

State of Arizona
House of Representatives
Fifty-fourth Legislature
First Regular Session
2019

CHAPTER 125
HOUSE BILL 2055

AN ACT

AMENDING SECTIONS 8-202, 8-348 AND 8-349, ARIZONA REVISED STATUTES;
RELATING TO JUVENILE COURT.

(TEXT OF BILL BEGINS ON NEXT PAGE)

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

2 Section 1. Section 8-202, Arizona Revised Statutes, is amended to
3 read:

4 8-202. Jurisdiction of juvenile court

5 A. The juvenile court has original jurisdiction over all
6 delinquency proceedings brought under the authority of this title.

7 B. The juvenile court has exclusive original jurisdiction over all
8 proceedings brought under the authority of this title except for
9 delinquency proceedings.

10 C. The juvenile court may consolidate any matter, except that the
11 juvenile court shall not consolidate any of the following:

12 1. A criminal proceeding that is filed in another division of
13 superior court and that involves a child who is subject to the
14 jurisdiction of the juvenile court.

15 2. A delinquency proceeding with any other proceeding that does not
16 involve delinquency, unless the juvenile delinquency adjudication
17 proceeding is not heard at the same time or in the same hearing as a
18 nondelinquency proceeding.

19 D. The juvenile court has jurisdiction of proceedings to:

20 1. Obtain judicial consent to the marriage, employment or
21 enlistment in the armed services of a child, if consent is required by
22 law.

23 2. In an action in which parental rights are terminated pursuant to
24 chapter 4, article 5 or 11 of this title, change the name of a minor child
25 who is the subject of the action. If the minor child who is the subject
26 of the action is twelve years of age or older, the court shall consider
27 the wishes of the child with respect to the name change.

28 E. The juvenile court has jurisdiction over both civil traffic
29 violations and offenses listed in section 8-323, subsection B that are
30 committed within the county by persons who are under eighteen years of age
31 unless the presiding judge of the county declines jurisdiction of these
32 cases. The presiding judge of the county may decline jurisdiction of
33 civil traffic violations committed within the county by juveniles if the
34 presiding judge finds that the declination would promote the more
35 efficient use of limited judicial and law enforcement resources located
36 within the county. If the presiding judge declines jurisdiction, juvenile
37 civil traffic violations shall be processed, heard and disposed of in the
38 same manner and with the same penalties as adult civil traffic violations.

39 F. The orders of the juvenile court under the authority of this
40 chapter or chapter 3 or 4 of this title take precedence over any order of
41 any other court of this state except the court of appeals and the supreme
42 court to the extent that they are inconsistent with orders of other
43 courts.

1 G. Except as provided in subsection H of this section, jurisdiction
2 of a child that is obtained by the juvenile court in a proceeding under
3 this chapter or chapter 3 or 4 of this title shall be retained by it, for
4 the purposes of implementing the orders made and filed in that proceeding,
5 until the child becomes eighteen years of age, unless terminated by order
6 of the court before the child's eighteenth birthday.

7 H. If the state files a notice of intent to retain jurisdiction
8 when proceedings are commenced pursuant to section 8-301, paragraph 1 or
9 2, the court shall retain jurisdiction over a juvenile who is at least
10 seventeen years of age and who has been adjudicated a delinquent juvenile
11 until the juvenile reaches nineteen years of age, unless before the
12 juvenile's nineteenth birthday either:

13 1. Jurisdiction is terminated by order of the court.

14 2. The juvenile is discharged from the jurisdiction of the
15 department of juvenile corrections pursuant to section 41-2820.

16 I. Persons who are under eighteen years of age shall be prosecuted
17 in the same manner as adults if either:

18 1. The juvenile court transfers jurisdiction pursuant to section
19 8-327.

20 2. The juvenile is charged as an adult with an offense listed in
21 section 13-501.

22 J. THE JUVENILE COURT SHALL RETAIN JURISDICTION AFTER A JUVENILE'S
23 EIGHTEENTH BIRTHDAY FOR THE PURPOSE OF DESIGNATING AN UNDESIGNATED FELONY
24 OFFENSE AS A MISDEMEANOR OR FELONY, INCLUDING AFTER AN ADJUDICATION IS SET
25 ASIDE PURSUANT TO SECTION 8-348.

26 Sec. 2. Section 8-348, Arizona Revised Statutes, is amended to
27 read:

28 8-348. Setting aside adjudication; application; release from
29 disabilities; exceptions

30 A. Except as provided in ~~subsections C and D~~ SUBSECTION I of this
31 section, a person who is at least eighteen years of age, who has been
32 adjudicated delinquent or incorrigible and who has fulfilled the
33 conditions of probation and discharge ordered by the court or who is
34 discharged from the department of juvenile corrections pursuant to section
35 41-2820 on successful completion of the individual treatment plan may
36 apply to the juvenile court to set aside the adjudication. The court ~~or~~
37 ~~the department of juvenile corrections~~ shall inform the person of this
38 right IN WRITING at the time ~~the person is discharged~~ OF THE DISPOSITION
39 OF THE CASE.

40 B. The person or, ~~if authorized in writing,~~ the person's attorney,
41 probation officer or parole officer may apply to set aside the
42 adjudication. ~~A copy of the application shall be served on the~~
43 ~~prosecutor.~~ THE CLERK OF THE COURT MAY NOT CHARGE A FILING FEE FOR AN
44 APPLICATION TO SET ASIDE AN ADJUDICATION. THE CLERK SHALL TRANSMIT A COPY

1 OF THE APPLICATION TO THE COUNTY ATTORNEY IN THE COUNTY WHERE THE REFERRAL
2 WAS MADE.

3 C. THE COURT MAY CONSIDER THE FOLLOWING FACTORS WHEN DETERMINING
4 WHETHER TO SET ASIDE AN ADJUDICATION:

5 1. THE NATURE AND CIRCUMSTANCES OF THE OFFENSE ON WHICH THE
6 ADJUDICATION IS BASED.

7 2. WHETHER THE PERSON HAS BEEN CONVICTED OF A FELONY OFFENSE.

8 3. WHETHER THE PERSON HAS ANY PENDING CRIMINAL CHARGES.

9 4. THE VICTIM'S INPUT.

10 5. ANY OTHER FACTOR THAT IS RELEVANT TO THE APPLICATION.

11 ~~B.~~ D. EXCEPT AS PROVIDED IN SUBSECTION F OF THIS SECTION, if the
12 court grants the application, the court shall set aside the adjudication,
13 DISMISS THE PETITION and shall order that the person be released from all
14 penalties and disabilities resulting from the adjudication except those
15 imposed by the department of transportation pursuant to section 28-3304,
16 28-3306, 28-3307, or 28-3308 OR 28-3319. ~~Regardless of whether the court~~
17 ~~sets aside the adjudication, the adjudication may be used for any purpose~~
18 ~~as provided in section 8-207 or 13-501 and the department of~~
19 ~~transportation may use the adjudication for the purposes of enforcing the~~
20 ~~provisions of section 28-3304, 28-3306, 28-3307 or 28-3308 as if the~~
21 ~~adjudication had not been set aside.~~

22 ~~C. A person may not apply to set aside the adjudication if the~~
23 ~~person either:~~

24 ~~1. Has been convicted of a criminal offense.~~

25 ~~2. Has a criminal charge pending.~~

26 ~~3. Has not successfully completed all of the terms and conditions~~
27 ~~of probation or been discharged from the department of juvenile~~
28 ~~corrections pursuant to section 41-2820 on successful completion of the~~
29 ~~individual treatment plan.~~

30 ~~4. Has not paid in full all restitution and monetary assessments.~~

31 E. ON A SHOWING OF GOOD CAUSE, THE COURT MAY MODIFY ANY MONETARY
32 OBLIGATION THAT IS OWED BY THE PERSON EXCEPT FOR VICTIM RESTITUTION.

33 F. IF THE COURT GRANTS AN APPLICATION, ANY REMAINING UNPAID
34 MONETARY OBLIGATION CONTINUES TO BE OWED AND IS SUBJECT TO THE REMEDIES
35 INCLUDED IN SECTIONS 8-344 AND 8-345 UNTIL THE MONETARY OBLIGATION IS
36 PAID.

37 G. IF THE COURT DENIES AN APPLICATION, THE COURT SHALL STATE ITS
38 REASONS FOR THE DENIAL IN WRITING.

39 H. IF A VICTIM HAS MADE A REQUEST FOR POST ADJUDICATION NOTICE, THE
40 VICTIM HAS THE RIGHT TO BE PRESENT AND HEARD AT ANY HEARING ON THE
41 APPLICATION. THE STATE SHALL PROVIDE THE VICTIM WITH NOTICE OF THE
42 APPLICATION AND OF THE RIGHTS PROVIDED TO THE VICTIM IN THIS SECTION.

43 ~~D.~~ I. This section does not apply to a person who was adjudicated
44 delinquent for any of the following:

1 1. ~~Am~~ A DANGEROUS offense ~~involving the infliction of serious~~
2 ~~physical injury~~ as defined in section 13-105.

3 ~~2. An offense involving the use or exhibition of a deadly weapon or~~
4 ~~dangerous instrument as defined in section 13-105.~~

5 2. AN OFFENSE FOR WHICH THERE HAS BEEN A FINDING OF SEXUAL
6 MOTIVATION PURSUANT TO SECTION 13-118.

7 3. An offense in violation of title 13, chapter 14.

8 4. An offense in violation of section 28-1381, 28-1382, ~~OR 28-1383~~
9 ~~OR 28-3473~~ IF THE OFFENSE CAN BE ALLEGED AS A PRIOR VIOLATION PURSUANT TO
10 TITLE 28, CHAPTER 4.

11 ~~5. A civil traffic violation under title 28, chapter 3.~~

12 5. AN OFFENSE FOR WHICH THE PERSON HAS NOT PAID IN FULL THE VICTIM
13 RESTITUTION ORDERED BY THE COURT.

14 Sec. 3. Section 8-349, Arizona Revised Statutes, is amended to
15 read:

16 8-349. Destruction of juvenile records; electronic research
17 records; definition

18 A. A person who IS AT LEAST EIGHTEEN YEARS OF AGE AND WHO has been
19 ~~referred to juvenile court~~ ADJUDICATED DELINQUENT OR INCORRIGIBLE may
20 apply for destruction of the person's juvenile court and department of
21 juvenile corrections records.

22 ~~B. if the records concern a referral or citation that did not~~
23 ~~result in further action or that resulted in diversion, placement in a~~
24 ~~community based alternative program or INVOLVE~~ an adjudication for an
25 offense other than an offense listed in section 13-501, subsection A or B
26 or title 28, chapter 4. ~~the person shall file an application with the~~
27 ~~juvenile court and shall serve a copy of the application on the county~~
28 ~~attorney in the county in which the referral was made. The person shall~~
29 ~~certify under oath that all of the following apply:~~

30 B. THE PERSON SHALL ATTEST TO ALL OF THE FOLLOWING IN THE
31 APPLICATION:

32 1. The person is at least eighteen years of age.

33 2. The person has not been convicted of a felony offense or
34 adjudicated delinquent for an offense that would be an offense listed in
35 section 13-501, subsection A or B or title 28, chapter 4.

36 3. A criminal charge is not pending.

37 4. The person has ~~successfully~~ completed all of the terms and
38 conditions of ~~court ordered~~ COURT-ORDERED probation or been discharged
39 from the department of juvenile corrections pursuant to section 41-2820 on
40 successful completion of the ~~individualized~~ INDIVIDUAL treatment plan.

41 5. All restitution ~~and monetary assessments have been~~ IS paid in
42 full.

43 6. THE PERSON IS NOT UNDER THE JURISDICTION OF THE JUVENILE COURT
44 OR THE DEPARTMENT OF JUVENILE CORRECTIONS.

1 7. THE PERSON IS NOT CURRENTLY REQUIRED TO REGISTER PURSUANT TO
2 SECTION 13-3821.

3 8. THE PERSON HAS EITHER PAID ALL MONETARY OBLIGATIONS IN FULL OR
4 HAS REQUESTED THE COURT TO MODIFY THE OUTSTANDING MONETARY OBLIGATIONS
5 PURSUANT TO SUBSECTION K OF THIS SECTION.

6 C. The juvenile court may order the destruction of records under
7 subsection ~~B~~ A of this section if the court finds all of the following:

- 8 1. The person is at least eighteen years of age.
- 9 2. The person has not been convicted of a felony offense.
- 10 3. A criminal charge is not pending.
- 11 4. The person was not adjudicated for an offense listed in section
12 13-501, subsection A or B or title 28, chapter 4.

13 5. The person successfully completed ~~all~~ of the terms and
14 conditions of probation or was discharged from the department of juvenile
15 corrections pursuant to section 41-2820 on successful completion of the
16 ~~individualized~~ INDIVIDUAL treatment plan.

17 6. All restitution ~~and monetary assessments have been~~ IS paid in
18 full.

19 ~~7. The destruction of the records is in the interests of justice.~~

20 ~~8. The destruction of the records would further the rehabilitative
21 process of the applicant.~~

22 7. ALL MONETARY OBLIGATIONS ARE EITHER PAID IN FULL OR HAVE BEEN
23 MODIFIED PURSUANT TO SUBSECTION K OF THIS SECTION.

24 8. THE PERSON IS NOT UNDER THE JURISDICTION OF THE JUVENILE COURT
25 OR THE DEPARTMENT OF JUVENILE CORRECTIONS.

26 9. THE PERSON IS NOT CURRENTLY REQUIRED TO REGISTER PURSUANT TO
27 SECTION 13-3821.

28 ~~B. If the records concern a referral that resulted in an
29 adjudication of delinquency for an offense not subject to subsection B of
30 this section the person shall file the application with the juvenile court
31 and shall serve a copy of the application on the county attorney in the
32 county in which the referral was made.~~

33 D. A PERSON WHO IS NOT ELIGIBLE TO HAVE THE PERSON'S RECORDS
34 DESTROYED PURSUANT TO SUBSECTION A OF THIS SECTION MAY APPLY TO HAVE THE
35 PERSON'S JUVENILE COURT AND DEPARTMENT OF JUVENILE CORRECTIONS RECORDS
36 DESTROYED PURSUANT TO SUBSECTION E OF THIS SECTION. The person shall
37 ~~certify under oath that~~ ATTEST TO all of the following ~~apply~~ IN AN
38 APPLICATION:

- 39 1. The person is at least twenty-five years of age.
- 40 2. The person has not been convicted of a felony offense.
- 41 3. A criminal charge is not pending.

42 ~~4. The person has successfully completed all of the terms and
43 conditions of court ordered probation or been discharged from the
44 department of juvenile corrections pursuant to section 41-2820 on
45 successful completion of the individualized treatment plan.~~

1 ~~5.~~ 4. All restitution ~~and monetary assessments have been~~ IS paid
2 in full.

3 5. THE PERSON HAS EITHER PAID ALL MONETARY OBLIGATIONS IN FULL OR
4 HAS REQUESTED THE COURT TO MODIFY THE OUTSTANDING MONETARY OBLIGATIONS
5 PURSUANT TO SUBSECTION K OF THIS SECTION.

6 6. THE PERSON IS NOT CURRENTLY REQUIRED TO REGISTER PURSUANT TO
7 SECTION 13-3821.

8 E. The juvenile court may order the destruction of records ~~under~~
9 ~~subsection D of this section~~ if the ~~county attorney does not object within~~
10 ~~ninety days after the date of the notice and the~~ court finds that all of
11 the following apply TO A PERSON WHO FILES AN APPLICATION PURSUANT TO
12 SUBSECTION D OF THIS SECTION:

- 13 1. The person is at least twenty-five years of age.
- 14 2. The person has not been convicted of a felony offense.
- 15 3. A criminal charge is not pending.

16 ~~4. The person has successfully completed all of the terms and~~
17 ~~conditions of probation, including the payment of all restitution, or been~~
18 ~~discharged from the department of juvenile corrections pursuant to section~~
19 ~~41-2820 on successful completion of the individualized treatment plan.~~

20 ~~5.~~ 4. All restitution ~~and monetary assessments have been~~ IS paid
21 in full.

22 ~~6. The destruction of the records would be in the interests of~~
23 ~~justice.~~

24 5. ALL MONETARY OBLIGATIONS ARE EITHER PAID IN FULL OR HAVE BEEN
25 MODIFIED PURSUANT TO SUBSECTION K OF THIS SECTION.

26 6. THE PERSON IS NOT CURRENTLY REQUIRED TO REGISTER PURSUANT TO
27 SECTION 13-3821.

28 7. The destruction of the records would further the rehabilitative
29 process of the applicant.

30 F. The juvenile court and the department of juvenile corrections
31 may store any records for research purposes.

32 G. AT THE JUVENILE'S DISPOSITION HEARING, THE COURT SHALL INFORM
33 THE JUVENILE, IN WRITING, OF THE RIGHT TO THE DESTRUCTION OF THE
34 JUVENILE'S COURT AND DEPARTMENT OF JUVENILE CORRECTIONS RECORDS.

35 H. THE CLERK OF THE COURT MAY NOT CHARGE A FILING FEE FOR THE
36 APPLICATION TO DESTROY JUVENILE RECORDS.

37 I. THE CLERK OF THE COURT SHALL TRANSMIT A COPY OF AN APPLICATION
38 SUBMITTED PURSUANT TO THIS SECTION TO THE COUNTY ATTORNEY IN THE COUNTY IN
39 WHICH THE REFERRAL WAS MADE.

40 J. THE COUNTY ATTORNEY MAY FILE AN OBJECTION TO AN APPLICATION THAT
41 IS SUBMITTED PURSUANT TO THIS SECTION FOR THE DESTRUCTION OF RECORDS.

42 K. ON A SHOWING OF GOOD CAUSE, THE COURT MAY MODIFY ANY MONETARY
43 OBLIGATION EXCEPT FOR VICTIM RESTITUTION.

1 L. THE JUVENILE COURT, THE CLERK OF THE SUPERIOR COURT AND THE
2 JUVENILE PROBATION DEPARTMENT, ON NOTIFICATION BY THE PROBATION
3 DEPARTMENT, SHALL DESTROY THE RECORDS THAT CONCERN A REFERRAL OR CITATION
4 THAT DID NOT RESULT IN FURTHER ACTION OR THAT RESULTED IN A SUCCESSFUL
5 COMPLETION OF DIVERSION WITHIN NINETY DAYS AFTER THE PERSON WHO WAS THE
6 SUBJECT OF THE REFERRAL OR CITATION REACHES EIGHTEEN YEARS OF AGE. THE
7 PROBATION DEPARTMENT SHALL SEND A COPY OF THE NOTICE TO THE DEPARTMENT OF
8 PUBLIC SAFETY CENTRAL STATE REPOSITORY.

9 M. WITHIN SIX MONTHS AFTER RECEIVING A NOTIFICATION FROM THE
10 SUPERIOR COURT THAT A PERSON'S JUVENILE DELINQUENCY OR INCORRIGIBILITY
11 RECORDS WERE DESTROYED, THE DEPARTMENT OF CHILD SAFETY SHALL DESTROY ALL
12 COURT, JUVENILE PROBATION AND DEPARTMENT OF JUVENILE CORRECTIONS RECORDS
13 THAT ARE IN THE DEPARTMENT OF CHILD SAFETY'S POSSESSION AND THAT WERE
14 PRODUCED IN THE DELINQUENCY OR INCORRIGIBILITY MATTER.

15 N. FOR THE PURPOSES OF THIS SECTION, "SUCCESSFULLY" MEANS, IN THE
16 DISCRETION OF THE COURT, THE PERSON SATISFIED THE CONDITIONS OF PROBATION.

APPROVED BY THE GOVERNOR APRIL 24, 2019.

FILED IN THE OFFICE OF THE SECRETARY OF STATE APRIL 24, 2019.