

REFERENCE TITLE: juveniles; court jurisdiction; age

State of Arizona
House of Representatives
Fifty-third Legislature
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2018

HB 2073

Introduced by
Representative Bolding

AN ACT

AMENDING SECTIONS 8-341, 13-501 AND 41-2801, ARIZONA REVISED STATUTES;
RELATING TO JUVENILES.

(TEXT OF BILL BEGINS ON NEXT PAGE)

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

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

4 8-341. Disposition and commitment; definitions

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

7 1. It may award a delinquent juvenile:

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

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

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

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

17 (e) To the department of juvenile corrections.

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

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

24 2. It may award an incorrigible child:

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

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

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

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

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

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

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

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

42 3. The court has not made a determination that it is in the best
43 interests of the juvenile or the public to require continued supervision.
44 The court shall state by minute entry or written order its reasons for
45 finding that continued supervision is required.

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

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

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

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

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

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

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

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

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

1 If you are convicted as an adult of a felony offense and you
2 commit any other offense, you will be prosecuted as an adult.

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

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

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

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

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

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

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

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

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

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

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

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

42 O. On the request of a victim of an act that may have involved
43 significant exposure as defined in section 13-1415 or that if committed by
44 an adult would be a sexual offense, the prosecuting attorney shall
45 petition the adjudicating court to require that the juvenile be tested for

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

14 P. If a juvenile has been adjudicated delinquent for an offense
15 that if committed by an adult would be an offense listed in section
16 41-1750, subsection C, the court shall provide the department of public
17 safety Arizona automated fingerprint identification system established in
18 section 41-2411 with the juvenile's ten-print fingerprints, personal
19 identification data and other pertinent information. If a juvenile has
20 been committed to the department of juvenile corrections the department
21 shall provide the fingerprints and information required by this subsection
22 to the Arizona automated fingerprint identification system. If the
23 juvenile's fingerprints and information have been previously submitted to
24 the Arizona automated fingerprint identification system the information is
25 not required to be resubmitted.

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

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

36 S. If a juvenile is adjudicated delinquent for a violation of
37 section 13-1602, subsection A, paragraph 5, the court shall order the
38 juvenile to pay a fine of at least three hundred dollars but not more than
39 one thousand dollars. Any restitution ordered shall be paid in accordance
40 with section 13-809, subsection A. The court may order the juvenile to
41 perform community restitution in lieu of the payment for all or part of
42 the fine if it is in the best interests of the juvenile. The amount of
43 community restitution shall be equivalent to the amount of the fine by
44 crediting any service performed at a rate of ten dollars per hour. If the
45 juvenile is convicted of a second or subsequent violation of section

1 13-1602, subsection A, paragraph 5 and is ordered to perform community
2 restitution, the court may order the parent or guardian of the juvenile to
3 assist the juvenile in the performance of the community restitution if
4 both of the following apply:

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

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

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

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

29 V. For the purposes of this section:

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

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

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

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

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

1 Sec. 2. Section 13-501, Arizona Revised Statutes, is amended to
2 read:

3 13-501. Persons under eighteen years of age; felony charging;
4 definitions

5 A. The county attorney shall bring a criminal prosecution against a
6 juvenile in the same manner as an adult if the juvenile is ~~fifteen,~~
7 ~~sixteen or~~ seventeen years of age at the time the alleged offense is
8 committed and the juvenile is accused of any of the following offenses:

- 9 1. First degree murder in violation of section 13-1105.
- 10 2. Second degree murder in violation of section 13-1104.
- 11 3. Forcible sexual assault in violation of section 13-1406.
- 12 4. Armed robbery in violation of section 13-1904.
- 13 5. Any other violent felony offense.
- 14 6. Any felony offense committed by a chronic felony offender.
- 15 7. Any offense that is properly joined to an offense listed in this

16 subsection.

17 B. Except as provided in subsection A of this section, the county
18 attorney may bring a criminal prosecution against a juvenile in the same
19 manner as an adult if the juvenile is at least ~~fourteen~~ SIXTEEN years of
20 age at the time the alleged offense is committed and the juvenile is
21 accused of any of the following offenses:

- 22 1. A class 1 felony.
- 23 2. A class 2 felony.
- 24 3. A class 3 felony in violation of any offense in chapters 10
25 through 17 or chapter 19 or 23 of this title.
- 26 4. A class 3, 4, 5 or 6 felony involving a dangerous offense.
- 27 5. Any felony offense committed by a chronic felony offender.
- 28 6. Any offense that is properly joined to an offense listed in this

29 subsection.

30 C. A criminal prosecution shall be brought against a juvenile in
31 the same manner as an adult if the juvenile has been accused of a criminal
32 offense and has a historical prior felony conviction.

33 D. At the time the county attorney files a complaint or indictment
34 the county attorney shall file a notice stating that the juvenile is a
35 chronic felony offender. Subject to subsection E of this section, the
36 notice shall establish and confer jurisdiction over the juvenile as a
37 chronic felony offender.

38 E. On motion of the juvenile the court shall hold a hearing after
39 arraignment and before trial to determine if a juvenile is a chronic
40 felony offender. At the hearing the state shall prove by a preponderance
41 of the evidence that the juvenile is a chronic felony offender. If the
42 court does not find that the juvenile is a chronic felony offender, the
43 court shall transfer the juvenile to the juvenile court pursuant to
44 section 8-302. If the court finds that the juvenile is a chronic felony
45 offender or if the juvenile does not file a motion to determine if the

1 juvenile is a chronic felony offender, the criminal prosecution shall
2 continue.

3 F. Except as provided in section 13-921, a person who is charged
4 pursuant to this section shall be sentenced in the criminal court in the
5 same manner as an adult for any offense for which the person is convicted.

6 G. Unless otherwise provided by law, nothing in this section shall
7 be construed as to confer jurisdiction in the juvenile court over any
8 person who is eighteen years of age or older.

9 H. For the purposes of this section:

10 1. "Accused" means a juvenile against whom a complaint, information
11 or indictment is filed.

12 2. "Chronic felony offender" means a juvenile who has had two prior
13 and separate adjudications and dispositions for conduct that would
14 constitute a historical prior felony conviction if the juvenile had been
15 tried as an adult.

16 3. "Forcible sexual assault" means sexual assault pursuant to
17 section 13-1406 that is committed without consent as defined in section
18 13-1401, [SUBSECTION A](#), paragraph 7, subdivision (a).

19 4. "Other violent felony offense" means:

20 (a) Aggravated assault pursuant to section 13-1204, subsection A,
21 paragraph 1.

22 (b) Aggravated assault pursuant to section 13-1204, subsection A,
23 paragraph 2 involving the use of a deadly weapon.

24 (c) Drive by shooting pursuant to section 13-1209.

25 (d) Discharging a firearm at a structure pursuant to section
26 13-1211.

27 Sec. 3. Section 41-2801, Arizona Revised Statutes, is amended to
28 read:

29 [41-2801. Definitions](#)

30 In this chapter, unless the context otherwise requires:

31 1. "Committed youth" or "youth" means a person who is ~~fourteen~~
32 [SIXTEEN](#) years of age or older but who has not yet attained the age of
33 eighteen years and who has been committed according to law to the
34 department of juvenile corrections for supervision, rehabilitation,
35 treatment and education.

36 2. "Department" means the department of juvenile corrections.

37 3. "Director" means the director of the department of juvenile
38 corrections.

39 4. "Educational system" means the state educational system for
40 committed youth.

41 5. "Secure care" means confinement in a facility that is completely
42 surrounded by a locked and physically secure barrier with restricted
43 ingress and egress.