

House Engrossed

~~probationers; prisoners; search; seizure authority~~
(now: probationers; search; seizure authority)

State of Arizona
House of Representatives
Fifty-sixth Legislature
First Regular Session
2023

HOUSE BILL 2296

AN ACT

AMENDING SECTION 13-901, ARIZONA REVISED STATUTES; RELATING TO SEARCH AND SEIZURE.

(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 \$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
22 surcharge. In justice and municipal courts the fee shall only be assessed
23 when the person is placed on supervised probation. For persons placed on
24 probation in the superior court, the fee shall be paid to the clerk of the
25 superior court and the clerk of the court shall pay all monies collected
26 from this fee to the county treasurer for deposit in the adult probation
27 services fund established by section 12-267. For persons placed on
28 supervised probation in the justice court, the fee shall be paid to the
29 justice court and the justice court shall transmit all of the monies to
30 the county treasurer for deposit in the adult probation services fund
31 established by section 12-267. For persons placed on supervised probation
32 in the municipal court, the fee shall be paid to the municipal court. The
33 municipal court shall transmit all of the monies to the city treasurer who
34 shall transmit the monies to the county treasurer for deposit in the adult
35 probation services fund established by section 12-267. Any amount
36 assessed pursuant to this subsection shall be used to supplement monies
37 used for the salaries of adult probation and surveillance officers and for
38 support of programs and services of the superior court adult probation
39 departments.

40 B. The period of probation shall be determined according to section
41 13-902, except that if a person is released pursuant to section 31-233,
42 subsection B and community supervision is waived pursuant to section
43 13-603, subsection K, the court shall extend the period of probation by
44 the amount of time the director of the state department of corrections
45 approves for the inmate's temporary release.

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

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

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

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

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

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

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

7 K. IF THE DEFENDANT IS CONVICTED OF A FELONY OFFENSE AND THE COURT
8 IMPOSES A CONDITION OF PROBATION THAT REQUIRES WARRANTLESS SEARCHES, A
9 PEACE OFFICER IS AUTHORIZED TO EFFECT A WARRANTLESS SEARCH OF THE
10 PROBATIONER IF ALL OF THE FOLLOWING CONDITIONS ARE MET:

11 1. THE PROBATIONER IS STOPPED BY A PEACE OFFICER FOR A CIVIL
12 TRAFFIC OR CRIMINAL VIOLATION.

13 2. THE PEACE OFFICER EITHER RECEIVES AUTHORIZATION FROM THE
14 DEFENDANT'S ASSIGNED PROBATION OFFICER TO CONDUCT THE SEARCH OR ATTEMPTS
15 TO CONTACT THE DEFENDANT'S ASSIGNED PROBATION OFFICER BUT IS UNSUCCESSFUL
16 IN MAKING CONTACT WITH THE PROBATION OFFICER.

17 3. THE WARRANTLESS SEARCH IS LIMITED TO THE PROBATIONER'S PERSON
18 AND MOTOR VEHICLE.

19 4. THE WARRANTLESS SEARCH IS SUPPORTED BY REASONABLE SUSPICION.