

PROPOSED

HOUSE OF REPRESENTATIVES AMENDMENTS TO H.B. 2296

(Reference to printed bill)

1 Strike everything after the enacting clause and 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

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

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

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

29 D. At any time during the probationary term of the person released
30 on probation, any probation officer, without warrant or other process and
31 at any time until the final disposition of the case, may rearrest any
32 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.

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

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

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

28 I. When granting probation, the court shall set forth at the time of
29 sentencing and on the record the factual and legal reasons in support of
30 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 pursuant
4 to section 13-901.01 or 13-3422, the court may impose any term of probation
5 that is authorized pursuant to this section and that is not in violation of
6 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 TRAFFIC
12 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 TO
15 CONTACT THE DEFENDANT'S ASSIGNED PROBATION OFFICER BUT IS UNSUCCESSFUL IN
16 MAKING CONTACT WITH THE PROBATION OFFICER.

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

19 Amend title to conform

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