

House Engrossed Senate Bill

~~college course credit; dual enrollment.~~
~~(now: community college; expenditure limitation)~~
(now: sentencing records; sealing arrest; liability)

State of Arizona
Senate
Fifty-fifth Legislature
First Regular Session
2021

CHAPTER 432
SENATE BILL 1294

AN ACT

AMENDING TITLE 13, CHAPTER 9, ARIZONA REVISED STATUTES, BY ADDING SECTION 13-911; AMENDING SECTION 13-4033, ARIZONA REVISED STATUTES; APPROPRIATING MONIES; RELATING TO CRIMINAL OFFENSE RECORDS.

(TEXT OF BILL BEGINS ON NEXT PAGE)

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

2 Section 1. Title 13, chapter 9, Arizona Revised Statutes, is
3 amended by adding section 13-911, to read:

4 13-911. Sealing of arrest, conviction and sentencing records;
5 requirements; fee; appeal; definition

6 A. A PERSON MAY FILE A PETITION TO SEAL ALL CASE RECORDS RELATED TO
7 A CRIMINAL OFFENSE IF THE PERSON WAS:

8 1. CONVICTED OF A CRIMINAL OFFENSE AND HAS COMPLETED ALL OF THE
9 TERMS AND CONDITIONS OF THE SENTENCE THAT WAS IMPOSED BY THE COURT,
10 INCLUDING THE PAYMENT OF ALL MONETARY OBLIGATIONS AND RESTITUTION TO ALL
11 VICTIMS.

12 2. CHARGED WITH A CRIMINAL OFFENSE AND THE CHARGE WAS SUBSEQUENTLY
13 DISMISSED OR RESULTED IN A NOT GUILTY VERDICT AT A TRIAL.

14 3. ARRESTED FOR A CRIMINAL OFFENSE AND NO CHARGES WERE FILED.

15 B. ALL CASE RECORDS THAT ARE SEALED PURSUANT TO THIS SECTION MAY
16 BE:

17 1. ALLEGED AS AN ELEMENT OF AN OFFENSE.

18 2. USED AS A HISTORICAL PRIOR FELONY CONVICTION.

19 3. ADMISSIBLE FOR IMPEACHING ANY PARTY OR WITNESS IN A SUBSEQUENT
20 TRIAL.

21 4. USED TO ENHANCE THE SENTENCE FOR A SUBSEQUENT FELONY.

22 5. USED TO ENHANCE THE SENTENCE PURSUANT TO SECTIONS 28-1381 AND
23 28-1382.

24 6. PLEADED AND PROVED IN ANY SUBSEQUENT PROSECUTION OF THE PERSON
25 BY THIS STATE OR A POLITICAL SUBDIVISION OF THIS STATE.

26 7. USED AS A CONVICTION IF THE CONVICTION WOULD BE ADMISSIBLE IF
27 THE CONVICTION WAS NOT SEALED.

28 C. THE PERSON SHALL FILE A PETITION TO SEAL ALL CASE RECORDS IN ONE
29 OF THE FOLLOWING:

30 1. THE COURT IN WHICH THE PERSON WAS CONVICTED OF AN OFFENSE.

31 2. THE COURT IN WHICH AN INDICTMENT, INFORMATION, CRIMINAL CITATION
32 OR COMPLAINT AGAINST THE PERSON WAS FILED AND THE CHARGES WERE DISMISSED,
33 THE PERSON WAS FOUND NOT GUILTY OR THE PERSON'S CONVICTION WAS VACATED,
34 EXCEPT THAT IF THE COMPLAINT WAS FILED IN A JUSTICE COURT AND SUBSEQUENT
35 INFORMATION WAS FILED, THE PETITION MUST BE FILED IN THE SUPERIOR COURT.

36 3. THE COURT IN WHICH THE PERSON HAD AN INITIAL APPEARANCE IF
37 CHARGES WERE NOT FILED.

38 4. THE SUPERIOR COURT IN THE COUNTY WHERE A PERSON WAS ARRESTED IF
39 THE PERSON DID NOT HAVE AN INITIAL APPEARANCE AND NO CHARGES WERE FILED.

40 D. THE COURT MAY NOT GRANT OR DENY A PETITION TO SEAL A PERSON'S
41 CASE RECORDS UNTIL THIRTY CALENDAR DAYS AFTER THE COURT RECEIVES THE
42 PETITION UNLESS THE COURT RECEIVES NOTICE THAT BOTH THE PROSECUTOR AND ALL
43 VICTIMS WHO HAVE MADE A REQUEST FOR POSTCONVICTION NOTICE DO NOT OBJECT TO
44 THE PETITION. UNLESS THE PETITIONER, PROSECUTOR OR VICTIM REQUESTS A
45 HEARING, THE COURT MAY GRANT OR DENY A PETITION TO SEAL CASE RECORDS

1 WITHOUT A HEARING. THE COURT MAY DISMISS A PETITION THAT DOES NOT MEET
2 THE REQUIREMENTS PRESCRIBED IN THIS SECTION WITHOUT A HEARING. THE COURT
3 SHALL GRANT THE PETITION IF THE COURT DETERMINES THAT GRANTING THE
4 PETITION IS IN THE BEST INTERESTS OF THE PETITIONER AND THE PUBLIC'S
5 SAFETY. THE CLERK OF THE COURT SHALL PROVIDE A COPY OF THE PETITION TO
6 SEAL CASE RECORDS TO THE PROSECUTOR. THE PROSECUTOR MAY RESPOND TO THE
7 PETITION AND REQUEST A HEARING. THE VICTIM HAS A RIGHT TO BE PRESENT AND
8 HEARD AT ANY PROCEEDING IN WHICH THE DEFENDANT HAS FILED A PETITION TO
9 SEAL CASE RECORDS. IF THE VICTIM HAS MADE A REQUEST FOR POSTCONVICTION
10 NOTICE, THE PROSECUTOR SHALL PROVIDE THE VICTIM WITH NOTICE OF THE
11 DEFENDANT'S PETITION AND OF THE VICTIM'S RIGHTS UNDER THIS SECTION.

12 E. AT THE TIME OF SENTENCING, THE COURT SHALL INFORM THE PERSON ON
13 THE RECORD THAT THE PERSON MAY BE ELIGIBLE TO PETITION THE COURT FOR AN
14 ORDER THAT SEALS ALL CASE RECORDS OF THE PERSON'S ARREST, CONVICTION AND
15 SENTENCE THAT ARE RELATED TO THE OFFENSE PURSUANT TO THIS SECTION AND
16 SHALL PROVIDE THIS NOTICE IN WRITING. A PERSON WHO WAS CONVICTED OF AN
17 OFFENSE AND WHO HAS NOT SUBSEQUENTLY BEEN CONVICTED OF ANY OTHER OFFENSE
18 EXCEPT A MISDEMEANOR VIOLATION INCLUDED IN TITLE 28, EXCLUDING A
19 CONVICTION FOR A VIOLATION OF SECTION 28-1381, 28-1382 OR 28-1383, MAY
20 PETITION THE COURT TO SEAL THE PERSON'S RECORDS OF ARREST, CONVICTION AND
21 SENTENCE AFTER THE PERSON COMPLETES ALL OF THE TERMS AND CONDITIONS OF THE
22 PERSON'S SENTENCE, INCLUDING PAYING ALL FINES, FEES AND RESTITUTION THAT
23 ARE ORDERED BY THE COURT, AND THE FOLLOWING PERIOD OF TIME HAS PASSED
24 SINCE THE PERSON COMPLETED THE CONDITIONS OF PROBATION OR SENTENCE AND WAS
25 DISCHARGED BY THE COURT:

- 26 1. TEN YEARS FOR A CLASS 2 OR 3 FELONY.
- 27 2. FIVE YEARS FOR A CLASS 4, 5 OR 6 FELONY.
- 28 3. THREE YEARS FOR A CLASS 1 MISDEMEANOR.
- 29 4. TWO YEARS FOR A CLASS 2 OR 3 MISDEMEANOR.

30 F. NOTWITHSTANDING SUBSECTION E OF THIS SECTION, IF THE PERSON HAS
31 A PRIOR HISTORICAL FELONY CONVICTION, THE PERSON MAY PETITION THE COURT TO
32 SEAL THE PERSON'S RECORDS OF ARREST, CONVICTION AND SENTENCE PURSUANT TO
33 SUBSECTION E OF THIS SECTION AFTER AN ADDITIONAL FIVE YEARS.

34 G. A PERSON WHO IS CONVICTED OF TWO OR MORE OFFENSES MAY NOT
35 PETITION THE COURT TO SEAL THE PERSON'S CASE RECORDS UNTIL THE PERIOD OF
36 TIME PRESCRIBED IN SUBSECTION E OF THIS SECTION HAS PASSED FOR EACH
37 CONVICTION.

38 H. AFTER A PETITION TO SEAL CASE RECORDS IS FILED, THE COURT SHALL
39 NOTIFY THE DEPARTMENT OF PUBLIC SAFETY AND REQUEST THE DEPARTMENT TO
40 PREPARE AND SUBMIT A REPORT TO THE COURT THAT INCLUDES ALL OF THE
41 PETITIONER'S STATE AND FEDERAL ARRESTS, PROSECUTIONS AND CONVICTIONS AND
42 ANY OTHER INFORMATION THAT THE COURT REQUESTS OR THAT THE DEPARTMENT
43 BELIEVES WILL ASSIST THE COURT IN MAKING ITS DETERMINATION. THE DIRECTOR
44 MAY CHARGE THE PETITIONER A FEE THAT IS DETERMINED BY THE DIRECTOR FOR THE
45 INVESTIGATION UNLESS THE PETITIONER IS INDIGENT OR HAS BEEN FOUND NOT

1 GUILTY OR THE CASE WAS DISMISSED OR NOT PROSECUTED AND THE PETITION IS
2 FILED PURSUANT TO SUBSECTION C, PARAGRAPH 2 OR 3 OF THIS SECTION.

3 I. IF THE COURT GRANTS A PETITION TO SEAL CASE RECORDS:

4 1. THE COURT SHALL ISSUE AN ORDER SEALING ALL RECORDS RELATING TO
5 THE PETITIONER'S ARREST, CONVICTION AND SENTENCE AND DIRECTING THE CLERK
6 OF THE COURT TO NOTIFY THE DEPARTMENT OF PUBLIC SAFETY AND THE PROSECUTOR
7 OF THE SEALING ORDER.

8 2. ON ORDER OF A COURT, THE CLERK OF THE COURT SHALL SEAL ALL CASE
9 RECORDS RELATING TO THE PETITIONER'S ARREST, CONVICTION AND SENTENCE. A
10 COURT ORDER TO SEAL CASE RECORDS PURSUANT TO THIS SECTION IS ONLY SUBJECT
11 TO THE DISCLOSURE REQUIREMENTS IN THIS SECTION AND SHALL BE TREATED
12 DIFFERENTLY THAN A RECORD THAT IS SEALED PURSUANT TO ANY OTHER STATUTE OR
13 COURT RULE. THE CLERK SHALL CREATE AND MANAGE A SYSTEM FOR SEALING CASE
14 RECORDS PURSUANT TO THIS SECTION AND FOR PROVIDING SEALED CASE RECORDS TO
15 AN ENTITY OR PERSON THAT IS LISTED IN SUBSECTION J OF THIS SECTION AND
16 THAT REQUESTS THE RECORD. ON THE REQUEST OF AN ENTITY OR PERSON LISTED IN
17 SUBSECTION J OF THIS SECTION, THE CLERK SHALL PROVIDE THE ENTITY OR PERSON
18 WITH ANY SEALED CASE RECORDS. THE CLERK MAY NOT PROVIDE SEALED CASE
19 RECORDS PURSUANT TO THIS SECTION TO ANY PERSON OR ENTITY THAT IS NOT
20 LISTED IN SUBSECTION J OF THIS SECTION.

21 3. THE DEPARTMENT OF PUBLIC SAFETY SHALL DESIGNATE THE CASE RECORDS
22 AS SEALED WITHIN THE DEPARTMENT'S RECORDS AND INFORM ALL APPROPRIATE STATE
23 AND FEDERAL LAW ENFORCEMENT AGENCIES OF THE SEALING. THE DEPARTMENT MAY
24 NOT SHARE OR PROVIDE SEALED CASE RECORDS WITH ANY PERSON OR ENTITY THAT IS
25 NOT LISTED IN SUBSECTIONS B AND J OF THIS SECTION. THE DEPARTMENT MAY
26 CHARGE THE SUCCESSFUL PETITIONER A FEE DETERMINED BY THE DIRECTOR TO
27 RESEARCH AND CORRECT THE PETITIONER'S CRIMINAL HISTORY RECORD UNLESS THE
28 PETITIONER IS INDIGENT OR HAS BEEN FOUND NOT GUILTY OR THE CASE HAS BEEN
29 DISMISSED OR NOT PROSECUTED AND THE PETITION IS FILED PURSUANT TO
30 SUBSECTION C, PARAGRAPH 2 OR 3 OF THIS SECTION.

31 4. THE ARRESTING AND PROSECUTING AGENCIES SHALL CLEARLY IDENTIFY IN
32 EACH AGENCY'S FILES AND ELECTRONIC RECORDS THAT THE PETITIONER'S ARREST OR
33 CONVICTION AND SENTENCE RECORDS ARE SEALED.

34 5. A PERSON WHOSE RECORDS ARE SEALED PURSUANT TO THIS SECTION MAY
35 STATE, IN ALL INSTANCES, THAT THE PERSON HAS NEVER BEEN ARRESTED FOR,
36 CHARGED WITH OR CONVICTED OF THE CRIME THAT IS THE SUBJECT OF THE ARREST
37 OR CONVICTION, INCLUDING IN RESPONSE TO QUESTIONS ON EMPLOYMENT, HOUSING,
38 FINANCIAL AID OR LOAN APPLICATIONS UNLESS ANY OF THE FOLLOWING APPLIES:

39 (a) THE PERSON IS SUBMITTING AN APPLICATION THAT REQUIRES A
40 FINGERPRINT CLEARANCE CARD PURSUANT TO TITLE 41, CHAPTER 12, ARTICLE 3.1.

41 (b) THE SEALED CASE RECORDS INVOLVED A VIOLATION OF CHAPTER 34 OF
42 THIS TITLE.

43 (c) THE SEALED CASE RECORDS INVOLVED BURGLARY OR THEFT FROM A
44 RESIDENTIAL OR NONRESIDENTIAL STRUCTURE AND THE PERSON IS APPLYING FOR A

1 JOB THAT REQUIRES ENTERING INTO AND PERFORMING SERVICES INSIDE OF A
2 RESIDENTIAL STRUCTURE.

3 (d) THE SEALED CASE RECORDS INVOLVED CHILD ABUSE OR AGGRAVATED
4 ASSAULT AND THE PERSON IS APPLYING FOR A JOB INVOLVING SUPERVISING,
5 EDUCATING OR ADMINISTERING CARE TO A MINOR.

6 (e) THE SEALED CASE RECORDS INVOLVED VULNERABLE ADULT ABUSE AND THE
7 PERSON IS APPLYING FOR A JOB INVOLVING SUPERVISING OR ADMINISTERING CARE
8 TO A VULNERABLE ADULT OR A PERSON WHO IS AT LEAST SIXTY-FIVE YEARS OF AGE.

9 (f) THE SEALED CASE RECORDS INVOLVED A VIOLATION OF SECTION
10 5-395.01, 5-396, 5-397, 13-1814, 28-1381, 28-1382, 28-1383, 28-8282,
11 28-8284, 28-8286, 28-8287 OR 28-8288 AND THE PERSON IS APPLYING FOR A JOB
12 INVOLVING THE COMMERCIAL OR PRIVATE OPERATION OF A MOTOR VEHICLE, BOAT OR
13 AIRPLANE.

14 (g) THE SEALED CASE RECORDS INVOLVED THEFT, THEFT OF MEANS OF
15 TRANSPORTATION, FORGERY, TAKING THE IDENTITY OF ANOTHER OR FRAUDULENT
16 SCHEMES AND ARTIFICES AND THE PERSON IS APPLYING FOR A JOB INVOLVING
17 ACCOUNTING, OVERSEEING, TRANSPORTING, HANDLING OR MANAGING ANOTHER
18 PERSON'S MONEY OR FINANCIAL ASSETS.

19 (h) THE PERSON IS APPLYING FOR A POSITION WITH A LAW ENFORCEMENT
20 AGENCY, A PROSECUTOR'S OFFICE, A COURT, A PROBATION DEPARTMENT, A CHILD
21 WELFARE AGENCY AS DEFINED IN SECTION 8-501, THE DEPARTMENT OF CHILD
22 SAFETY, THE DEPARTMENT OF JUVENILE CORRECTIONS OR THE STATE DEPARTMENT OF
23 CORRECTIONS.

24 (i) THE PERSON IS UNDERGOING A BACKGROUND CHECK FOR THE PLACEMENT
25 WITH THAT PERSON OF A CHILD WHO IS IN THE CUSTODY OF THE DEPARTMENT OF
26 CHILD SAFETY.

27 (j) THE DISCLOSURE IS REQUIRED BY A STATE OR FEDERAL LAW.

28 (k) THE DISCLOSURE IS REQUIRED TO COMPLY WITH PROGRAM INTEGRITY
29 PROVISIONS OF MEDICARE, MEDICAID OR ANY OTHER FEDERAL HEALTH CARE PROGRAM.

30 6. THE PERSON'S EMPLOYER IS NOT LIABLE FOR HIRING OR CONTRACTING
31 WITH THE PERSON AS PRESCRIBED IN SECTION 12-558.03.

32 J. IF THE PERSON'S CASE RECORDS ARE SEALED PURSUANT TO THIS
33 SECTION, THE RECORDS SHALL BE MADE AVAILABLE FOR THE PURPOSES LISTED IN
34 SUBSECTION B OF THIS SECTION AND TO THE FOLLOWING:

35 1. THE PERSON WHOSE RECORDS ARE SEALED AND ANY ATTORNEY WHO HAS
36 FILED A NOTICE OF APPEARANCE ON BEHALF OF THE PERSON WHOSE RECORDS ARE
37 SEALED.

38 2. THE VICTIM IN THE CASE IF THE VICTIM HAS EXERCISED VICTIMS'
39 RIGHTS PURSUANT TO SECTION 13-4414.

40 3. ANY OF THE FOLLOWING IF THE PURPOSE RELATES TO THE OPERATION OF
41 THE REQUESTING PARTY'S OFFICIAL DUTIES OR INTERNAL HIRING PRACTICES, OR
42 BOTH:

43 (a) A LAW ENFORCEMENT AGENCY.

1 (b) A PROSECUTING AGENCY. ON REQUEST OF A PERSON WHO IS CHARGED
2 WITH A CRIMINAL OFFENSE OR THAT PERSON'S ATTORNEY OF RECORD, A PROSECUTING
3 AGENCY SHALL PROVIDE THE SEALED CASE RECORDS OF ANY PERSON WHOM THE
4 PROSECUTING AGENCY INTENDS TO CALL AS A WITNESS IN THAT PERSON'S
5 PROSECUTION.

6 (c) A PROBATION DEPARTMENT OR ANY AGENCY THAT IS RESPONSIBLE FOR
7 THE PREPARATION OF A PRESENTENCE REPORT.

8 (d) A COURT.

9 (e) THE DEPARTMENT OF CHILD SAFETY OR A CHILD WELFARE AGENCY AS
10 DEFINED IN SECTION 8-501.

11 (f) THE DEPARTMENT OF JUVENILE CORRECTIONS.

12 (g) THE STATE DEPARTMENT OF CORRECTIONS OR ANY OTHER CORRECTIONAL
13 FACILITY IN THIS STATE.

14 (h) THE CLERK OF THE COURT OR ANY DEPARTMENT THAT IS RESPONSIBLE
15 FOR MAINTAINING COURT RECORDS.

16 K. THIS SECTION DOES NOT REQUIRE THE SUPREME COURT OR THE COURT OF
17 APPEALS TO SEAL ANY RECORD.

18 L. IF THE COURT DENIES A PETITION TO SEAL CASE RECORDS, A PERSON
19 MAY NOT FILE A NEW PETITION UNTIL THREE YEARS AFTER THE DATE OF THE
20 DENIAL.

21 M. A CONVICTION FOR AN OFFENSE THAT IS COMMITTED IN ANOTHER
22 JURISDICTION AND THAT IF COMMITTED IN THIS STATE WOULD NOT CONSTITUTE AN
23 OFFENSE IN THIS STATE MAY NOT BE USED AGAINST THE PETITIONER OR PROHIBIT
24 THE PETITIONER FROM HAVING A RECORD SEALED. FOR THE PURPOSES OF THIS
25 SECTION, THE CLASSIFICATION OF AN OFFENSE COMMITTED IN ANOTHER
26 JURISDICTION HAS THE CLASSIFICATION THAT THE OFFENSE WOULD HAVE IF
27 COMMITTED IN THIS STATE.

28 N. IF THE PETITIONER IS CHARGED WITH AN OFFENSE AFTER FILING A
29 PETITION TO SEAL CASE RECORDS AND THE OFFENSE COULD RESULT IN A CONVICTION
30 THAT CANNOT BE SEALED OR THAT COULD EXTEND THE TIME TO FILE A PETITION TO
31 SEAL CASE RECORDS, THE COURT MAY NOT GRANT OR DENY THE PETITION UNTIL THE
32 COURT DISPOSES OF THAT CHARGE.

33 O. THIS SECTION DOES NOT APPLY TO A PERSON WHO IS:

34 1. SENTENCED AS A DANGEROUS OFFENDER PURSUANT TO SECTION 13-704.

35 2. CONVICTED OF A DANGEROUS CRIME AGAINST CHILDREN AS DEFINED IN
36 SECTION 13-705.

37 3. CONVICTED OF A SERIOUS OFFENSE OR VIOLENT OR AGGRAVATED FELONY
38 AS DEFINED IN SECTION 13-706.

39 4. CONVICTED OF ANY OFFENSE THAT HAS EITHER OF THE FOLLOWING AS AN
40 ELEMENT OF THE OFFENSE:

41 (a) THE DISCHARGE, USE OR THREATENING EXHIBITION OF A DEADLY WEAPON
42 OR DANGEROUS INSTRUMENT.

43 (b) THE KNOWING INFLICTION OF SERIOUS PHYSICAL INJURY ON ANOTHER
44 PERSON.

1 5. CONVICTED OF SEX TRAFFICKING PURSUANT TO SECTION 13-1307.

2 6. CONVICTED OF A CLASS 2, 3, 4 OR 5 FELONY OFFENSE THAT IS
3 INCLUDED IN CHAPTER 14 OR 35.1 OF THIS TITLE.

4 P. THIS SECTION DOES NOT AFFECT ANY OF THE FOLLOWING:

5 1. THE RIGHT OF THE PERSON WHOSE CASE RECORDS ARE SEALED TO APPEAL
6 THE CONVICTION OR SENTENCE OR TO RELY ON IT IN BAR OF ANY SUBSEQUENT
7 PROCEEDING FOR THE SAME OFFENSE.

8 2. THE RIGHT OF A LAW ENFORCEMENT AGENCY TO MAINTAIN AN ARREST AND
9 CONVICTION RECORD AND TO COMMUNICATE INFORMATION REGARDING THE SEALED
10 RECORD OF ARREST OR CONVICTION TO PROSECUTING AGENCIES, COURTS, PROBATION
11 DEPARTMENTS AND OTHER LAW ENFORCEMENT AGENCIES FOR A PURPOSE LISTED IN
12 SUBSECTION J OF THIS SECTION OR IN DEFENSE OF A CIVIL ACTION THAT ARISES
13 OUT OF THE FACTS OF THE ARREST OR TO THE ARIZONA PEACE OFFICER STANDARDS
14 AND TRAINING BOARD SOLELY TO ASSIST THE BOARD IN DETERMINING THE FITNESS
15 OF A PERSON TO SERVE AS A PEACE OFFICER, EXCEPT THAT IN ANY OF THESE CASES
16 THE INFORMATION MAY NOT BE DISCLOSED TO ANY PERSON OR ENTITY THAT IS NOT
17 LISTED IN SUBSECTION J OF THIS SECTION.

18 3. THE DEPARTMENT OF PUBLIC SAFETY OR THE BOARD OF FINGERPRINTING
19 FROM CONSIDERING A CONVICTION THAT IS SEALED PURSUANT TO THIS SECTION WHEN
20 EVALUATING AN APPLICATION FOR A FINGERPRINT CLEARANCE CARD PURSUANT TO
21 SECTION 41-1758.03 OR 41-1758.07.

22 Q. FOR THE PURPOSES OF THIS SECTION, "CASE RECORDS" MEANS ALL
23 RECORDS THAT PERTAIN TO A PERSON'S ARREST, CONVICTION AND SENTENCE FOR A
24 PARTICULAR OFFENSE AND THAT MAY BE SEALED PURSUANT TO THIS SECTION.

25 Sec. 2. Section 13-4033, Arizona Revised Statutes, is amended to
26 read:

27 13-4033. Appeal by defendant

28 A. An appeal may be taken by the defendant only from:

29 1. A final judgment of conviction or verdict of guilty except
30 insane.

31 2. An order denying a motion for a new trial.

32 3. An order made after judgment affecting the substantial rights of
33 the party.

34 4. A sentence on the grounds that it is illegal or excessive.

35 5. AN ORDER THAT DENIED THE DEFENDANT'S ELIGIBILITY TO PETITION THE
36 COURT TO SEAL THE DEFENDANT'S CASE RECORDS PURSUANT TO SECTION 13-911 IF
37 THE SOLE BASIS FOR THE APPEAL IS THE DEFENDANT'S ELIGIBILITY TO PETITION
38 THE COURT.

39 B. In noncapital cases a defendant may not appeal from a judgment
40 or sentence that is entered pursuant to a plea agreement or an admission
41 to a probation violation.

42 C. A defendant may not appeal under subsection A, paragraph 1 or 2
43 OF THIS SECTION if the defendant's absence prevents sentencing from
44 occurring within ninety days after conviction and the defendant fails to

1 prove by clear and convincing evidence at the time of sentencing that the
2 absence was involuntary.

3 Sec. 3. Applicability

4 Section 13-911, Arizona Revised Statutes, as added by this act,
5 applies to a person who is arrested, convicted or sentenced before, on or
6 after the effective date of this act.

7 Sec. 4. Appropriation; administrative office of the courts;
8 court programming costs

9 The sum of \$500,000 is appropriated from the state general fund in
10 fiscal year 2022-2023 to the administrative office of the courts to pay
11 for the costs of implementing section 13-911, Arizona Revised Statutes, as
12 added by this act.

13 Sec. 5. Effective date

14 This act is effective from and after December 31, 2022.

APPROVED BY THE GOVERNOR JULY 9, 2021.

FILED IN THE OFFICE OF THE SECRETARY OF STATE JULY 9, 2021.