

PROPOSED

SENATE AMENDMENTS TO H.B. 2116

(Reference to House engrossed bill)

1 Page 1, between lines 1 and 2, insert:

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 \$65
20 unless, after determining the inability of the probationer to pay the fee,
21 the court assesses a lesser fee. This fee is not subject to any surcharge.
22 In justice and municipal courts the fee shall only be assessed when the
23 person is placed on supervised probation. For persons placed on probation
24 in the superior court, the fee shall be paid to the clerk of the superior
25 court and the clerk of the court shall pay all monies collected from this

1 fee to the county treasurer for deposit in the adult probation services
2 fund established by section 12-267. For persons placed on supervised
3 probation in the justice court, the fee shall be paid to the justice court
4 and the justice court shall transmit all of the monies to the county
5 treasurer for deposit in the adult probation services fund established by
6 section 12-267. For persons placed on supervised probation in the
7 municipal court, the fee shall be paid to the municipal court. The
8 municipal court shall transmit all of the monies to the city treasurer who
9 shall transmit the monies to the county treasurer for deposit in the adult
10 probation services fund established by section 12-267. Any amount assessed
11 pursuant to this subsection shall be used to supplement monies used for the
12 salaries of adult probation and surveillance officers and for support of
13 programs and services of the superior court adult probation departments.

14 B. The period of probation shall be determined according to section
15 13-902, except that if a person is released pursuant to section 31-233,
16 subsection B and community supervision is waived pursuant to section
17 13-603, subsection K, the court shall extend the period of probation by the
18 amount of time the director of the state department of corrections approves
19 for the inmate's temporary release.

20 C. The court, in its discretion, may issue a warrant for the
21 rearrest of the defendant and may modify or add to the conditions or, if
22 the defendant commits an additional offense or violates a condition, may
23 revoke probation in accordance with the rules of criminal procedure at any
24 time before the expiration or termination of the period of probation. If
25 the court revokes the defendant's probation and the defendant is serving
26 more than one probationary term concurrently, the court may sentence the
27 person to terms of imprisonment to be served consecutively.

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

1 E. The court, on its own initiative or on application of the
2 probationer, after notice and an opportunity to be heard for the
3 prosecuting attorney and, on request, the victim, may terminate the period
4 of probation or intensive probation and discharge the defendant at a time
5 earlier than that originally imposed if in the court's opinion the ends of
6 justice will be served and if the conduct of the defendant on probation
7 warrants it. On the petition of the victim pursuant to section 12-1809 and
8 before the court terminates the period of probation or intensive probation
9 early, the court after hearing from the victim shall determine whether to
10 prohibit the defendant from contacting the victim and, if necessary, issue
11 an injunction against harassment against the defendant. If the court
12 issues an injunction against harassment, the injunction must be served on
13 the defendant before terminating the period of probation or intensive
14 probation.

15 F. When granting probation the court may require that the defendant
16 be imprisoned in the county jail at whatever time or intervals, consecutive
17 or nonconsecutive, the court shall determine, within the period of
18 probation, as long as the period actually spent in confinement does not
19 exceed one year or the maximum period of imprisonment ~~permitted~~ ALLOWED
20 under chapter 7 of this title, whichever is the shorter.

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

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

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

7 J. If the defendant meets the criteria set forth in section
8 13-901.01 or 13-3422, the court may place the defendant on probation
9 pursuant to either section. If a defendant is placed on probation pursuant
10 to section 13-901.01 or 13-3422, the court may impose any term of probation
11 that is authorized pursuant to this section and that is not in violation of
12 section 13-901.01.

13 K. IF THE COURT IMPOSES A TERM OF PROBATION, THE COURT MAY REQUIRE
14 THE DEFENDANT TO REPORT TO A PROBATION OFFICER. THE COURT OR THE
15 DEFENDANT'S PROBATION OFFICER MAY ALLOW THE DEFENDANT TO FULFILL A
16 REPORTING REQUIREMENT THROUGH REMOTE REPORTING. THE PROBATION OFFICER
17 SHALL TAKE INTO CONSIDERATION AND MAKE ACCOMMODATIONS FOR THE PROBATIONER'S
18 WORK SCHEDULE, FAMILY CAREGIVER OBLIGATIONS AND MEDICAL CARE REQUIREMENTS
19 BEFORE SETTING THE REPORTING TIME AND LOCATION REQUIREMENTS FOR THE
20 PROBATIONER."

21 Renumber to conform

22 Amend title to conform

VINCE LEACH

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03/16/2022
09:27 AM
C: SP