

REFERENCE TITLE: **probation; monthly fee determination**

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

HB 2567

Introduced by
Representatives Lieberman: Blanc, Butler, Cano, Cook, Epstein, Espinoza,
Fernandez, Fillmore, Friese, Hernandez A, Hernandez D, Jermaine, Longdon,
Pawlik, Peten, Rodriguez, Teller, Terán, Toma, Udall

AN ACT

AMENDING SECTION 13-901, ARIZONA REVISED STATUTES; RELATING TO PROBATION.

(TEXT OF BILL BEGINS ON NEXT PAGE)

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

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

4 13-901. Probation

5 A. If a person who has been convicted of an offense is eligible for
6 probation, the court may suspend the imposition or execution of sentence
7 and, if so, shall without delay place the person on intensive probation
8 supervision pursuant to section 13-913 or supervised or unsupervised
9 probation on such terms and conditions as the law requires and the court
10 deems appropriate, including participation in any programs authorized in
11 title 12, chapter 2, article 11. If a person is not eligible for
12 probation, imposition or execution of sentence shall not be suspended or
13 delayed. If the court imposes probation, it may also impose a fine as
14 authorized by chapter 8 of this title. If probation is granted the court
15 shall impose a condition that the person waive extradition for any
16 probation revocation procedures and it shall order restitution pursuant to
17 section 13-603, subsection C where there is a victim who has suffered
18 economic loss. When granting probation to an adult the court, as a
19 condition of probation, shall assess a monthly fee of not less than
20 ~~sixty-five dollars~~ \$65 unless, after determining the inability of the
21 probationer to pay the fee OR THAT THE PROBATIONER IS INDIGENT, the court
22 EITHER assesses a lesser fee OR WAIVES THE FEE. This fee is not subject
23 to any surcharge. In justice and municipal courts the fee shall only be
24 assessed when the person is placed on supervised probation. For persons
25 placed on probation in the superior court, the fee shall be paid to the
26 clerk of the superior court and the clerk of the court shall pay all
27 monies collected from this fee to the county treasurer for deposit in the
28 adult probation services fund established by section 12-267. For persons
29 placed on supervised probation in the justice court, the fee shall be paid
30 to the justice court and the justice court shall transmit all of the
31 monies to the county treasurer for deposit in the adult probation services
32 fund established by section 12-267. For persons placed on supervised
33 probation in the municipal court, the fee shall be paid to the municipal
34 court. The municipal court shall transmit all of the monies to the city
35 treasurer who shall transmit the monies to the county treasurer for
36 deposit in the adult probation services fund established by section
37 12-267. Any amount assessed pursuant to this subsection shall be used to
38 supplement monies used for the salaries of adult probation and
39 surveillance officers and for support of programs and services of the
40 superior court adult probation departments.

41 B. The period of probation shall be determined according to section
42 13-902, except that if a person is released pursuant to section 31-233,
43 subsection B and community supervision is waived pursuant to section
44 13-603, subsection K, the court shall extend the period of probation by

1 the amount of time the director of the state department of corrections
2 approves for the inmate's temporary release.

3 C. The court, in its discretion, may issue a warrant for the
4 rearrest of the defendant and may modify or add to the conditions or, if
5 the defendant commits an additional offense or violates a condition, may
6 revoke probation in accordance with the rules of criminal procedure at any
7 time before the expiration or termination of the period of probation. If
8 the court revokes the defendant's probation and the defendant is serving
9 more than one probationary term concurrently, the court may sentence the
10 person to terms of imprisonment to be served consecutively.

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

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

22 F. When granting probation the court may require that the defendant
23 be imprisoned in the county jail at whatever time or intervals,
24 consecutive or nonconsecutive, the court shall determine, within the
25 period of probation, as long as the period actually spent in confinement
26 does not exceed one year or the maximum period of imprisonment permitted
27 under chapter 7 of this title, whichever is the shorter.

28 G. If the defendant is placed on lifetime probation and has served
29 one year in the county jail as a term of probation, the court may require
30 that the defendant be additionally imprisoned in the county jail at
31 whatever time or intervals, consecutive or nonconsecutive, the court shall
32 determine, within the period of probation if the defendant's probation is
33 revoked by the court and the defendant is subsequently reinstated on
34 probation. The period actually spent in confinement as a term of being
35 reinstated on probation shall not exceed one year or, when including the
36 initial one year period of incarceration imposed as a term of probation,
37 the maximum period of imprisonment permitted under chapter 7 of this
38 title, whichever is ~~the~~ shorter.

39 H. If restitution is made a condition of probation, the court shall
40 fix the amount of restitution and the manner of performance pursuant to
41 chapter 8 of this title.

42 I. When granting probation, the court shall set forth at the time
43 of sentencing and on the record the factual and legal reasons in support
44 of each sentence.

1 J. If the defendant meets the criteria set forth in section
2 13-901.01 or 13-3422, the court may place the defendant on probation
3 pursuant to either section. If a defendant is placed on probation
4 pursuant to section 13-901.01 or 13-3422, the court may impose any term of
5 probation that is authorized pursuant to this section and that is not in
6 violation of section 13-901.01.