

REFERENCE TITLE: voting rights; felonies; automatic restoration.

State of Arizona
Senate
Fifty-fourth Legislature
First Regular Session
2019

SB 1202

Introduced by
Senator Quezada

AN ACT

AMENDING SECTIONS 13-607, 13-905, 13-906, 13-908, 13-909, 13-910 AND
13-912, ARIZONA REVISED STATUTES; RELATING TO THE RESTORATION OF CIVIL
RIGHTS.

(TEXT OF BILL BEGINS ON NEXT PAGE)

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

2 Section 1. Section 13-607, Arizona Revised Statutes, is amended to
3 read:

4 13-607. Judgment of guilt and sentence document; fingerprint;
5 contents of document; recitations

6 A. At the time of sentencing a person WHO IS convicted of a felony
7 offense, a violation of section 13-1802 or 13-1805, a domestic violence
8 offense as defined in section 13-3601 or a violation of chapter 14 of this
9 title or title 28, chapter 4, the court shall execute a judgment of guilt
10 and sentence document or minute order as prescribed by this section.

11 B. The court or a person appointed by the court shall at the time
12 of sentencing and in open court either permanently affix a defendant's
13 fingerprint to the document or order or obtain and record the defendant's
14 two fingerprint biometric-based identifier in the court case file.

15 C. The document or order shall recite all of the following in
16 addition to any information deemed appropriate by the court:

17 1. The defendant's full name and date of birth.

18 2. The name of the counsel for the defendant or, if counsel was
19 waived, the fact that the defendant knowingly, voluntarily and
20 intelligently waived the defendant's right to counsel after having been
21 fully apprised of the defendant's right to counsel.

22 3. The name, statutory citation and classification of the offense.

23 4. Whether there was a finding by the trier of fact that the
24 offense was of a dangerous or repetitive nature pursuant to section 13-703
25 or 13-704 or was committed while released from confinement pursuant to
26 section 13-708.

27 5. Whether the basis of the finding of guilt was by trial to a jury
28 or to the court, or by plea of guilty or no contest.

29 6. That there was a knowing, voluntary and intelligent waiver of
30 the right to a jury trial if the finding of guilt was based on a trial to
31 the court.

32 7. That there was a knowing, voluntary and intelligent waiver of
33 all pertinent rights if the finding of guilt was based on a plea of guilty
34 or no contest.

35 8. A certification by the court or the clerk of the court that at
36 the time of sentencing and in open court that either the defendant's
37 fingerprint was permanently affixed to the document or order or the
38 defendant's two fingerprint biometric-based identifier was obtained and
39 recorded in the court case file.

40 D. The document or order shall be made a permanent part of the
41 public records of the court, and the recitations contained in the document
42 or order are prima facie evidence of the facts stated in the recitations.

43 E. If the supreme court has authorized the clerk of the court to
44 maintain an electronic court record, the clerk may maintain only an
45 electronic reproduction or image of the original document or order.

1 F. AT THE TIME OF SENTENCING A PERSON WHO IS CONVICTED OF A FELONY
2 OFFENSE, THE COURT SHALL INFORM THE PERSON THAT THE PERSON'S RIGHT TO VOTE
3 IS AUTOMATICALLY RESTORED ON THE PERSON'S DISCHARGE FROM PROBATION OR ON
4 ABSOLUTE DISCHARGE FROM IMPRISONMENT.

5 Sec. 2. Section 13-905, Arizona Revised Statutes, is amended to
6 read:

7 13-905. Restoration of civil rights; persons completing
8 probation

9 A. A person who has been convicted of two or more felonies and
10 whose period of probation has been completed may have any civil rights
11 ~~which~~ THAT were lost or suspended by the felony conviction restored by the
12 judge who discharges ~~him~~ THE PERSON at the end of the term of probation,
13 EXCEPT THAT THE PERSON'S RIGHT TO VOTE IS AUTOMATICALLY RESTORED ON THE
14 PERSON'S DISCHARGE FROM PROBATION.

15 B. On proper application, a person who has been discharged from
16 probation either before or after adoption of this chapter may have any
17 civil rights ~~which~~ THAT were lost or suspended by the felony conviction
18 restored by the superior court judge by whom the person was sentenced or
19 the judge's successors in office from the county in which the person was
20 originally convicted. The clerk of the superior court shall have the
21 responsibility for processing the application on request of the person
22 involved or the person's attorney. The superior court shall serve a copy
23 of the application on the county attorney.

24 C. If the person was convicted of a dangerous offense under section
25 13-704, the person may not file for the restoration of the right to
26 possess or carry a gun or firearm. If the person was convicted of a
27 serious offense as defined in section 13-706, the person may not file for
28 the restoration of the right to possess or carry a gun or firearm for ten
29 years from the date of ~~his~~ THE PERSON'S discharge from probation. If the
30 person was convicted of any other felony offense, the person may not file
31 for the restoration of the right to possess or carry a gun or firearm for
32 two years from the date of the person's discharge from probation.

33 Sec. 3. Section 13-906, Arizona Revised Statutes, is amended to
34 read:

35 13-906. Applications by persons discharged from prison

36 A. On proper application, a person who has been convicted of two or
37 more felonies and who has received an absolute discharge from imprisonment
38 may have any civil rights ~~which~~ THAT were lost or suspended by ~~his~~ THE
39 PERSON'S conviction restored by the superior court judge by whom the
40 person was sentenced or the judge's successors in office from the county
41 in which the person was originally sentenced, EXCEPT THAT THE PERSON'S
42 RIGHT TO VOTE IS AUTOMATICALLY RESTORED ON THE PERSON'S ABSOLUTE DISCHARGE
43 FROM IMPRISONMENT.

44 B. A person who is subject to subsection A of this section may
45 file, ~~no~~ NOT sooner than two years from the date of ~~his~~ THE PERSON'S

1 absolute discharge, an application for restoration of civil rights that
2 shall be accompanied by a certificate of absolute discharge from the
3 director of the state department of corrections. The clerk of the
4 superior court that sentenced the applicant shall have the responsibility
5 for processing applications for restoration of civil rights ~~upon~~ ON
6 request of the person involved, the person's attorney or a representative
7 of the state department of corrections. The superior court shall serve a
8 copy of the application on the county attorney.

9 C. If the person was convicted of a dangerous offense under section
10 13-704, the person may not file for the restoration of the right to
11 possess or carry a gun or firearm. If the person was convicted of a
12 serious offense as defined in section 13-706, the person may not file for
13 the restoration of the right to possess or carry a gun or firearm for ten
14 years from the date of ~~his~~ THE PERSON'S absolute discharge from
15 imprisonment. If the person was convicted of any other felony offense,
16 the person may not file for the restoration of the right to possess or
17 carry a gun or firearm for two years from the date of the person's
18 absolute discharge from imprisonment.

19 Sec. 4. Section 13-908, Arizona Revised Statutes, is amended to
20 read:

21 13-908. Restoration of civil rights in the discretion of the
22 superior court judge

23 Except as provided in ~~section~~ SECTIONS 13-905, 13-906, 13-909,
24 13-910 AND 13-912, the restoration of civil rights and the dismissal of
25 the accusation or information under the provisions of this chapter shall
26 be in the discretion of the superior court judge by whom the person was
27 sentenced or ~~his~~ THE JUDGE'S successor in office.

28 Sec. 5. Section 13-909, Arizona Revised Statutes, is amended to
29 read:

30 13-909. Restoration of civil rights; persons completing
31 probation for federal offense

32 A. A person who has been convicted of two or more felonies and
33 whose period of probation has been completed may have any civil rights
34 ~~which~~ THAT were lost or suspended by the felony conviction in a United
35 States district court restored by the presiding judge of the superior
36 court in the county in which the person now resides, on filing of an
37 affidavit of discharge from the judge who discharged him at the end of the
38 term of probation, EXCEPT THAT THE PERSON'S RIGHT TO VOTE IS AUTOMATICALLY
39 RESTORED ON THE PERSON'S DISCHARGE FROM PROBATION.

40 B. On proper application, a person who has been discharged from
41 probation either before or after adoption of this chapter may have any
42 civil rights ~~which~~ THAT were lost or suspended by the felony conviction
43 restored by an application filed with the clerk of the superior court in
44 the county in which the person now resides. The clerk of the superior

1 court shall process the application on request of the person involved or
2 the person's attorney.

3 C. If the person was convicted of an offense ~~which~~ THAT would be a
4 dangerous offense under section 13-704, the person may not file for the
5 restoration of the right to possess or carry a gun or firearm. If the
6 person was convicted of an offense ~~which~~ THAT would be a serious offense
7 as defined in section 13-706, the person may not file for the restoration
8 of the right to possess or carry a gun or firearm for ten years from the
9 date of the person's discharge from probation. If the person was
10 convicted of any other felony offense, the person may not file for the
11 restoration of ~~his~~ THE PERSON'S right to possess or carry a gun or firearm
12 for two years from the date of ~~his~~ THE PERSON'S discharge from probation.

13 Sec. 6. Section 13-910, Arizona Revised Statutes, is amended to
14 read:

15 13-910. Applications by persons discharged from federal
16 prison

17 A. On proper application, a person who has been convicted of two or
18 more felonies and who has received an absolute discharge from imprisonment
19 in a federal prison may have any civil rights ~~which~~ THAT were lost or
20 suspended by the conviction restored by the presiding judge of the
21 superior court in the county in which the person now resides, ~~EXCEPT THAT~~
22 ~~THE PERSON'S RIGHT TO VOTE IS AUTOMATICALLY RESTORED ON THE PERSON'S~~
23 ~~ABSOLUTE DISCHARGE FROM IMPRISONMENT.~~

24 B. A person who is subject to subsection A of this section may
25 file, ~~no~~ NOT sooner than two years from the date of ~~his~~ THE PERSON'S
26 absolute discharge, an application for restoration of civil rights that
27 shall be accompanied by a certificate of absolute discharge from the
28 director of the federal bureau of prisons, unless it is shown to be
29 impossible to obtain such certificate. ~~Such~~ THE application shall be
30 filed with the clerk of the superior court in the county in which the
31 person now resides, and ~~such~~ THE clerk shall be responsible for processing
32 applications for restoration of civil rights ~~upon~~ ON THE request of the
33 person involved or the person's attorney.

34 C. If the person was convicted of an offense ~~which~~ THAT would be a
35 dangerous offense under section 13-704, the person may not file for the
36 restoration of the right to possess or carry a gun or firearm. If the
37 person was convicted of an offense ~~which~~ THAT would be a serious offense
38 as defined in section 13-706, the person may not file for the restoration
39 of the right to possess or carry a gun or firearm for ten years from the
40 date of the person's absolute discharge from imprisonment. If the person
41 was convicted of any other felony offense, the person may not file for the
42 restoration of the right to possess or carry a gun or firearm for two
43 years from the date of the person's absolute discharge from imprisonment.

1 Sec. 7. Section 13-912, Arizona Revised Statutes, is amended to
2 read:

3 13-912. Restoration of civil rights for first offenders;
4 exception

5 A. Any person who has not previously been convicted of any other
6 felony shall automatically be restored any civil rights that were lost or
7 suspended by the conviction if the person ~~both:~~

8 ~~1. completes a term of probation or receives an absolute discharge~~
9 from imprisonment.

10 ~~2. Pays any fine or restitution imposed.~~

11 B. This section does not apply to a person's right to possess
12 weapons as defined in section 13-3101 unless the person applies to a court
13 pursuant to section 13-905 or 13-906.