 28, chapter 3, articles 3 and 6 relating to vehicle  
14 traffic and speed.

15           B. Notwithstanding any other law, the civil penalty or fine for a  
16 citation or a notice of violation issued pursuant to this section is one  
17 hundred sixty-five dollars and is not subject to any surcharge except the  
18 surcharge imposed by section 16-954. ~~State photo enforcement citations shall~~  
19 ~~not be included in judicial productivity credit calculations for fiscal year~~  
20 ~~2008-2009.~~

21           C. The photo enforcement fund is established consisting of monies  
22 received from citations or notices of violation issued pursuant to this  
23 section. The director shall administer the fund. Monies in the fund are  
24 subject to legislative appropriation and are appropriated to the department  
25 for administrative and personnel costs of the state photo enforcement system.  
26 Monies remaining in the fund in excess of two hundred fifty thousand dollars  
27 at the end of each calendar quarter shall be deposited, pursuant to sections  
28 35-146 and 35-147, in the state general fund.

29           D. Notwithstanding any other law, if a person is found responsible for  
30 a civil traffic violation or a notice of violation pursuant to a citation  
31 issued pursuant to this section, the department of transportation shall not  
32 consider the violation for the purpose of determining whether the person's  
33 driver license should be suspended or revoked. A court shall not transmit  
34 abstracts of records of these violations to the department of transportation.

35           Sec. 19. Title 41, chapter 12, article 5, Arizona Revised Statutes, is  
36 amended by adding section 41-1772, to read:

37           41-1772. Crime laboratory operations fund

38           A. THE CRIME LABORATORY OPERATIONS FUND IS ESTABLISHED CONSISTING OF  
39 SURCHARGE MONIES DEPOSITED PURSUANT TO SECTION 28-3396. THE DEPARTMENT SHALL  
40 ADMINISTER THE FUND.

41           B. SUBJECT TO LEGISLATIVE APPROPRIATION, MONIES IN THE FUND SHALL BE  
42 USED FOR CRIME LABORATORY OPERATIONS.

1           Sec. 20. Section 41-2401, Arizona Revised Statutes, is amended to  
2 read:

3           41-2401. Criminal justice enhancement fund

4           A. The criminal justice enhancement fund is established consisting of  
5 monies collected pursuant to section 12-116.01 and monies available from any  
6 other source. The state treasurer shall administer the fund.

7           B. On or before November 1 of each year, each department, agency or  
8 office that receives monies pursuant to this section shall provide to the  
9 Arizona criminal justice commission a report for the preceding fiscal year.  
10 The report shall be in a form prescribed by the Arizona criminal justice  
11 commission and shall be reviewed by the director of the joint legislative  
12 budget committee. The report shall set forth the sources of all monies and  
13 all expenditures. The report shall not include any identifying information  
14 about specific investigations.

15           C. On or before December 1 of each year, the Arizona criminal justice  
16 commission shall compile all reports into a single comprehensive report and  
17 shall submit a copy of the comprehensive report to the governor, the  
18 president of the senate, the speaker of the house of representatives and the  
19 director of the joint legislative budget committee.

20           D. On the first day of each month, the state treasurer shall  
21 distribute or deposit:

22           1. 6.46 per cent in the Arizona automated fingerprint identification  
23 system fund established by section 41-2414.

24           2. 1.61 per cent to the department of juvenile corrections for the  
25 treatment and rehabilitation of youth who have committed drug-related  
26 offenses.

27           3. 16.64 per cent in the peace officers' training fund established by  
28 section 41-1825.

29           4. 3.03 per cent in the prosecuting attorneys' advisory council  
30 training fund established by section 41-1830.03.

31           5. 9.35 per cent to the supreme court for the purpose of reducing  
32 juvenile crime.

33           6. 8.56 per cent to the department of public safety. Fifteen per cent  
34 of the monies shall be allocated for deposit in the Arizona deoxyribonucleic  
35 acid identification system fund established by section 41-2419. Eighty-five  
36 per cent of the monies shall be allocated to state and local law enforcement  
37 authorities for the following purposes:

38           (a) To enhance projects that are designed to prevent residential and  
39 commercial burglaries, to control street crime, including the activities of  
40 criminal street gangs, and to locate missing children.

41           (b) To provide support to the Arizona automated fingerprint  
42 identification system.

43           (c) Operational costs of the criminal justice information system.

44           7. 9.35 per cent to the department of law for allocation to county  
45 attorneys for the purpose of enhancing prosecutorial efforts.

1           8. 6.02 per cent to the supreme court for the purpose of enhancing the  
2 ability of the courts to process criminal and delinquency cases, orders of  
3 protection, injunctions against harassment and any proceeding relating to  
4 domestic violence matters, for auditing and investigating persons or entities  
5 licensed or certified by the supreme court and for processing judicial  
6 discipline cases. Notwithstanding section 12-143, subsection A, the salary  
7 of superior court judges pro tempore who are appointed for the purposes  
8 provided in this paragraph shall, and the salary of other superior court  
9 judges pro tempore who are appointed pursuant to section 12-141 for the  
10 purposes provided in this paragraph may, be paid in full by the monies  
11 received pursuant to this paragraph.

12           9. 11.70 per cent to the ~~state department of corrections for~~  
13 ~~allocation to~~ county sheriffs for the purpose of enhancing county jail  
14 facilities and operations, including county jails under the jurisdiction of  
15 county jail districts.

16           10. 1.57 per cent to the Arizona criminal justice commission.

17           11. 9.00 per cent to the state general fund.

18           12. 2.30 per cent in the crime laboratory assessment fund established  
19 by section 41-2415.

20           13. 7.68 per cent in the victims' rights fund established by section  
21 41-191.08.

22           14. 4.60 per cent in the victim compensation and assistance fund  
23 established by section 41-2407.

24           15. 2.13 per cent to the supreme court for the purpose of providing  
25 drug treatment services to adult probationers through the community  
26 punishment program established in title 12, chapter 2, article 11.

27           E. Monies distributed pursuant to subsection D, paragraphs 3, 4, 7, 9,  
28 11, 12, 13 and 14 of this section constitute a continuing appropriation.  
29 Monies distributed pursuant to subsection D, paragraphs 1, 2, 5, 8, 10 and 15  
30 of this section are subject to legislative appropriation.

31           F. The portion of the eighty-five per cent of the monies for direct  
32 operating expenses of the department of public safety in subsection D,  
33 paragraph 6 of this section is subject to legislative appropriation. The  
34 remainder of the monies in subsection D, paragraph 6 of this section  
35 including the portion of the eighty-five per cent for local law enforcement  
36 is continuously appropriated.

37           G. The allocation of monies pursuant to subsection D, paragraphs 6, 7,  
38 8 and 9 of this section shall be made in accordance with rules adopted by the  
39 Arizona criminal justice commission pursuant to section 41-2405.

40           Sec. 21. Laws 2007, chapter 261, section 16 is amended to read:

41           Sec. 16. Appropriations; deoxyribonucleic acid identification  
42 system fund; exemption

43           A. The sums of \$1,980,000 in fiscal year 2007-2008, \$2,980,000 in  
44 fiscal year 2008-2009, ~~\$3,484,000~~ \$980,000 in fiscal year 2009-2010,  
45 \$3,440,000 in fiscal year 2010-2011 and \$3,520,000 in fiscal year 2011-2012



1 are appropriated from the monies that are collected pursuant to section  
2 12-116.01, subsection C, Arizona Revised Statutes, ~~as amended by this act,~~  
3 and that are distributed pursuant to section 12-116.01, subsection J, Arizona  
4 Revised Statutes, ~~as amended by this act,~~ for deposit in the Arizona  
5 deoxyribonucleic acid identification system fund established by section  
6 41-2419, Arizona Revised Statutes, to the department of public safety for  
7 equipment purchases, personal services, employee-related expenses, training,  
8 other operating expenses and capital improvements in order to implement,  
9 conduct and maintain deoxyribonucleic acid testing.

10 B. The appropriations made in subsection A of this section shall come  
11 from the additional four per cent penalty assessment that is collected and  
12 distributed pursuant to the penalty assessment increase from three per cent  
13 to seven per cent in section 12-116.01, subsections C and J, Arizona Revised  
14 Statutes, as amended by ~~this act~~ LAWS 2007, CHAPTER 261, SECTION 1.

15 C. The appropriation made in subsection A of this section in fiscal  
16 year 2007-2008 is exempt from the provisions of section 35-190, Arizona  
17 Revised Statutes, relating to lapsing of appropriations.

18 Sec. 22. Department of public safety; highway funds; limitation

19 Notwithstanding sections 28-6537 and 28-6993, Arizona Revised Statutes,  
20 the statutory caps limiting the level of highway user revenue fund monies and  
21 state highway fund monies available to fund department of public safety  
22 highway patrol costs are suspended for fiscal year 2009-2010.

23 Sec. 23. Nonsupplanting; suspension

24 Notwithstanding any other law, in fiscal year 2009-2010 the provisions  
25 relating to supplanting of state monies contained in section 12-102.02,  
26 subsection E, section 12-102.03, subsection D, section 12-135, subsection D,  
27 section 12-135.01, subsection D, section 12-267, subsection D, section  
28 12-268, subsection D and section 12-299.01, subsection C, Arizona Revised  
29 Statutes, are suspended. The supreme court shall submit a report to the  
30 joint legislative budget committee identifying any decrease in county funding  
31 related to these suspended provisions including the reasons for the decrease.

32 Sec. 24. Suspension of reporting requirements

33 Notwithstanding any other law, the reporting requirements contained in  
34 the following sections are suspended for fiscal year 2009-2010:

35 1. Section 8-358, subsection B, Arizona Revised Statutes, relating to  
36 the annual juvenile intensive probation report.

37 2. Section 12-299.03, subsection A, paragraph 8, Arizona Revised  
38 Statutes, relating to the evaluation of the community punishment program.

39 3. Section 12-2456, Arizona Revised Statutes, relating to a report of  
40 information regarding the emancipation of minors.

41 4. Section 13-901.02, subsection D, Arizona Revised Statutes, relating  
42 to the annual drug treatment and education fund report card.

43 5. Section 21-222, subsection F, Arizona Revised Statutes, relating to  
44 the annual lengthy trial fund report.

1           6. Section 25-323.01, subsection B, Arizona Revised Statutes, relating  
2 to the annual child support committee report.

3           7. Section 25-323.02, subsection C, Arizona Revised Statutes, relating  
4 to the annual domestic relations committee report.

5           Sec. 25. Justices of the peace; payment of compensation; fiscal  
6 year 2009-2010; retroactivity

7           A. Notwithstanding section 22-117, subsection B, Arizona Revised  
8 Statutes, for fiscal year 2009-2010, the state shall pay 19.25 per cent of  
9 the compensation and employee related expenditures of a justice of the peace,  
10 and the county shall pay 80.75 per cent of the compensation and employee  
11 related expenditures of a justice of the peace, except that the county shall  
12 pay the full amount of the employer contribution of the state retirement  
13 system or plan or any county health plan.

14           B. This section is effective retroactively to from and after June 30,  
15 2009.

16           Sec. 26. State department of corrections; budget structure;  
17 health care services; retroactivity

18           A. Notwithstanding any other law, the state department of corrections  
19 shall report actual fiscal year 2008-2009, estimated fiscal year 2009-2010  
20 and requested fiscal year 2010-2011 expenditures for each line item  
21 delineated in the fiscal year 2009-2010 general appropriations act when the  
22 department submits the fiscal year 2010-2011 budget request pursuant to  
23 section 35-113, Arizona Revised Statutes. The information submitted for each  
24 line item shall contain as much detail as submitted in previous years for  
25 prior line items.

26           B. Before October 1, 2009, the state department of corrections shall  
27 issue a request for information for the privatization of all correctional  
28 health services, including all medical and dental services, that are provided  
29 in a state owned and operated facility. Before publication, the request for  
30 information shall be submitted for review to the joint legislative budget  
31 committee.

32           C. The state department of corrections shall issue a request for  
33 proposals to privatize all correctional health services that are provided in  
34 a state owned and operated facility. The department shall award a contract  
35 to a private provider of correctional health services that will provide such  
36 services, including all medical and dental services, at a cost below the  
37 fiscal year 2007-2008 total cost to the state for such services. Not later  
38 than January 1, 2010, and before issuance, the request for proposals shall be  
39 submitted for review to the joint legislative budget committee. The state  
40 department of corrections shall award a contract by May 1, 2010.

41           D. This section is effective retroactively to from and after September  
42 30, 2009.



1 state department of corrections facility, the department of administration  
2 shall enter into the lease-purchase agreement in consultation with the state  
3 department of corrections. The agreement or agreements shall:

4 1. Result in net available proceeds of not more than \$250,000,000 in  
5 the state general fund by December 31, 2009 and a total amount of net  
6 available proceeds of not more than \$735,419,300 in the state general fund by  
7 June 30, 2010.

8 2. Be for a fixed term of not more than twenty years.

9 3. Require the initial lease-purchase payment to be in fiscal year  
10 2010-2011.

11 B. Notwithstanding section 41-791.02, Arizona Revised Statutes, any  
12 lease-purchase agreement entered into pursuant to this section shall provide  
13 that:

14 1. The obligation of this state to make any payment under the  
15 agreement is a current expense of the department of administration, payable  
16 exclusively from appropriated monies, and is not a general obligation  
17 indebtedness of this state or the department of administration.

18 2. If the legislature fails to appropriate monies or the department of  
19 administration fails to allocate such monies for any payment under the  
20 agreement, the agreement terminates at the end of the current term and this  
21 state and the department of administration are relieved of any subsequent  
22 obligation under the agreement.

23 3. The department of administration may covenant to use its best  
24 efforts to budget, obtain, allocate and maintain sufficient appropriated  
25 monies to make payments under the agreement, but the agreement shall  
26 acknowledge that appropriating state monies is a legislative act and is  
27 beyond the control of the department of administration or any other party to  
28 the agreement.

29 C. Notwithstanding any other law, the department of administration may  
30 transfer some or all of this state's interest in any state department of  
31 corrections prison facility or any other state owned facility. Any  
32 agreements or transactions determined by the department of administration to  
33 be necessary to comply with the requirements of this section are exempt from  
34 title 41, chapter 23, Arizona Revised Statutes. The authority conferred by  
35 this section is in addition to the powers conferred by any other law, without  
36 reference to any other law, and is full authority for the actions authorized  
37 by this section, including entering into and performing agreements without  
38 regard to the requirements or procedures of any other law.

39 D. This state shall maintain operations at any facility and the state  
40 department of corrections or a private contractor shall maintain operations  
41 at any prison facility that is sold pursuant to this section.

42 Sec. 33. Prison operations; private vendor; concession  
43 agreement; retroactivity

44 A. Before October 1, 2009, in consultation with the state department  
45 of corrections, the department of administration shall issue a request for

1 information for the purpose of identifying the feasibility of a concession  
2 agreement that allows a private vendor to operate a prison facility. Before  
3 publication, the request for information shall be submitted for review to the  
4 joint committee on capital review.

5 B. In consultation with the state department of corrections, the  
6 department of administration shall issue a request for proposals for a  
7 concession agreement allowing private vendors to operate an Arizona state  
8 prison complex other than the Arizona state prison complex at Yuma. A  
9 private vendor may operate one or more prison complexes. A concession  
10 agreement shall require an annual cost efficiency savings to this state. The  
11 annual cost efficiency savings shall be equally divided between this state  
12 and the private vendor. Not later than April 1, 2010 and before issuance,  
13 the request for proposals shall be submitted for review to the joint  
14 committee on capital review. Any proposed concession agreement shall be  
15 submitted for review to the joint committee on capital review before it is  
16 awarded.

17 C. It is the intent of the legislature that the privatization of  
18 prison operations pursuant to subsection B of this section generate at least  
19 \$100,000,000 from private vendors at the beginning of the term.

20 D. Section 41-1609.01, subsections C, I and J, Arizona Revised  
21 Statutes, and section 41-2546, Arizona Revised Statutes, do not apply to any  
22 concession agreement pursuant to subsection B of this section.

23 E. Except as otherwise provided in this section, sections 41-1609,  
24 41-1609.01, 41-1609.02, 41-1609.03 and 41-1609.04, Arizona Revised Statutes,  
25 apply to any concession agreement pursuant to subsection B of this section.

26 F. This section is effective retroactively to from and after September  
27 30, 2009.

28 Sec. 34. Board of executive clemency; chairman; executive  
29 director; retroactivity

30 A. Notwithstanding any other law, for fiscal year 2009-2010, the  
31 chairman of the board of executive clemency shall also act as the executive  
32 director of the board.

33 B. Notwithstanding any other law, in fiscal year 2009-2010, the  
34 members of the board of executive clemency, excluding the chairman, shall  
35 serve on a part-time basis. A part-time board member shall not work more  
36 than thirty hours each week and shall not be eligible for paid leave or any  
37 benefits provided to state employees pursuant to section 38-651, Arizona  
38 Revised Statutes.

39 C. This section is effective retroactively to from and after June 30,  
40 2009.

41 Sec. 35. Collection enforcement revolving fund; attorney  
42 general; use

43 Notwithstanding section 41-191.03, subsection B, Arizona Revised  
44 Statutes, for fiscal year 2009-2010, the attorney general may use monies in  
45 the collection enforcement revolving fund established by section 41-191.03,

1 Arizona Revised Statutes, for any operating expenses incurred by the  
2 department of law.

3 Sec. 36. State department of corrections; health care  
4 expenditures; fiscal year 2007-2008

5 Notwithstanding any other law, the state department of corrections may  
6 use any nonappropriated state monies for the payment of inmate health care  
7 expenditures incurred during fiscal year 2007-2008.

8 Sec. 37. State department of corrections; private prison beds

9 A. The state department of corrections shall issue a request for  
10 proposals and contract for five thousand private prison beds in this state at  
11 new or existing private prisons or at expansions of existing private prisons  
12 in this state. The private vendor may bid for all or a portion of the five  
13 thousand beds. The department may award the contract to one or more private  
14 vendors. The request for proposals shall specify the length of the contract  
15 period, except that the length of the contract period shall not exceed twenty  
16 years. Not later than November 1, 2009, and before issuance, the proposed  
17 request for proposals shall be submitted for review to the joint legislative  
18 budget committee. All contracts shall be awarded by June 30, 2010. Each  
19 calendar quarter, until all new beds are occupied, the department of  
20 corrections shall submit a report to the joint legislative budget committee  
21 on the status of the beds.

22 B. Section 41-1609.01, subsections I and J, Arizona Revised Statutes,  
23 and section 41-2546, Arizona Revised Statutes, do not apply to any contract  
24 pursuant to subsection A of this section.

25 C. Except as otherwise provided in this section, sections 41-1609,  
26 41-1609.01, 41-1609.02, 41-1609.03 and 41-1609.04, Arizona Revised Statutes,  
27 apply to any contract pursuant to subsection A of this section.

28 Sec. 38. State department of corrections; prison equipment and  
29 operations

30 Notwithstanding any other law, in fiscal year 2009-2010, the state  
31 department of corrections may use any nonappropriated monies for any start up  
32 and operating costs that are associated with the four thousand new state beds  
33 that were authorized in Laws 2007, chapter 261, section 9.

34 Sec. 39. Conforming legislation

35 The legislative council staff shall prepare proposed legislation  
36 conforming the Arizona Revised Statutes to the provisions of this act for  
37 consideration in the forty-ninth legislature, second regular session.

38 Sec. 40. Retroactivity

39 A. Section 28-3396, Arizona Revised Statutes, as amended by this act,  
40 applies retroactively to from and after June 30, 2009.

41 B. Section 41-1772, Arizona Revised Statutes, as added by this act, is  
42 effective retroactively to from and after June 30, 2009.