

REFERENCE TITLE: sentencing; monetary obligations; fine mitigation

State of Arizona  
House of Representatives  
Fifty-third Legislature  
Second Regular Session  
2018

## HB 2313

Introduced by  
Representatives Farnsworth E: Boyer

### AN ACT

AMENDING SECTIONS 12-114.01, 12-116.01 AND 12-116.02, ARIZONA REVISED STATUTES; AMENDING TITLE 12, CHAPTER 1, ARTICLE 1, ARIZONA REVISED STATUTES, BY ADDING SECTION 12-116.08; AMENDING SECTIONS 13-805, 13-810, 13-812 AND 13-824, ARIZONA REVISED STATUTES; AMENDING TITLE 13, CHAPTER 8, ARIZONA REVISED STATUTES, BY ADDING SECTION 13-825; AMENDING TITLE 13, CHAPTER 9, ARIZONA REVISED STATUTES, BY ADDING SECTION 13-915; AMENDING SECTION 13-924, ARIZONA REVISED STATUTES; AMENDING TITLE 31, CHAPTER 3, ARTICLE 1, ARIZONA REVISED STATUTES, BY ADDING SECTION 31-404; AMENDING SECTIONS 41-191.08, 41-1730 AND 41-2401, ARIZONA REVISED STATUTES; AMENDING SECTION 41-2407, ARIZONA REVISED STATUTES, AS AMENDED BY LAWS 2017, CHAPTER 125, SECTION 1 AND CHAPTER 229, SECTION 18; REPEALING SECTION 41-2407, ARIZONA REVISED STATUTES, AS AMENDED BY LAWS 2017, CHAPTER 303, SECTION 12; RELATING TO SENTENCING.

(TEXT OF BILL BEGINS ON NEXT PAGE)

1 Be it enacted by the Legislature of the State of Arizona:  
2 Section 1. Section 12-114.01, Arizona Revised Statutes, is amended  
3 to read:

4 **12-114.01. Probation assessment: deposit**

5 A. Except as provided in section 12-269, in addition to any other  
6 penalty, fine, fee, surcharge or assessment authorized by law, a person  
7 shall pay an assessment of twenty dollars on conviction for a criminal  
8 offense or a finding of responsibility for a civil traffic violation, for  
9 a violation of any local ordinance relating to the stopping, standing or  
10 operation of a vehicle, except parking violations, or for a violation of  
11 the game and fish statutes in title 17.

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

18 C. The court may ~~waive~~ MITIGATE all or part of the assessment in  
19 the same manner and subject to the same limitations ~~provided for~~ INCLUDED  
20 IN the ~~waiver of surcharges~~ MITIGATION OF A FINE in section ~~12-116.01~~,  
21 ~~subsection F and section 12-116.02, subsection D~~ 13-825, SUBSECTION B.

22 Sec. 2. Section 12-116.01, Arizona Revised Statutes, is amended to  
23 read:

24 **12-116.01. Surcharges: remittance reports; fund deposits**

25 A. In addition to any penalty provided by law, a surcharge shall be  
26 levied in an amount of ~~forty-seven~~ FORTY-TWO percent on every fine,  
27 penalty and forfeiture imposed and collected by the courts for criminal  
28 offenses and any civil penalty imposed and collected for a civil traffic  
29 violation and fine, penalty or forfeiture for a violation of the motor  
30 vehicle statutes, for any local ordinance relating to the stopping,  
31 standing or operation of a vehicle or for a violation of the game and fish  
32 statutes in title 17.

33 B. In addition to any penalty provided by law, a surcharge shall be  
34 levied in an amount of seven percent on every fine, penalty and forfeiture  
35 imposed and collected by the courts for criminal offenses and any civil  
36 penalty imposed and collected for a civil traffic violation and fine,  
37 penalty or forfeiture for a violation of the motor vehicle statutes, for  
38 any local ordinance relating to the stopping, standing or operation of a  
39 vehicle or for a violation of the game and fish statutes in title 17.

40 C. In addition to any penalty provided by law, a surcharge shall be  
41 levied ~~through December 31, 2011 in an amount of seven percent, and~~  
42 ~~beginning January 1, 2012~~ in an amount of six percent, on every fine,  
43 penalty and forfeiture imposed and collected by the courts for criminal  
44 offenses and any civil penalty imposed and collected for a civil traffic  
45 violation and fine, penalty or forfeiture for a violation of the motor

1 vehicle statutes, for any local ordinance relating to the stopping,  
2 standing or operation of a vehicle or for a violation of the game and fish  
3 statutes in title 17.

4 D. If any deposit of bail or bond or deposit for an alleged civil  
5 traffic violation is to be made for a violation, the court shall require a  
6 sufficient amount to include the surcharge prescribed in this section for  
7 forfeited bail, bond or deposit. If bail, bond or deposit is forfeited,  
8 the court shall transmit the amount of the surcharge pursuant to  
9 subsection ~~H~~ G of this section. If bail, bond or deposit is returned,  
10 the surcharge made pursuant to this article shall also be returned.

11 E. After addition of the surcharge, the courts may round the total  
12 amount due to the nearest one-quarter dollar.

13 ~~F. The judge may waive all or part of the civil penalty, fine,  
14 forfeiture and surcharge, except for mandatory civil penalties and fines,  
15 the payment of which would work a hardship on the persons convicted or  
16 adjudicated or on their immediate families. If a fine or civil penalty is  
17 mandatory, the judge may waive only all or part of the surcharges  
18 prescribed by subsections A, B and C of this section and section  
19 12-116.02. If a fine or civil penalty is not mandatory and if a portion  
20 of the civil penalty, fine, forfeiture and surcharge is waived or  
21 suspended, the amount assessed must be divided according to the proportion  
22 that the civil penalty, fine, bail or bond and the surcharge represent of  
23 the total amount due.~~

24 ~~G.~~ F. The surcharge imposed by this section shall be applied to  
25 the base fine, civil penalty or forfeiture and not to any other surcharge  
26 imposed.

27 ~~H.~~ G. After a determination by the court of the amount due, the  
28 court shall transmit, on the last day of each month, the surcharges  
29 collected pursuant to subsections A, B, C and D of this section and a  
30 remittance report of the fines, civil penalties, assessments and  
31 surcharges collected pursuant to subsections A, B, C and D of this section  
32 to the county treasurer, except that municipal courts shall transmit the  
33 surcharges and the remittance report of the fines, civil penalties,  
34 assessments and surcharges to the city treasurer.

35 ~~I.~~ H. The appropriate authorities specified in subsection ~~H~~ G of  
36 this section shall transmit the forty-seven percent surcharge prescribed  
37 in subsection A of this section and the remittance report as required in  
38 subsection ~~H~~ G of this section to the state treasurer on or before the  
39 fifteenth day of each month for deposit in the criminal justice  
40 enhancement fund established by section 41-2401.

41 ~~J.~~ I. The appropriate authorities specified in subsection ~~H~~ G of  
42 this section shall transmit the seven percent surcharge prescribed in  
43 subsection B of this section and the remittance report as required in  
44 subsection ~~H~~ G of this section to the state treasurer on or before the

1 fifteenth day of each month for allocation pursuant to section 41-2421,  
2 subsection J.

3 ~~K.~~ J. The appropriate authorities specified in subsection ~~H~~ G of  
4 this section shall transmit the surcharge prescribed in subsection C of  
5 this section and the remittance report as required in subsection ~~H~~ G of  
6 this section to the state treasurer on or before the fifteenth day of each  
7 month for deposit in the department of public safety forensics fund  
8 established by section 41-1730.

9 ~~L.~~ K. Partial payments of the amount due shall be transmitted as  
10 prescribed in subsections G, H, I, ~~AND~~ J ~~and~~ K of this section and shall  
11 be divided according to the proportion that the civil penalty, fine, bail  
12 or bond and the surcharge represent of the total amount due.

13 Sec. 3. Section 12-116.02, Arizona Revised Statutes, is amended to  
14 read:

15 12-116.02. Additional surcharges: fund deposits

16 A. In addition to any penalty provided by law, ~~there shall be~~  
17 ~~levied~~ a surcharge ~~SHALL BE LEVIED~~ in an amount of thirteen ~~per cent~~  
18 ~~PERCENT~~ on every fine, penalty and forfeiture imposed and collected by the  
19 courts for criminal offenses and civil penalties imposed and collected for  
20 a civil traffic violation and fine, penalty or forfeiture for a violation  
21 of the motor vehicle statutes, for a violation of any local ordinance  
22 relating to the stopping, standing or operation of a vehicle or for a  
23 violation of the game and fish statutes in title 17.

24 B. If any deposit of bail or bond or deposit for an alleged civil  
25 traffic violation is to be made for a violation, the court shall require a  
26 sufficient amount to include the surcharge prescribed in this section for  
27 forfeited bail, bond or deposit. If bail, bond or deposit is forfeited,  
28 the ~~COURT SHALL TRANSMIT THE~~ amount of ~~such~~ THE surcharge ~~shall be~~  
29 ~~transmitted by the court~~ pursuant to subsection ~~F~~ E of this section. If  
30 bail, bond or deposit is returned, the surcharge made pursuant to this  
31 article shall also be returned.

32 C. After addition of the surcharge, the courts may round the total  
33 amount due to the nearest one-quarter dollar.

34 ~~D. The judge may waive all or part of the civil penalty, fine,~~  
35 ~~forfeiture and surcharge, except for civil penalties and fines that are~~  
36 ~~mandatory, the payment of which would work a hardship on the persons~~  
37 ~~convicted or adjudicated or on their immediate families. If a fine or~~  
38 ~~civil penalty is mandatory, the judge may waive only all or part of the~~  
39 ~~surcharge prescribed by subsection A of this section and section~~  
40 ~~12-116.01. If a fine or civil penalty is not mandatory and if a portion~~  
41 ~~of the civil penalty, fine, forfeiture and surcharge is waived or~~  
42 ~~suspended, the amount assessed must be divided according to the proportion~~  
43 ~~that the civil penalty, fine, bail or bond and the surcharge represent of~~  
44 ~~the total amount due.~~

1        ~~F.~~ D. The surcharge imposed by this section shall be applied to  
2 the base fine, civil penalty or forfeiture and not to any other surcharge  
3 imposed.

4        ~~F.~~ E. After a determination by the court of the amount due, the  
5 court shall transmit, on the last day of each month, the surcharges  
6 collected pursuant to subsections A and B of this section and a remittance  
7 report of the fines, civil penalties, assessments and surcharges collected  
8 pursuant to subsections A and B of this section to the county treasurer,  
9 except that municipal courts shall transmit the surcharges and the  
10 remittance report of the fines, civil penalties, assessments and  
11 surcharges to the city treasurer.

12        ~~G.~~ F. The APPROPRIATE AUTHORITIES PRESCRIBED IN SUBSECTION E OF  
13 THIS SECTION SHALL TRANSMIT THE thirteen ~~per cent~~ PERCENT surcharge as  
14 required in subsection A of this section ~~shall be transmitted by the~~  
15 ~~appropriate authorities prescribed in subsection F of this section~~ to the  
16 state treasurer on or before the fifteenth day of each month for deposit  
17 in the medical services enhancement fund established by section  
18 36-2219.01.

19        ~~H.~~ G. Partial payments of the amount due shall be transmitted as  
20 required in subsections E AND F ~~and G~~ of this section and shall be divided  
21 according to the proportion that the civil penalty, fine, bail or bond and  
22 the surcharge represent of the total amount due.

23        Sec. 4. Title 12, chapter 1, article 1, Arizona Revised Statutes,  
24 is amended by adding section 12-116.08, to read:

25        12-116.08. Penalty assessment; victims' rights; fund deposits

26        A. IN ADDITION TO ANY OTHER PENALTY ASSESSMENT PROVIDED BY LAW, A  
27 PENALTY ASSESSMENT SHALL BE LEVIED IN AN AMOUNT OF NINE DOLLARS ON EVERY  
28 FINE, PENALTY AND FORFEITURE IMPOSED AND COLLECTED BY THE COURTS FOR  
29 CRIMINAL OFFENSES AND ANY CIVIL PENALTY IMPOSED AND COLLECTED FOR A CIVIL  
30 TRAFFIC VIOLATION AND FINE, PENALTY OR FORFEITURE FOR A VIOLATION OF THE  
31 MOTOR VEHICLE STATUTES, FOR ANY LOCAL ORDINANCE RELATING TO THE STOPPING,  
32 STANDING OR OPERATION OF A VEHICLE OR FOR A VIOLATION OF THE GAME AND FISH  
33 STATUTES IN TITLE 17.

34        B. THE COURT SHALL TRANSMIT THE ASSESSMENTS COLLECTED PURSUANT TO  
35 THIS SECTION AND A REMITTANCE REPORT OF THE FINES, CIVIL PENALTIES AND  
36 ASSESSMENTS COLLECTED TO THE COUNTY TREASURER, EXCEPT THAT MUNICIPAL  
37 COURTS SHALL TRANSMIT THE ASSESSMENTS AND THE REMITTANCE REPORT OF THE  
38 FINES, CIVIL PENALTIES AND ASSESSMENTS TO THE CITY OR TOWN TREASURER.

39        C. THE CITY, TOWN OR COUNTY TREASURER SHALL TRANSMIT THE  
40 ASSESSMENTS AND THE REMITTANCE REPORT TO THE STATE TREASURER. THE STATE  
41 TREASURER SHALL DEPOSIT 62.4 PERCENT OF THE ASSESSMENTS IN THE VICTIMS'  
42 RIGHTS FUND ESTABLISHED BY SECTION 41-191.08 AND THE REMAINING 37.6  
43 PERCENT OF THE ASSESSMENTS IN THE VICTIM COMPENSATION AND ASSISTANCE FUND  
44 ESTABLISHED BY SECTION 41-2407.

1        Sec. 5. Section 13-805, Arizona Revised Statutes, is amended to  
2 read:

3        **13-805. Jurisdiction**

4        A. The trial court shall retain jurisdiction of the case as  
5 follows:

6        1. Subject to paragraph 2 of this subsection, for purposes of  
7 ordering, modifying and enforcing the manner in which court-ordered  
8 payments are made until paid in full or until the defendant's sentence  
9 expires.

10        2. For all restitution orders in favor of a victim, including liens  
11 and criminal restitution orders, for purposes of ordering, modifying and  
12 enforcing the manner in which payments are made until paid in full.

13        B. At the time the defendant is ordered to pay restitution by the  
14 court, the court may enter a criminal restitution order in favor of each  
15 person who is entitled to restitution for the unpaid balance of any  
16 restitution order. A criminal restitution order does not affect any other  
17 monetary obligation imposed on the defendant pursuant to law.

18        C. At the time the defendant completes the defendant's period of  
19 probation or the defendant's sentence or the defendant absconds from  
20 probation or the defendant's sentence, the court shall enter both:

21        1. A criminal restitution order in favor of the state for the  
22 unpaid balance, if any, of any fines, costs, incarceration costs, fees,  
23 surcharges or assessments imposed.

24        2. A criminal restitution order in favor of each person entitled to  
25 restitution for the unpaid balance of any restitution ordered, if a  
26 criminal restitution order is not issued pursuant to subsection B of this  
27 section.

28        D. The clerk of the court shall notify each person who is entitled  
29 to restitution of the criminal restitution order.

30        E. A criminal restitution order may be recorded and is enforceable  
31 as any civil judgment, except that a criminal restitution order does not  
32 require renewal pursuant to section 12-1611 or 12-1612. Enforcement of a  
33 criminal restitution order by any person **OR BY THE STATE ON BEHALF OF ANY**  
34 **PERSON** who is entitled to restitution ~~or by the state~~ includes the  
35 collection of interest that accrues at a rate of ten percent **per annum** **A**  
36 **YEAR.** **ENFORCEMENT OF A CRIMINAL RESTITUTION ORDER BY THE STATE INCLUDES**  
37 **THE COLLECTION OF INTEREST THAT ACCRUES AT A RATE OF FOUR PERCENT A YEAR.**  
38 A criminal restitution order does not expire until paid in full. A filing  
39 fee, **A** recording fee or any other charge is not required for recording a  
40 criminal restitution order.

41        F. All monies paid pursuant to a criminal restitution order entered  
42 by the court shall be paid to the clerk of the court.

1       G. Monies received as a result of a criminal restitution order  
2 entered pursuant to this section shall be distributed in the following  
3 order of priority:

4       1. Restitution ordered that is reduced to a criminal restitution  
5 order.

6       2. Associated interest.

7       H. The interest accrued pursuant to subsection E of this section  
8 does not apply to fees imposed for collection of the court ordered  
9 payments.

10     I. A criminal restitution order is a criminal penalty for the  
11 purposes of a federal bankruptcy involving the defendant.

12     Sec. 6. Section 13-810, Arizona Revised Statutes, is amended to  
13 read:

14     13-810. Consequences of nonpayment of fines, surcharges,  
15                    fees, assessments, restitution or incarceration  
16                    costs

17     A. In addition to any other remedy provided by law, including a  
18 writ of execution or other civil enforcement, if a defendant who is  
19 sentenced to pay a fine, **A SURCHARGE**, a fee, **AN ASSESSMENT** or  
20 incarceration costs defaults in the payment of the fine, **SURCHARGE**, fee,  
21 **ASSESSMENT** or incarceration costs or of any installment as ordered, the  
22 court, on motion of the prosecuting attorney or on its own motion, shall  
23 require the defendant to show cause why the defendant's default should not  
24 be treated as contempt and may issue a summons or a warrant of arrest for  
25 the defendant's appearance.

26     B. In addition to any other remedy provided by law, including a  
27 writ of execution or other civil enforcement, if a defendant who is  
28 ordered to pay restitution defaults in the payment of the restitution or  
29 of any installment as ordered, the court, on motion of the prosecuting  
30 attorney, on petition of any person entitled to restitution pursuant to a  
31 court order or on its own motion, shall require the defendant to show  
32 cause why the defendant's default should not be treated as contempt and  
33 may issue a summons or a warrant of arrest for the defendant's appearance.

34     C. In addition to any other remedy provided by law, including a  
35 writ of execution or other civil enforcement, the court, on receipt of a  
36 petition and issuance of an order to show cause, has jurisdiction to  
37 preserve rights over all restitution liens entered pursuant to section  
38 13-806, subsection B, and perfected pursuant to section 13-806,  
39 subsection E.

40     D. At any hearing on the order to show cause the court, the  
41 prosecuting attorney or a person entitled to restitution may examine the  
42 defendant under oath concerning the defendant's financial condition,  
43 employment and assets or on any other matter relating to the defendant's  
44 ability to pay restitution.

1       E. If the court finds that the defendant has wilfully failed to pay  
2 a fine, **A SURCHARGE**, a fee, **AN ASSESSMENT**, restitution or incarceration  
3 costs or finds that the defendant has intentionally refused to make a good  
4 faith effort to obtain the monies required for the payment, the court  
5 shall find that the default constitutes contempt and may do ~~one~~ **ANY** of the  
6 following:

7       1. Order the defendant incarcerated in the county jail until the  
8 fine, **SURCHARGE**, fee, **ASSESSMENT**, restitution or incarceration costs, or a  
9 specified part of the fine, **SURCHARGE**, fee, **ASSESSMENT**, restitution or  
10 incarceration costs, is paid.

11       2. ~~Revoke the defendant's REFER THE DEFENDANT FOR REVOCATION OF~~  
12 probation, parole or community supervision ~~and sentence the defendant to~~  
13 ~~prison pursuant to~~ **AS AUTHORIZED BY** law.

14       3. Enter an order pursuant to section 13-812. The levy or  
15 execution for the collection of a fine, **A SURCHARGE**, a fee, **AN ASSESSMENT**,  
16 restitution or incarceration costs does not discharge a defendant who is  
17 incarcerated for nonpayment of the fine, **SURCHARGE**, fee, **ASSESSMENT**,  
18 restitution or incarceration costs until the amount of the fine,  
19 **SURCHARGE**, fee, **ASSESSMENT**, restitution or incarceration costs is  
20 collected.

21       4. Order the defendant to perform community restitution.

22       F. If the court finds that the default is not wilful and that the  
23 defendant cannot pay despite sufficient good faith efforts to obtain the  
24 monies, the court may take any lawful action including:

25       1. Modify the manner in which the restitution, fine, **SURCHARGE**,  
26 fee, **ASSESSMENT** or incarceration costs are to be paid.

27       2. Enter any reasonable order that would assure compliance with the  
28 order to pay.

29       3. Enter an order pursuant to section 13-812. The levy or  
30 execution for the collection of a fine, **A SURCHARGE**, a fee, **AN ASSESSMENT**,  
31 restitution or incarceration costs does not discharge a defendant  
32 incarcerated for nonpayment of the fine, **SURCHARGE**, fee, **ASSESSMENT**,  
33 restitution or incarceration costs until the amount of the fine,  
34 **SURCHARGE**, fee, **ASSESSMENT**, restitution or incarceration costs is  
35 collected.

36       G. If a fine, **A SURCHARGE**, a fee, **AN ASSESSMENT**, restitution or  
37 incarceration costs are imposed on an enterprise it is the duty of the  
38 person or persons authorized to make disbursement from the assets of the  
39 enterprise to pay them from those assets, and their failure to do so shall  
40 be held a contempt unless they make the showing required in subsection A  
41 or B of this section.

1       H. If a defendant is sentenced to pay a fine, **A SURCHARGE**, a fee,   
2 **AN ASSESSMENT**, restitution or incarceration costs, the clerk of the   
3 sentencing court, on request, shall make the defendant's payment history   
4 available to the prosecutor, victim, victim's attorney, probation   
5 department and court without cost.

6       Sec. 7. Section 13-812, Arizona Revised Statutes, is amended to   
7 read:

8            13-812. Garnishment for nonpayment of fines, surcharges,  
9            fees, assessments, restitution or incarceration  
10           costs

11       A. After a hearing on an order to show cause pursuant to section   
12 13-810, subsection A or B or after a hearing on a petition to revoke   
13 probation ~~pursuant to section 13-804, subsection E or the rules of~~   
14 ~~criminal procedure~~, the court may issue a writ of criminal garnishment for   
15 any fine, **SURCHARGE**, fee, **ASSESSMENT**, restitution or incarceration costs.

16       B. The court may order garnishment for monies that are owed to a   
17 victim or the court, the clerk of the court or the prosecuting attorney   
18 pursuant to a court order to pay any fine, **SURCHARGE**, fee, **ASSESSMENT**,   
19 restitution or incarceration costs. A writ of criminal garnishment   
20 applies to any of the following:

- 21       1. The defendant's earnings as defined in section 12-1598.
- 22       2. Indebtedness that is owed to a defendant by a garnishee for   
23 amounts that are not earnings.
- 24       3. Monies that are held by a garnishee on behalf of a defendant.
- 25       4. The defendant's personal property that is in the possession of a   
26 garnishee.

27       5. If the garnishee is a corporation, shares or securities of a   
28 corporation or a proprietary interest in a corporation that belongs to a   
29 defendant.

30       6. The defendant's earnings or monies that are held by the state   
31 department of corrections while the defendant is in the custody of the   
32 department.

33       Sec. 8. Section 13-824, Arizona Revised Statutes, is amended to   
34 read:

35            13-824. Community restitution in lieu of monetary obligation:  
36            definition

37       A. Notwithstanding any other law, ~~in a municipal or justice court,~~   
38 if a **MONETARY OBLIGATION IS IMPOSED ON A** defendant ~~is sentenced to pay a~~   
39 ~~fine, a fee, assessment or incarceration costs~~ **AT SENTENCING** and the court   
40 finds the defendant is unable to pay all or part of the ~~fine, fee,~~   
41 ~~assessment or incarceration costs~~ **MONETARY OBLIGATION**, the court may order   
42 the defendant to perform community restitution in lieu of the payment for   
43 all or part of the ~~fine, fee, assessment or incarceration costs~~ **MONETARY**   
44 **OBLIGATION**. The amount of community restitution shall be equivalent to

1 the amount of the ~~fine, fee or incarceration costs~~ MONETARY OBLIGATION by  
2 crediting any service performed at a rate of ten dollars per hour.

3 B. THIS SECTION DOES NOT APPLY TO THE SURCHARGE IMPOSED AND  
4 COLLECTED PURSUANT TO SECTION 16-954, SUBSECTION A.

5 C. FOR THE PURPOSES OF THIS SECTION, "MONETARY OBLIGATION" MEANS A  
6 FINE, A CIVIL PENALTY, A SURCHARGE, AN ASSESSMENT, A FEE OR INCARCERATION  
7 COSTS.

8 Sec. 9. Title 13, chapter 8, Arizona Revised Statutes, is amended  
9 by adding section 13-825, to read:

10 13-825. Mitigation of fines: community restitution waiver or  
11 mitigation

12 A. A JUDGE MAY MITIGATE A FINE IF THE DEFENDANT WHO IS ORDERED TO  
13 PAY THE FINE DEMONSTRATES THAT THE PAYMENT WOULD WORK A HARSHIP ON THE  
14 DEFENDANT OR ON THE DEFENDANT'S IMMEDIATE FAMILY.

15 B. IN DETERMINING WHETHER TO MITIGATE A FINE, THE COURT MAY  
16 CONSIDER ANY RELEVANT EVIDENCE, INCLUDING:

17 1. THE IMPACT OF THE FINE ON THE ABILITY OF THE DEFENDANT TO PAY  
18 THE RESTITUTION.

19 2. THE EXTENT OF THE FINANCIAL HARSHIP ON THE DEFENDANT OR ON THE  
20 DEFENDANT'S IMMEDIATE FAMILY.

21 3. WHETHER THE DEFENDANT IS RECEIVING BENEFITS PURSUANT TO ANY OF  
22 THE FOLLOWING:

23 (a) THE TEMPORARY ASSISTANCE FOR NEEDY FAMILIES PROGRAM ESTABLISHED  
24 BY SECTION 403 OF TITLE IV OF THE SOCIAL SECURITY ACT.

25 (b) THE SUPPLEMENTAL NUTRITION ASSISTANCE PROGRAM (7 UNITED STATES  
26 CODE SECTIONS 2011 THROUGH 2036c).

27 (c) THE SUPPLEMENTAL SECURITY INCOME PROGRAM (42 UNITED STATES CODE  
28 SECTIONS 1381 THROUGH 1383f).

29 4. WHETHER THE DEFENDANT IS SEEKING, OBTAINING OR MAINTAINING  
30 EMPLOYMENT IF LEGALLY PERMITTED TO DO SO OR IS ATTENDING SCHOOL.

31 C. A JUDGE MAY WAIVE OR MITIGATE MANDATORY COMMUNITY RESTITUTION  
32 DUE TO A DEFENDANT'S MEDICAL CONDITION. THIS SUBSECTION DOES NOT APPLY TO  
33 COMMUNITY RESTITUTION THAT IS ORDERED PURSUANT TO SECTION 13-824.

34 Sec. 10. Title 13, chapter 9, Arizona Revised Statutes, is amended  
35 by adding section 13-915, to read:

36 13-915. Wilful failure to pay: revocation of probation

37 IF THE COURT FINDS THAT A DEFENDANT HAS WILFULLY FAILED TO PAY A  
38 FINE, A SURCHARGE, A FEE, AN ASSESSMENT, RESTITUTION OR INCARCERATION  
39 COSTS OR FINDS THAT A DEFENDANT HAS INTENTIONALLY REFUSED TO MAKE A GOOD  
40 FAITH EFFORT TO OBTAIN THE MONIES REQUIRED FOR THE PAYMENT, THE COURT MAY  
41 REVOKE THE DEFENDANT'S PROBATION AND SENTENCE THE DEFENDANT TO PRISON  
42 PURSUANT TO LAW.

1        Sec. 11. Section 13-924, Arizona Revised Statutes, is amended to  
2 read:

3        **13-924. Probation; earned time credit; applicability**

4        A. The court may adjust the period of a probationer's supervised  
5 probation on the recommendation of an adult probation officer for earned  
6 time credit.

7        B. Earned time credit equals twenty days for every thirty days that  
8 a probationer does all of the following:

9            1. Exhibits positive progression toward the goals and treatment of  
10 the probationer's case plan.

11            2. Is current on payments for court ordered restitution and **IS IN**  
12 **COMPLIANCE WITH ALL** other **NONMONETARY** obligations.

13            3. Is current in completing community restitution.

14            C. Any earned time credit awarded pursuant to this section shall be  
15 revoked if a probationer is found in violation of a condition of  
16 probation.

17            D. This section does not apply to a probationer who is currently:

18            1. On lifetime probation.

19            2. On probation for any class 2 or 3 felony.

20            3. On probation exclusively for a misdemeanor offense.

21            4. Required to register pursuant to section 13-3821.

22            E. This section has no effect on the ability of the court to  
23 terminate the period of probation or intensive probation pursuant to  
24 section 13-901, subsection E at a time earlier than originally imposed.

25        Sec. 12. Title 31, chapter 3, article 1, Arizona Revised Statutes,  
26 is amended by adding section 31-404, to read:

27        **31-404. Wilful failure to pay; revocation of parole or**  
28 **community supervision**

29        IF THE BOARD OF EXECUTIVE CLEMENCY FINDS THAT A DEFENDANT HAS  
30 WILFULLY FAILED TO PAY A FINE, A SURCHARGE, A FEE, AN ASSESSMENT,  
31 RESTITUTION OR INCARCERATION COSTS OR FINDS THAT A DEFENDANT HAS  
32 INTENTIONALLY REFUSED TO MAKE A GOOD FAITH EFFORT TO OBTAIN THE MONIES  
33 REQUIRED FOR THE PAYMENT, THE BOARD MAY REVOKE THE DEFENDANT'S PAROLE OR  
34 COMMUNITY SUPERVISION AND RETURN THE DEFENDANT TO PRISON PURSUANT TO LAW.

35        Sec. 13. Section 41-191.08, Arizona Revised Statutes, is amended to  
36 read:

37        **41-191.08. Victims' rights fund; use; reporting requirements;**  
38 **exemption from lapsing**

39        A. The victims' rights fund is established consisting of monies  
40 deposited pursuant to sections 8-418 and ~~41-2401, subsection D, paragraph~~  
41 ~~12~~ **12-116.08** and legislative appropriations. Monies in the fund are  
42 subject to legislative appropriation. Monies from state general fund  
43 appropriations shall be deposited in the victims' rights fund and are not  
44 subject to further appropriation. Monies from state general fund  
45 appropriations are available for use on deposit in the victims' rights

1 fund. The attorney general shall administer the fund. The attorney  
2 general shall use fund monies for the purpose of operating, improving,  
3 maintaining and enhancing the victims' rights program established pursuant  
4 to section 41-191.06.

5 B. Each fiscal year the attorney general may spend twelve percent  
6 of the total victims' rights fund appropriation and state general fund  
7 deposits for the purpose of performing duties mandated by title 13,  
8 chapter 40, including the costs of administering the victims' rights  
9 program under section 41-191.06.

10 C. Except as provided in subsections D, G and H of this section,  
11 each fiscal year the attorney general shall disburse eighty-eight percent  
12 of the total victims' rights fund appropriation and state general fund  
13 deposits to state and local entities that have previously qualified under  
14 this subsection or have demonstrated a history of need and performance  
15 according to criteria established by the attorney general. Each entity  
16 that qualifies to receive monies pursuant to this subsection shall receive  
17 monies in a percentage that is proportional to that entity's percentage of  
18 the total fund monies disbursed to all qualifying entities in the prior  
19 fiscal year. The attorney general is not a qualifying entity under this  
20 subsection.

21 D. Except as provided in subsections G and H of this section, each  
22 fiscal year the attorney general may disburse victims' rights fund monies  
23 to entities that do not qualify under subsection C of this section, that  
24 are financially impacted by title 8, chapter 3, article 7 or title 13,  
25 chapter 40 and that submit an implementation plan and funding request to  
26 the attorney general pursuant to guidelines adopted by the attorney  
27 general. The attorney general shall establish procedures to assess the  
28 financial impact on and the need of these entities. The attorney general  
29 shall disburse monies based on the information that is derived from the  
30 assessment. On an annual basis, as new or additional entities receive  
31 monies pursuant to this subsection, the attorney general shall  
32 proportionally adjust the percentage share disbursed to each entity  
33 pursuant to subsection C of this section.

34 E. Monies in the victims' rights fund shall be used to supplement,  
35 not supplant, monies that would otherwise be made available to state and  
36 local entities for funding victims' rights services and assistance.

37 F. Each entity that receives funding pursuant to this section shall  
38 submit an annual report to the attorney general that identifies all  
39 sources and amounts of monies that are spent for the purposes of  
40 implementing and complying with victims' rights. The report shall detail:

- 41 1. The expenditure of the monies that are awarded under the  
42 victims' rights program pursuant to section 41-191.06.
- 43 2. The number of instances in which the entity performed mandated  
44 victims' rights duties or services.
- 45 3. The level of victim satisfaction with the services.

1       G. Each fiscal year the attorney general shall review and evaluate  
2 the entities that receive funding pursuant to this section. The attorney  
3 general may adjust funding levels, redistribute monies or deny continued  
4 funding to an entity that fails to effectively implement or comply with  
5 victims' rights mandates.

6       H. Supplemental fund monies appropriated to the attorney general to  
7 expand victims' rights training and to expand the reporting of victims'  
8 feedback on services provided shall be expended according to a plan and  
9 procedures adopted by the attorney general. The attorney general shall  
10 spend the monies appropriated for costs to develop, provide, sponsor or  
11 support programs that expand the delivery and improve the quality of  
12 mandated services to victims of crime by law enforcement, prosecutorial  
13 and correctional agencies and courts.

14      I. The attorney general shall submit an annual report to the  
15 governor, the president of the senate and the speaker of the house of  
16 representatives that details the status of the victims' rights program  
17 under section 41-191.06, the attorney general's compliance with the  
18 program, including the level of service, and the expenditure of all monies  
19 that are appropriated for the purpose of victims' rights.

20      J. Monies in the victims' rights fund are exempt from the lapsing  
21 provisions of section 35-190.

22      Sec. 14. Section 41-1730, Arizona Revised Statutes, is amended to  
23 read:

24      41-1730. Department of public safety forensics fund:  
25           purposes; distributions; annual adjustment

26      A. The department of public safety forensics fund is established.  
27 The department shall administer the fund. Monies in the fund are subject  
28 to legislative appropriation. The department of public safety forensics  
29 fund consists of the following:

30      1. Monies deposited pursuant to section 12-116.01, subsection ~~K~~ <sup>J</sup>.  
31      2. Monies deposited pursuant to section 41-2401, subsection D,  
32 paragraphs 1 and 11.

33      3. Surcharge monies deposited pursuant to section 28-3396.

34      4. Monies contributed to the fund from any other source.

35      B. Monies in the department of public safety forensics fund shall  
36 be used for the following purposes:

37      1. Purchasing and installing fingerprint identification equipment.

38      2. Operating, maintaining and administering the Arizona automated  
39 fingerprint identification system and the system's remote terminals.

40      3. Crime laboratory operations and enhanced services.

41      4. Educating and training forensic scientists who are regularly  
42 employed in a crime laboratory.

43      5. Purchasing and maintaining scientific equipment for crime  
44 laboratory use.

1       6. Implementing, operating and maintaining deoxyribonucleic acid  
2 testing and administering the Arizona deoxyribonucleic acid identification  
3 system.

4       C. On a quarterly basis, the department of public safety shall  
5 allocate and distribute the monies in the department of public safety  
6 forensics fund that are collected pursuant to section 12-116.01 and  
7 deposited pursuant to section 41-2401, subsection D, paragraph 11. The  
8 department may use fifty-five percent of the monies for the purposes  
9 prescribed in subsection B of this section and shall distribute the  
10 remaining monies to political subdivisions that operate a crime laboratory  
11 as follows:

- 12       1. Twenty-two percent to the Phoenix police department.
- 13       2. Twelve percent to the Tucson police department.
- 14       3. Seven percent to the Mesa police department.
- 15       4. Four percent to the Scottsdale police department.

16       D. The distribution of monies pursuant to subsection C of this  
17 section may be adjusted annually, if appropriate, based on the crime  
18 laboratory services provided and the percentage of the state population  
19 served by each crime laboratory. The crime laboratory directors of the  
20 political subdivisions providing crime laboratory services in this state  
21 must agree on the distribution formula and allocation. The minimum  
22 allocation for a political subdivision that provides crime laboratory  
23 services is four percent.

24       E. For the purposes of subsections C and D of this section, "crime  
25 laboratory" means a laboratory that meets all of the following:

- 26       1. Is operated by a political subdivision.
- 27       2. Has at least one regularly employed forensic scientist who holds  
28 a minimum of a bachelor's degree in a physical or natural science.
- 29       3. Is registered as an analytical laboratory with the drug  
30 enforcement administration of the United States department of justice for  
31 the possession of all scheduled controlled substances.

32       Sec. 15. Section 41-2401, Arizona Revised Statutes, is amended to  
33 read:

34       41-2401. Criminal justice enhancement fund

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

38       B. On or before November 1 of each year, each department, agency or  
39 office that receives monies pursuant to this section shall provide to the  
40 Arizona criminal justice commission a report for the preceding fiscal  
41 year. The report shall be in a form prescribed by the Arizona criminal  
42 justice commission. The report shall set forth the sources of all monies  
43 and all expenditures. The report shall not include any identifying  
44 information about specific investigations.

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

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

9       1. ~~16.744~~ 19.09 percent in the department of public safety  
10 forensics fund established by section 41-1730.

11       2. ~~1.61~~ 1.84 percent to the department of juvenile corrections for  
12 the treatment and rehabilitation of youth who have committed drug-related  
13 offenses.

14       3. ~~16.64~~ 18.97 percent in the peace officers' training fund  
15 established by section 41-1825.

16       4. ~~3.03~~ 3.45 percent in the prosecuting attorneys' advisory council  
17 training fund established by section 41-1830.03.

18       5. ~~9.35~~ 10.66 percent to the supreme court for the purpose of  
19 reducing juvenile crime.

20       6. ~~7.276~~ 8.29 percent to the department of public safety for  
21 allocation to state and local law enforcement authorities for the  
22 following purposes:

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

26           (b) To provide support to the Arizona automated fingerprint  
27 identification system.

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

29       7. ~~9.35~~ 10.66 percent to the department of law for allocation to  
30 county attorneys for the purpose of enhancing prosecutorial efforts.

31       8. ~~6.02~~ 6.86 percent to the supreme court for the purpose of  
32 enhancing the ability of the courts to process criminal and delinquency  
33 cases, orders of protection, injunctions against harassment and any  
34 proceeding relating to domestic violence matters, for auditing and  
35 investigating persons or entities licensed or certified by the supreme  
36 court and for processing judicial discipline cases. Notwithstanding  
37 section 12-143, subsection A, the salary of superior court judges pro  
38 tempore who are appointed for the purposes provided in this paragraph  
39 shall, and the salary of other superior court judges pro tempore who are  
40 appointed pursuant to section 12-141 for the purposes provided in this  
41 paragraph may, be paid in full by the monies received pursuant to this  
42 paragraph.

43       9. ~~11.70~~ 13.34 percent to the county sheriffs for the purpose of  
44 enhancing county jail facilities and operations, including county jails  
45 under the jurisdiction of county jail districts.

10. ~~1.57~~ 1.79 percent to the Arizona criminal justice commission.  
11. ~~2.30~~ 2.62 percent in the department of public safety forensics  
fund established by section 41-1730.

~~12. 7.68 percent in the victims' rights fund established by section  
41-191.08.~~

~~13. 4.60 percent in the victim compensation and assistance fund  
established by section 41-2407.~~

14. 12. ~~2.13~~ 2.43 percent to the supreme court for the purpose of  
providing drug treatment services to adult probationers through the  
community punishment program established in title 12, chapter 2,  
article 11.

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

F. The portion of the monies for direct operating expenses of the  
department of public safety in subsection D, paragraph 6 of this section  
is subject to legislative appropriation. The remainder of the monies in  
subsection D, paragraph 6 of this section, including the portion for local  
law enforcement, is continuously appropriated.

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

Sec. 16. Section 41-2407, Arizona Revised Statutes, as amended by  
Laws 2017, chapter 125, section 1 and chapter 229, section 18, is amended  
to read:

41-2407. Victim compensation and assistance fund;  
subrogation; prohibited debt collection activity;  
definition

A. The victim compensation and assistance fund is established. The  
Arizona criminal justice commission shall administer the fund. The victim  
compensation and assistance fund shall consist of monies collected  
pursuant to section ~~12-116.01 and distributed pursuant to section 41-2401,~~  
~~subsection D, paragraph 14, monies collected pursuant to section~~ 31-411,  
subsection E and sections ~~12-116.08, 13-4311, 31-418, 31-467.06 and~~  
41-1674, unclaimed victim restitution monies pursuant to sections 22-116  
and 44-313 and monies available from any other source.

B. Subject to legislative appropriation, the Arizona criminal  
justice commission shall allocate monies in the victim compensation and  
assistance fund to public and private agencies for the purpose of  
establishing, maintaining and supporting programs that compensate and  
assist victims of crime.

1       C. The allocation of monies pursuant to this section shall be made  
2 in accordance with rules adopted by the Arizona criminal justice  
3 commission pursuant to section 41-2405, subsection A, paragraph 8. The  
4 rules shall provide that persons who suffered personal injury or death  
5 that resulted from an attempt to aid a public safety officer in the  
6 prevention of a crime or the apprehension of a criminal may be eligible  
7 for compensation.

8       D. This state and the applicable operational unit or qualified  
9 program, as defined in the victim compensation program rules, are  
10 subrogated to the rights of an individual who receives monies from the  
11 victim compensation and assistance fund to recover or receive monies or  
12 benefits from a third party, to the extent of the amount of monies the  
13 individual receives from the fund.

14      E. A licensed health care provider who agrees to the victim  
15 compensation program rules may receive program monies for providing health  
16 and medical services to a victim or claimant. A licensed health care  
17 provider who accepts the full allowable payment for those services from a  
18 victim compensation program funded pursuant to this section is deemed to  
19 have accepted the payment as the full payment for those services. The  
20 licensed health care provider may not collect or attempt to collect any  
21 payment for the same health and medical services from the victim or  
22 claimant, except that if a victim compensation program funded pursuant to  
23 this section is unable to pay the full allowable payment to a licensed  
24 health care provider because of a lack of available monies or for any  
25 other reason, the licensed health care provider may collect the unpaid  
26 balance for the services from the victim or claimant or from a third-party  
27 payor, and the total amount billed or requested by the licensed health  
28 care provider may not exceed the full allowable payment that the licensed  
29 health care provider agreed to accept from the victim compensation program  
30 for the services.

31      F. If a licensed health care provider receives notice that a person  
32 has filed a claim with a victim compensation program funded by this  
33 section, the licensed health care provider is prohibited from any debt  
34 collection activity for any monies owed by the person that are included in  
35 the filed claim until an award is made on the claim or until a  
36 determination is made that the claim is noncompensable. For the purposes  
37 of this subsection, "debt collection activity" includes repeatedly  
38 telephoning or writing to the claimant and threatening to either turn the  
39 matter over to a debt collection agency or to an attorney for collection,  
40 enforcement or filing of any other debt collection process. Debt  
41 collection activity does not include routine billing or inquiries about  
42 the status of the claim.

1       G. For the purposes of this section, "licensed health care  
2 provider" means a person or institution that is licensed or certified by  
3 this state to provide health care services, medical services, nursing  
4 services, emergency medical services and ambulance services that are  
5 regulated pursuant to title 36, chapter 21.1, article 2 or other  
6 health-related services.

7       Sec. 17. Repeal

8       Section ~~41-2407~~, Arizona Revised Statutes, as amended by Laws 2017,  
9 chapter 303, section 12, is repealed.

10      Sec. 18. Effective date

11      This act is effective from and after December 31, 2018.