

## **2017-01: Sentencing; fines; fees; probation**

*Modifies requirements of various court ordered financial obligations, increases judicial discretion with respect to sentencing of misdemeanants, permits debt removal from court accounting systems under specified circumstances, and provides for changes in the calculation of imprisonment terms due to pre-trial incarceration.*

### **Section 1. §12-116.01. Surcharges; fund deposits**

Repeals language permitting a judge to waive all or part of a civil penalty, fine, forfeiture and surcharge. New language is added in §13-827 providing for authority for the court to mitigate financial assessments, including mandatory penalties and fines.

### **Section 2. §12-116.02. Additional surcharges; fund deposits**

Repeals language permitting a judge to waive all or part of a civil penalty, fine, forfeiture and surcharge. New language is added in §13-827 providing for authority for the court to mitigate financial assessments, including mandatory penalties and fines.

### **Section 3. § 12-137. Removal of debts from superior court accounting system**

Permits the superior court to remove all or part of any debt due to the court as the result of a misdemeanor or felony conviction from the court's accounting system if 20 years has elapsed from the date the fine resulting in the debt and the court:

- Notifies the prosecutor and the defendant and victim, if their whereabouts are known and waits thirty days for the either party or the victim to file an objection. The court must consider any objection in determining whether to remove the debt, and
- Makes reasonable attempts to collect the debt, including billing the debtor at least four times, and
- Submits the debt for collection to a collection agency licensed pursuant to Title 32, Chapter 9 and waits at least one year while the agency attempts collection, and
- Notifies the Department of Revenue of the debt pursuant to section §42-1122, and
- Notifies the county treasurer.

### **Section 4. §13-603. Authorized disposition of offenders**

Permits the court to order a defendant charged with a misdemeanor to perform community restitution or complete an education or treatment program. Additional requirements for each are outlined in new sections 13-825 and 13-826, respectively.

### **Section 5. §13-712. Calculation of terms of imprisonment.**

Permits the court to credit time spent in custody against a term of imprisonment if the defendant is released from custody pending trial on one offense but remains in custody due to not being released on another case.

### **Section 6. §13-805. Jurisdiction**

Reduces the annual interest that accrues on a criminal restitution order from 10% to 4%.

## **2017-01: Sentencing; fines; fees; probation**

### **Section 7. §13-824. Community restitution in lieu of fines, fees, surcharges, assessments or incarceration costs**

Adds civil penalties and surcharges to the list of financial obligations for which a court may order community restitution in lieu of payment after a finding that the defendant is unable to pay all or part of a fine. Expands the program to superior court.

### **Section 8. §13-825. Misdemeanors; community restitution**

Requires the court to order a definite period of time for a defendant ordered to perform community restitution if convicted of a misdemeanor.

### **Section 9. §13-826. Misdemeanors; court ordered treatment**

A court may order a period of education or treatment for a person convicted of a misdemeanor not to exceed the period of probation permitted under law. Any treatment program selected will be determined by the court or the defendant's probation officer.

### **Section 10. §13-827. Civil penalties or fines; community restitution; waiver**

Permits a judge to waive part of a civil penalty, fine, surcharge, fee, forfeiture, assessment or incarceration cost if the payment would cause a hardship on the person convicted or adjudicated or on the person's immediate family. A judge may also waive all or part of mandatory community restitution due to the medical condition of the defendant. If a portion of the civil penalty, fine, forfeiture, surcharge, fee, assessment or incarceration cost is waived or suspended, the amount assessed must be divided according to the proportion that the civil penalty, fine, surcharge, fee, forfeiture, assessment and incarceration cost represent to the total amount due.

### **Section 11. §13-924. Probation; earned time credit; applicability**

Allows the court to adjust a period of supervised probation for earned time credit for each month that a probationer is current on court ordered restitution and community restitution (current law prohibits the credit from being awarded if any portion of restitution is not paid or completed).

### **Section 12. §22-126. Removal of debts from justice of the peace court accounting system**

Permits a justice of the peace court to remove all or part of any debt due to the court as the result of a misdemeanor or felony conviction from the court's accounting system if 20 years has elapsed from the date the fine resulting in the debt and the court:

- Notifies the prosecutor and the defendant and the victim, if their whereabouts are known and waits thirty days for the either party or the victim to file an objection. The court shall consider any objection in determining whether to remove the debt, and
- Makes reasonable attempts to collect the debt, including billing the debtor at least four times, and
- Submits the debt for collection to a collection agency licensed pursuant to Title 32, Chapter 9 and waits at least one year while the agency attempts collection, and
- notifies the Department of Revenue of the debt pursuant to section §42-1122, and
- Notifies the county treasurer.

## **2017-01: Sentencing; fines; fees; probation**

### **Section 13. §22-430. Removal of debts from municipal court accounting system**

Permits the municipal court to remove all or part of any debt due to the court as the result of a misdemeanor or felony conviction from the court's accounting system if 20 years has elapsed from the date the fine resulting in the debt and the court:

- Notifies the prosecutor and the defendant and the victim, if their whereabouts are known and waits thirty days for the either party or the victim to file an objection. The court shall consider any objection in determining whether to remove the debt, and
- Makes reasonable attempts to collect the debt, including billing the debtor at least four times, and
- Submits the debt for collection to a collection agency licensed pursuant to Title 32, Chapter 9 and waits at least one year while the agency attempts collection, and
- Notifies the Department of Revenue of the debt pursuant to section §42-1122, and
- Notifies the city treasurer.

### **Section 14. Delayed Effective Date**

Provides a delayed effective date of January 1, 2018

1 Section 1. Amend §12-116.01

2 **12-116.01. Surcharges; fund deposits**

3 A. In addition to any penalty provided by law, a surcharge shall be  
4 levied in an amount of forty-seven per cent on every fine, penalty and  
5 forfeiture imposed and collected by the courts for criminal offenses and  
6 any civil penalty imposed and collected for a civil traffic violation  
7 and fine, penalty or forfeiture for a violation of the motor vehicle  
8 statutes, for any local ordinance relating to the stopping, standing or  
9 operation of a vehicle or for a violation of the game and fish statutes  
10 in title 17.

11 B. In addition to any penalty provided by law, a surcharge shall be  
12 levied in an amount of seven per cent on every fine, penalty and  
13 forfeiture imposed and collected by the courts for criminal offenses and  
14 any civil penalty imposed and collected for a civil traffic violation  
15 and fine, penalty or forfeiture for a violation of the motor vehicle  
16 statutes, for any local ordinance relating to the stopping, standing or  
17 operation of a vehicle or for a violation of the game and fish statutes  
18 in title 17.

19 C. In addition to any penalty provided by law, a surcharge shall be  
20 levied through December 31, 2011 in an amount of seven per cent, and  
21 beginning January 1, 2012 in an amount of six per cent, on every fine,  
22 penalty and forfeiture imposed and collected by the courts for criminal  
23 offenses and any civil penalty imposed and collected for a civil traffic  
24 violation and fine, penalty or forfeiture for a violation of the motor  
25 vehicle statutes, for any local ordinance relating to the stopping,  
26 standing or operation of a vehicle or for a violation of the game and  
27 fish statutes in title 17.

28 D. If any deposit of bail or bond or deposit for an alleged civil traffic  
29 violation is to be made for a violation, the court shall require a  
30 sufficient amount to include the surcharge prescribed in this section  
31 for forfeited bail, bond or deposit. If bail, bond or deposit is  
32 forfeited, the court shall transmit the amount of the surcharge pursuant  
33 to subsection H of this section. If bail, bond or deposit is returned,  
34 the surcharge made pursuant to this article shall also be returned.

35 E. After addition of the surcharge, the courts may round the total amount  
36 due to the nearest one-quarter dollar.

37 ~~F. The judge may waive all or part of the civil penalty, fine, forfeiture~~  
38 ~~and surcharge, except for mandatory civil penalties and fines, the~~  
39 ~~payment of which would work a hardship on the persons convicted or~~

~~1 adjudicated or on their immediate families. If a fine or civil penalty  
2 is mandatory, the judge may waive only all or part of the surcharges  
3 prescribed by subsections A, B and C of this section and section 12-  
4 116.02. If a fine or civil penalty is not mandatory and if a portion of  
5 the civil penalty, fine, forfeiture and surcharge is waived or suspended,  
6 the amount assessed must be divided according to the proportion that the  
7 civil penalty, fine, bail or bond and the surcharge represent of the  
8 total amount due.~~

~~9~~ **F.** The surcharge imposed by this section shall be applied to the base  
10 fine, civil penalty or forfeiture and not to any other surcharge imposed.

~~11~~ **G.** After a determination by the court of the amount due, the court  
12 shall transmit, on the last day of each month, the surcharges collected  
13 pursuant to subsections A, B, C and D of this section and a remittance  
14 report of the fines, civil penalties, assessments and surcharges  
15 collected pursuant to subsections A, B, C and D of this section to the  
16 county treasurer, except that municipal courts shall transmit the  
17 surcharges and the remittance report of the fines, civil penalties,  
18 assessments and surcharges to the city treasurer.

~~19~~ **H.** The appropriate authorities specified in subsection H of this  
20 section shall transmit the forty-seven per cent surcharge prescribed in  
21 subsection A of this section and the remittance report as required in  
22 subsection H of this section to the state treasurer on or before the  
23 fifteenth day of each month for deposit in the criminal justice  
24 enhancement fund established by section 41-2401.

~~25~~ **I.** The appropriate authorities specified in subsection H of this  
26 section shall transmit the seven per cent surcharge prescribed in  
27 subsection B of this section and the remittance report as required in  
28 subsection H of this section to the state treasurer on or before the  
29 fifteenth day of each month for allocation pursuant to section 41-2421,  
30 subsection J.

~~31~~ **J.** The appropriate authorities specified in subsection H of this  
32 section shall transmit the surcharge prescribed in subsection C of this  
33 section and the remittance report as required in subsection H of this  
34 section to the state treasurer on or before the fifteenth day of each  
35 month for deposit in the Arizona deoxyribonucleic acid identification  
36 system fund established by section 41-2419.

~~37~~ **K.** Partial payments of the amount due shall be transmitted as  
38 prescribed in subsections H, I, J and K of this section and shall be  
39 divided according to the proportion that the civil penalty, fine, bail  
40 or bond and the surcharge represent of the total amount due.

1 Section 2. Amend §12-116.02

2 **12-116.02. Additional surcharges; fund deposits**

3 A. In addition to any penalty provided by law, there shall be levied a  
4 surcharge in an amount of thirteen per cent on every fine, penalty and  
5 forfeiture imposed and collected by the courts for criminal offenses and  
6 civil penalties imposed and collected for a civil traffic violation and  
7 fine, penalty or forfeiture for a violation of the motor vehicle  
8 statutes, for a violation of any local ordinance relating to the  
9 stopping, standing or operation of a vehicle or for a violation of the  
10 game and fish statutes in title 17.

11 B. If any deposit of bail or bond or deposit for an alleged civil traffic  
12 violation is to be made for a violation, the court shall require a  
13 sufficient amount to include the surcharge prescribed in this section  
14 for forfeited bail, bond or deposit. If bail, bond or deposit is  
15 forfeited, the amount of such surcharge shall be transmitted by the court  
16 pursuant to subsection F of this section. If bail, bond or deposit is  
17 returned, the surcharge made pursuant to this article shall also be  
18 returned.

19 C. After addition of the surcharge, the courts may round the total amount  
20 due to the nearest one-quarter dollar.

21 ~~D. The judge may waive all or part of the civil penalty, fine, forfeiture~~  
22 ~~and surcharge, except for civil penalties and fines that are mandatory,~~  
23 ~~the payment of which would work a hardship on the persons convicted or~~  
24 ~~adjudicated or on their immediate families. If a fine or civil penalty~~  
25 ~~is mandatory, the judge may waive only all or part of the surcharge~~  
26 ~~prescribed by subsection A of this section and section 12-116.01. If a~~  
27 ~~fine or civil penalty is not mandatory and if a portion of the civil~~  
28 ~~penalty, fine, forfeiture and surcharge is waived or suspended, the~~  
29 ~~amount assessed must be divided according to the proportion that the~~  
30 ~~civil penalty, fine, bail or bond and the surcharge represent of the~~  
31 ~~total amount due.~~

32 **E** D. The surcharge imposed by this section shall be applied to the base  
33 fine, civil penalty or forfeiture and not to any other surcharge imposed.

34 **F** E. After a determination by the court of the amount due, the court  
35 shall transmit, on the last day of each month, the surcharges collected  
36 pursuant to subsections A and B of this section and a remittance report  
37 of the fines, civil penalties, assessments and surcharges collected  
38 pursuant to subsections A and B of this section to the county treasurer,  
39 except that municipal courts shall transmit the surcharges and the

1 remittance report of the fines, civil penalties, assessments and  
2 surcharges to the city treasurer.

3 **G F.** The thirteen per cent surcharge as required in subsection A of this  
4 section shall be transmitted by the appropriate authorities prescribed  
5 in subsection F of this section to the state treasurer on or before the  
6 fifteenth day of each month for deposit in the medical services  
7 enhancement fund established by section 36-2219.01.

8 **H G.** Partial payments of the amount due shall be transmitted as required  
9 in subsections F and G of this section and shall be divided according  
10 to the proportion that the civil penalty, fine, bail or bond and the  
11 surcharge represent of the total amount due.

12 Section 3. Enact §28-137

13 **12-137. Removal of debt from superior court accounting system**

14 **THE SUPERIOR COURT MAY REMOVE FROM THE COURT'S ACCOUNTING SYSTEM ALL OR**  
15 **PART OF ANY DEBT DUE TO THE COURT AS PRESCRIBED BY SECTION 13-801 OR 13-**  
16 **802 IF TWENTY YEARS HAS ELAPSED FROM THE DATE OF THE FINE RESULTING IN**  
17 **THE DEBT AND THE COURT DOES ALL OF THE FOLLOWING:**

18 **1. NOTIFIES THE PROSECUTOR AND THE DEFENDANT AND THE VICTIM, IF THEIR**  
19 **WHEREABOUTS ARE KNOWN AND WAITS THIRTY DAYS FOR THE EITHER PARTY OR THE**  
20 **VICTIM TO FILE AN OBJECTION. THE COURT SHALL CONSIDER ANY OBJECTION IN**  
21 **DETERMINING WHETHER TO REMOVE THE DEBT.**

22 **2. MAKES REASONABLE ATTEMPTS TO COLLECT THE DEBT, INCLUDING BILLING THE**  
23 **DEBTOR AT LEAST FOUR TIMES.**

24 **3. SUBMITS THE DEBT FOR COLLECTION TO A COLLECTION AGENCY LICENSED**  
25 **PURSUANT TO TITLE 32, CHAPTER 9 AND WAITS AT LEAST ONE YEAR WHILE THE**  
26 **AGENCY ATTEMPTS COLLECTION.**

27 **4. NOTIFIES THE DEPARTMENT OF REVENUE OF THE DEBT PURSUANT TO SECTION**  
28 **42-1122.**

29 **5. NOTIFIES THE COUNTY TREASURER.**

30 Section 4. Amend §13-603

31 **13-603. Authorized disposition of offenders**

32 **A. Every person convicted of any offense defined in this title or defined**  
33 **outside this title shall be sentenced in accordance with this chapter**  
34 **and chapters 7, 8 and 9 of this title unless otherwise provided by law.**

35 **B. If a person is convicted of an offense, the court, if authorized by**  
36 **chapter 9 of this title, may suspend the imposition or execution of**  
37 **sentence and grant such person a period of probation except as otherwise**  
38 **provided by law. The sentence is tentative to the extent that it may be**  
39 **altered or revoked in accordance with chapter 9 of this title, but for**  
40 **all other purposes it is a final judgment of conviction.**

1 C. If a person is convicted of an offense, the court shall require the  
2 convicted person to make restitution to the person who is the victim of  
3 the crime or to the immediate family of the victim if the victim has  
4 died, in the full amount of the economic loss as determined by the court  
5 and in the manner as determined by the court or the court's designee  
6 pursuant to chapter 8 of this title. Restitution ordered pursuant to  
7 this subsection shall be paid to the clerk of the court for disbursement  
8 to the victim and is a criminal penalty for the purposes of a federal  
9 bankruptcy involving the person convicted of an offense.

10 D. If the court imposes probation it may also impose a fine as authorized  
11 by chapter 8 of this title.

12 E. If a person is convicted of an offense and not granted a period of  
13 probation, or when probation is revoked, any of the following sentences  
14 may be imposed:

15 1. A term of imprisonment authorized by this chapter or chapter 7 of  
16 this title.

17 2. A fine authorized by chapter 8 of this title. The sentence is tentative  
18 to the extent it may be modified or revoked in accordance with chapter  
19 8 of this title, but for all other purposes it is a final judgment of  
20 conviction. If the conviction is of a class 2, 3 or 4 felony, the sentence  
21 cannot consist solely of a fine.

22 3. Both imprisonment and a fine.

23 4. Intensive probation, subject to the provisions of chapter 9 of this  
24 title.

25 5. Intensive probation, subject to the provisions of chapter 9 of this  
26 title, and a fine.

27 6. A new term of probation or intensive probation.

28 7. A TERM OF COMMUNITY RESTITUTION FOR A MISDEMEANOR PURSUANT TO SECTION  
29 13-825.

30 8. A TERM OF COURT ORDERED EDUCATION OR TREATMENT FOR A MISDEMEANOR  
31 PURSUANT TO SECTION 13-826.

32 F. If an enterprise is convicted of any offense, a fine may be imposed  
33 as authorized by chapter 8 of this title.

34 G. If a person or an enterprise is convicted of any felony, the court  
35 may, in addition to any other sentence authorized by law, order the  
36 forfeiture, suspension or revocation of any charter, license, permit or  
37 prior approval granted to the person or enterprise by any department or  
38 agency of the state or of any political subdivision.

1 H. A court authorized to pass sentence upon a person convicted of any  
2 offense defined within or without this title shall have a duty to  
3 determine and impose the punishment prescribed for such offense.

4 I. If a person is convicted of a felony offense and the court sentences  
5 the person to a term of imprisonment, the court at the time of sentencing  
6 shall impose on the convicted person a term of community supervision.  
7 The term of community supervision shall be served consecutively to the  
8 actual period of imprisonment if the person signs and agrees to abide  
9 by conditions of supervision established by the state department of  
10 corrections. Except pursuant to subsection J, the term of community  
11 supervision imposed by the court shall be for a period equal to one day  
12 for every seven days of the sentence or sentences imposed.

13 J. In calculating the term of community supervision, all fractions shall  
14 be decreased to the nearest month, except for a class 5 or 6 felony which  
15 shall not be less than one month.

16 K. Notwithstanding subsection I, if the court sentences a person to serve  
17 a consecutive term of probation immediately after the person serves a  
18 term of imprisonment, the court may waive community supervision and order  
19 that the person begin serving the term of probation upon the person's  
20 release from confinement. The court may retroactively waive the term of  
21 community supervision or that part remaining to be served if the  
22 community supervision was imposed before July 21, 1997. If the court  
23 waives community supervision, the term of probation imposed shall be  
24 equal to or greater than the term of community supervision that would  
25 have been imposed. If the court does not waive community supervision,  
26 the person shall begin serving the term of probation after the person  
27 serves the term of community supervision. The state department of  
28 corrections shall provide reasonable notice to the probation department  
29 of the scheduled release of the inmate from confinement by the  
30 department.

31 L. If at the time of sentencing the court is of the opinion that a  
32 sentence that the law requires the court to impose is clearly excessive,  
33 the court may enter a special order allowing the person sentenced to  
34 petition the board of executive clemency for a commutation of sentence  
35 within ninety days after the person is committed to the custody of the  
36 state department of corrections. If the court enters a special order  
37 regarding commutation, the court shall set forth in writing its specific  
38 reasons for concluding that the sentence is clearly excessive. The court  
39 shall allow both the state and the victim to submit a written statement  
40 on the matter. The court's order, and reasons for its order, and the

1 statements of the state and the victim shall be sent to the board of  
2 executive clemency.

3 Section 5. Amend §13-712

4 13-712. Calculation of terms of imprisonment

5 A. A sentence of imprisonment commences when sentence is imposed if the  
6 defendant is in custody or surrenders into custody at that time.  
7 Otherwise it commences when the defendant becomes actually in custody.

8 B. All time actually spent in custody pursuant to an offense until the  
9 prisoner is sentenced to imprisonment for such offense shall be credited  
10 against the term of imprisonment otherwise provided for by this chapter.

11 C. IF A DEFENDANT IS RELEASED FROM CUSTODY PENDING TRIAL ON ONE CASE BUT  
12 THE DEFENDANT REMAINS IN ACTUAL CUSTODY AND IS NOT RELEASED PENDING TRIAL  
13 ON ANOTHER CASE, THE TIME ACTUALLY SPENT IN CUSTODY PURSUANT TO THE OTHER  
14 CASE UNTIL THE PRISONER IS SENTENCED TO A TERM OF IMPRISONMENT OR  
15 INCARCERATION ON THE CASE IN WHICH THE DEFENDANT WAS RELEASED MAY BE  
16 CREDITED AGAINST THE TERM OF IMPRISONMENT OR INCARCERATION THAT IS  
17 OTHERWISE PROVIDED FOR BY THIS CHAPTER.

18 ~~C~~ D. If a sentence of imprisonment is vacated and a new sentence is  
19 imposed on the defendant for the same offense, the new sentence is  
20 calculated as if it had commenced at the time the vacated sentence was  
21 imposed, and all time served under the vacated sentence shall be credited  
22 against the new sentence.

23 ~~D~~ E. If a person serving a sentence of imprisonment escapes from custody,  
24 the escape interrupts the sentence. The interruption continues until the  
25 person is apprehended and confined for the escape or is confined and  
26 subject to a detainer for the escape. Time spent in actual custody prior  
27 to return under this subsection shall be credited against the term  
28 authorized by law if custody rested on an arrest or surrender for the  
29 escape itself, or if the custody arose from an arrest on another charge  
30 which culminated in a dismissal or an acquittal, and the person was  
31 denied admission to bail pending disposition of that charge because of  
32 a warrant lodged against such person arising from the escape.

33 ~~E~~ F. The sentencing court shall include the time of commencement of  
34 sentence under subsection A and the computation of time credited against  
35 sentence under subsection B, C, ~~or~~ D OR E, in the original or an amended  
36 commitment order, under procedures established by rule of court.

37 Section 6. Amend §13-805

38 13-805. Jurisdiction

39 A. The trial court shall retain jurisdiction of the case for purposes  
40 of ordering, modifying and enforcing the manner in which court-ordered

1 payments are made until paid in full or until the defendant's sentence  
2 expires.

3 B. At the time the defendant is ordered to pay restitution by the court,  
4 the court may enter a criminal restitution order in favor of each person  
5 who is entitled to restitution for the unpaid balance of any restitution  
6 order. A criminal restitution order does not affect any other monetary  
7 obligation imposed on the defendant pursuant to law.

8 C. At the time the defendant completes the defendant's period of  
9 probation or the defendant's sentence or the defendant absconds from  
10 probation or the defendant's sentence, the court shall enter both:

11 1. A criminal restitution order in favor of the state for the unpaid  
12 balance, if any, of any fines, costs, incarceration costs, fees,  
13 surcharges or assessments imposed.

14 2. A criminal restitution order in favor of each person entitled to  
15 restitution for the unpaid balance of any restitution ordered, if a  
16 criminal restitution order is not issued pursuant to subsection B of  
17 this section.

18 D. The clerk of the court shall notify each person who is entitled to  
19 restitution of the criminal restitution order.

20 E. A criminal restitution order may be recorded and is enforceable as  
21 any civil judgment, except that a criminal restitution order does not  
22 require renewal pursuant to section 12-1611 or 12-1612. Enforcement of  
23 a criminal restitution order by any person who is entitled to restitution  
24 ~~or by the state~~ includes the collection of interest that accrues at a  
25 rate of ~~ten~~ FOUR percent per annum. A criminal restitution order does  
26 not expire until paid in full.

27 F. All monies paid pursuant to a criminal restitution order entered by  
28 the superior court shall be paid to the clerk of the superior court.

29 G. Monies received as a result of a criminal restitution order entered  
30 pursuant to this section shall be distributed in the following order of  
31 priority:

32 1. Restitution ordered that is reduced to a criminal restitution order.

33 2. Associated interest.

34 H. The interest accrued pursuant to subsection E of this section does  
35 not apply to fees imposed for collection of the court ordered payments.

36 I. A criminal restitution order is a criminal penalty for the purposes  
37 of a federal bankruptcy involving the defendant.

38 Section 7. Amend §13-824

39 13-824. Community restitution in lieu of fines, fees, surcharges,  
40 assessments or incarceration costs

1 Notwithstanding any other law, ~~in a municipal or justice court,~~ if a  
2 defendant is sentenced to pay a fine, a CIVIL PENALTY, SURCHARGE, fee,  
3 assessment or incarceration costs and the court finds the defendant is  
4 unable to pay all or part of the fine, CIVIL PENALTY, SURCHARGE, fee,  
5 assessment or incarceration costs, the court may order the defendant to  
6 perform community restitution in lieu of the payment for all or part of  
7 the fine, CIVIL PENALTY, SURCHARGE, fee assessment or incarceration  
8 costs. The amount of community restitution shall be equivalent to the  
9 amount of the fine, CIVIL PENALTY, SURCHARGE, fee, ASSESSMENT or  
10 incarceration costs by crediting any service performed at a rate of ten  
11 dollars per hour.

12 Section 8. Enact §13-825

13 13-825. Misdemeanors; community restitution

14 A SENTENCE TO PERFORM COMMUNITY RESTITUTION FOR A MISDEMEANOR SHALL BE  
15 FOR A DEFINITE PERIOD OF TIME TO BE FIXED BY THE COURT.

16 Section 9. Enact §13-826

17 13-826. Misdemeanors; court ordered education or treatment

18 A SENTENCE TO ORDER A PERIOD OF EDUCATION OR TREATMENT PURSUANT TO  
19 SECTION 13-603 SHALL NOT EXCEED THE PERIOD OF PROBATION PERMITTED  
20 PURSUANT TO SECTION 13-901, SUBSECTION A. THE COURT OR THE PROBATION  
21 OFFICER SHALL DETERMINE WHICH PROGRAM THE DEFENDANT ENTERS.

22 Section 10. Enact §13-827

23 13-827. Civil penalties or fines; community restitution; waiver

24 A. A JUDGE MAY WAIVE PART OF ANY CIVIL PENALTY, FINE, SURCHARGE, FEE,  
25 FORFEITURE, ASSESSMENT OR INCARCERATION COST IF THE PAYMENT WOULD WORK  
26 A HARDSHIP ON THE PERSON CONVICTED OR ADJUDICATED OR ON THE PERSON'S  
27 IMMEDIATE FAMILY.

28 B. A JUDGE MAY WAIVE ALL OR PART OF MANDATORY COMMUNITY RESTITUTION DUE  
29 TO THE MEDICAL CONDITION OF THE DEFENDANT.

30 C. IF A PORTION OF THE CIVIL PENALTY, FINE, FORFEITURE, SURCHARGE, FEE,  
31 ASSESSMENT OR INCARCERATION COST IS WAIVED OR SUSPENDED, THE AMOUNT  
32 ASSESSED MUST BE DIVIDED ACCORDING TO THE PROPORTION THAT THE CIVIL  
33 PENALTY, FINE, SURCHARGE, FEE, FORFEITURE, ASSESSMENT AND INCARCERATION  
34 COST REPRESENT TO THE TOTAL AMOUNT DUE.

35 Section 11. Amend §13-924

36 13-924. Probation; earned time credit; applicability

37 A. The court may adjust the period of a probationer's supervised  
38 probation on the recommendation of an adult probation officer for earned  
39 time credit.

1 B. Earned time credit equals twenty days for every thirty days that a  
2 probationer does all of the following:

3 1. Exhibits positive progression toward the goals and treatment of the  
4 probationer's case plan.

5 2. Is current on payments for court ordered restitution ~~and other~~  
6 ~~obligations~~. THE COURT MAY AWARD EARNED TIME CREDIT FOR EACH MONTH THAT  
7 THE PROBATIONER IS CURRENT.

8 3. Is current in completing community restitution. THE COURT MAY AWARD  
9 EARNED TIME CREDIT FOR EACH MONTH THAT THE PROBATIONER IS CURRENT.

10 C. Any earned time credit awarded pursuant to this section shall be  
11 revoked if a probationer is found in violation of a condition of  
12 probation.

13 D. This section does not apply to a probationer who is currently:

14 1. On lifetime probation.

15 2. On probation for any class 2 or 3 felony.

16 3. On probation exclusively for a misdemeanor offense.

17 4. Required to register pursuant to section 13-3821.

18 E. This section has no effect on the ability of the court to terminate  
19 the period of probation or intensive probation pursuant to section 13-  
20 901, subsection E at a time earlier than originally imposed.

21 Section 12. Enact §22-126

22 22-126. Removal of debt from justice of the peace court accounting system  
23 THE JUSTICE OF THE PEACE COURT MAY REMOVE FROM THE COURT'S ACCOUNTING  
24 SYSTEM ALL OR PART OF ANY DEBT DUE TO THE COURT AS PRESCRIBED BY SECTION  
25 13-801 OR 13-802 IF TWENTY YEARS HAS ELAPSED FROM THE DATE OF THE FINE  
26 RESULTING IN THE DEBT AND THE COURT DOES ALL OF THE FOLLOWING:

27 1. NOTIFIES THE PROSECUTOR AND THE DEFENDANT AND THE VICTIM, IF THE THEIR  
28 WHEREABOUTS ARE KNOWN AND WAITS THIRTY DAYS FOR THE EITHER PARTY OR THE  
29 VICTIM TO FILE AN OBJECTION. THE COURT SHALL CONSIDER ANY OBJECTION IN  
30 DETERMINING WHETHER TO REMOVE THE DEBT.

31 2. MAKES REASONABLE ATTEMPTS TO COLLECT THE DEBT, INCLUDING BILLING THE  
32 DEBTOR AT LEAST FOUR TIMES.

33 3. SUBMITS THE DEBT FOR COLLECTION TO A COLLECTION AGENCY LICENSED  
34 PURSUANT TO TITLE 32, CHAPTER 9 AND WAITS AT LEAST ONE YEAR WHILE THE  
35 AGENCY ATTEMPTS COLLECTION.

36 4. NOTIFIES THE DEPARTMENT OF REVENUE OF THE DEBT PURSUANT TO SECTION  
37 42-1122.

38 5. NOTIFIES THE COUNTY TREASURER.

39 Section 13. Enact §22-430

40 22-430. Removal of debt from municipal court accounting system

1 THE MUNICIPAL COURT MAY REMOVE FROM THE COURT'S ACCOUNTING SYSTEM ALL  
2 OR PART OF ANY DEBT DUE TO THE COURT AS PRESCRIBED BY SECTION 13-801 OR  
3 13-802 IF TWENTY YEARS HAS ELAPSED FROM THE DATE OF THE FINE RESULTING  
4 IN THE DEBT AND THE COURT DOES ALL OF THE FOLLOWING:

5 1. NOTIFIES THE PROSECUTOR AND THE DEFENDANT AND THE VICTIM, IF THE THEIR  
6 WHEREABOUTS ARE KNOWN AND WAITS THIRTY DAYS FOR THE EITHER PARTY OR THE  
7 VICTIM TO FILE AN OBJECTION. THE COURT SHALL CONSIDER ANY OBJECTION IN  
8 DETERMINING WHETHER TO REMOVE THE DEBT.

9 2. MAKES REASONABLE ATTEMPTS TO COLLECT THE DEBT, INCLUDING BILLING THE  
10 DEBTOR AT LEAST FOUR TIMES.

11 3. SUBMITS THE DEBT FOR COLLECTION TO A COLLECTION AGENCY LICENSED  
12 PURSUANT TO TITLE 32, CHAPTER 9 AND WAITS AT LEAST ONE YEAR WHILE THE  
13 AGENCY ATTEMPTS COLLECTION.

14 4. NOTIFIES THE DEPARTMENT OF REVENUE OF THE DEBT PURSUANT TO SECTION  
15 42-1122.

16 5. NOTIFIES THE CITY TREASURER.

17 Section 14. Delayed effective date

18 This act is effective from and after December 31, 2017.

8/23/16

## **2017-02: Driving; violations; restricted license; penalties**

*Authorizes specified restrictions be placed on a person's driving privileges in lieu of suspension for certain traffic offenses, reduces sanctions and financial obligations for various violations of Title 28, and permits a judge to waive court-ordered financial obligations related to DUI.*

### **Section 1. §28-603. Driver license or permit; restrictions**

Defines the scope of the restriction placed on a person's driver license as a result of a conviction leaving the scene of an accident, aggressive driving or racing on a highway. Restrictions may include any or all of the following requirements that the person may only drive:

- Between the person's place of employment and residence and during specified periods of time while at employment,
- Between the person's place of residence, the person's place of employment and the person's secondary or postsecondary school according to the person's employment or educational schedule,
- Between the person's place of residence and the office of a physician or other health care professional,
- Between the person's place of residence and a screening, education or treatment facility for scheduled appointments,
- Between the person's place of residence and the office of the person's probation officer for scheduled appointments,
- Between the person's place of residence and a certified ignition interlock device service facility,
- A dependent living with the person to the dependent's employment, secondary or postsecondary school or medical appointment.

### **Section 2. §28-662. Accidents involving damage to vehicle; failure to stop; classification; driver license suspension; alcohol or other drug screening**

Adds the authority for the court to restrict a person's driver license upon conviction for leaving the scene of a damage accident. Current law only provides for suspension of privileges.

### **Section 3. §28-693, Reckless driving to permit suspended license**

Adds the authority for the court to restrict a person's driver license upon conviction for reckless driving. Current law only provides for suspension of privileges.

### **Section 4. §28-695. Aggressive driving; violation; classification; definition**

Adds the authority for the court to restrict a person's driver license upon conviction for aggressive driving. Current law only provides for suspension of privileges.

### **Section 5. §28-708. Racing on highways; classification; exception; definitions**

Adds the authority for the court to direct the Department of Transportation to restrict a person's driver license for racing on the highway. Current law only provides for suspension of privileges.

## **2017-02: Driving; violations; restricted license; penalties**

### **Section 6. §28-857. School bus signs; overtaking and passing school bus; violation; driver license suspension; civil penalty**

Eliminates all existing minimum civil penalties for overtaking a school bus with flashing lights by establishing them instead as maximum penalties. Removes the requirement the court suspend a person's driver license for such a violation and replaces it with the authority to direct the Department of Transportation restrict the person's license instead. Establishes minimum and maximum lengths of time for the restrictions based on the number of violations committed.

### **Section 7. §28-1389. Waiver of fine, surcharge or assessment**

Repeals language prohibiting the court from waiving a fine, assessment, or surcharge imposed for a DUI conviction.

### **Section 8. §28-2322. License plate requirement for nonresident's foreign vehicle**

Reduces the violation for failure to have current registration on an out of state vehicle from a Class 2 misdemeanor to a civil traffic violation.

### **Section 9. §28-2328. Violation; classification**

The Class 2 misdemeanor penalty for certain traffic violations committed by nonresidents is not applicable if another penalty is prescribed by law in the same article (to permit the change to §28-2322).

### **Section 10. §28-2532. Registration; violation; civil penalties**

Reduces the \$50 civil penalty for failure to display current registration on a motor vehicle, trailer, or semitrailer and establishes it instead as the maximum penalty that may be imposed.

### **Section 11. §28-3473. Driving violations on a suspended, canceled, revoked or refused license; classification; restricted privilege to drive**

The Class 1 misdemeanor classification for driving on a suspended license applies only if the person's privilege to drive a motor vehicle is suspended, revoked, canceled or refused as a result of a reckless or aggressive driving, any DUI conviction, or if within a period of 36 months the person commits a second violation of driving on a suspended license. For all other violations of driving on a suspended license, the penalty is reduced from a Class 1 misdemeanor to a civil traffic violation. Allows the Department of Transportation to permit a person with a restricted license transport a dependent living with the person to the dependent's employment, secondary or postsecondary school or medical appointment.

### **Section 12. §28-3480. Operation in violation of restriction; classification**

Modifies the penalty for operating a motor vehicle in violation of the requirement to wear corrective lenses from a Class 2 misdemeanor to a civil sanction.

### **Section 13. §28-3511. Removal and immobilization or impoundment of vehicle; Arizona crime information center database**

Removes the requirement that law enforcement immobilize or impound a vehicle if it is determined that the person is driving on a suspended license. Maintains such action should occur if the person's driver license has been revoked.

## **2017-02: Driving; violations; restricted license; penalties**

### **Section 14. §28-4135. Motor vehicle financial responsibility requirement; civil penalties; evidence at hearing**

Reduces all existing minimum civil penalties for driving without insurance by establishing them instead as maximum penalties. Removes the requirement the court suspend a person's driver license for such a violation and replaces it with the authority to direct the Department of Transportation restrict the person's license.

### **Section 15: Delayed effective date**

Provides a delayed effective date of January 1, 2018

Driving violations; restricted license; penalties

1 Section 1. Enact §13-603

2 28-603. Driver license or permit; restrictions

3 UNLESS OTHERWISE PROVIDED FOR, A RESTRICTION ORDERED ON A PERSON'S DRIVER  
4 LICENSE OR PERMIT TO DRIVE AS A RESULT OF CONVICTION FOR AN OFFENSE  
5 LISTED IN THIS CHAPTER MAY INCLUDE DRIVING FOR ANY OF THE FOLLOWING  
6 PURPOSES:

7 1. BETWEEN THE PERSON'S PLACE OF EMPLOYMENT AND RESIDENCE AND DURING  
8 SPECIFIED PERIODS OF TIME WHILE AT EMPLOYMENT.

9 2. BETWEEN THE PERSON'S PLACE OF RESIDENCE, THE PERSON'S PLACE OF  
10 EMPLOYMENT AND THE PERSON'S SECONDARY OR POSTSECONDARY SCHOOL ACCORDING  
11 TO THE PERSON'S EMPLOYMENT OR EDUCATION SCHEDULE.

12 3. BETWEEN THE PERSON'S PLACE OF RESIDENCE AND THE OFFICE OF A PHYSICIAN  
13 OR OTHER HEALTH CARE PROFESSIONAL.

14 4. BETWEEN THE PERSON'S PLACE OF RESIDENCE AND A SCREENING, EDUCATION  
15 OR TREATMENT FACILITY FOR SCHEDULED APPOINTMENTS.

16 5. BETWEEN THE PERSON'S PLACE OF RESIDENCE AND THE OFFICE OF THE PERSON'S  
17 PROBATION OFFICER FOR SCHEDULED APPOINTMENTS.

18 6. BETWEEN THE PERSON'S PLACE OF RESIDENCE AND A CERTIFIED IGNITION  
19 INTERLOCK DEVICE SERVICE FACILITY.

20 7. TRANSPORTATION OF A DEPENDENT LIVING WITH THE PERSON TO THE  
21 DEPENDANT'S EMPLOYMENT, SECONDARY OR POSTSECONDARY SCHOOL OR MEDICAL  
22 APPOINTMENT.

23 Section 2. Amend §28-662

24 28-662. Accidents involving damage to vehicle; failure to stop;  
25 classification; driver license suspension; alcohol or other drug  
26 screening

27 A. The driver of a vehicle involved in an accident resulting only in  
28 damage to a vehicle that is driven or attended by a person shall:

29 1. Immediately stop the vehicle at the scene of the accident or as close  
30 to the accident scene as possible but shall immediately return to the  
31 accident scene.

32 2. Remain at the scene of the accident until the driver has fulfilled  
33 the requirements of section 28-663.

34 3. Make the stop without obstructing traffic more than is necessary.

35 B. A person failing to stop or comply with this section is guilty of a  
36 class 2 misdemeanor.

37 C. A court may order the department to suspend OR RESTRICT the license  
38 or permit to drive and any nonresident operating privilege of a person  
39 convicted under this section for one year. If reasonable suspicion exists

1 to believe that the person's use of intoxicating liquor, any drug listed  
2 in section 13-3401, a vapor releasing substance containing a toxic  
3 substance or any combination of liquor, drugs or vapor releasing  
4 substances was a contributing factor to the accident, the department may  
5 require the person to complete alcohol or other drug screening as a  
6 condition of license reinstatement.

7 Section 3. Amend §28-693

8 **28-693. Reckless driving; classification; license; surrender**

9 A. A person who drives a vehicle in reckless disregard for the safety  
10 of persons or property is guilty of reckless driving.

11 B. A person convicted of reckless driving is guilty of a class 2  
12 misdemeanor.

13 C. In addition, the judge may require the surrender to a police officer  
14 of any driver license of the convicted person, shall report the  
15 conviction to the department and may order the driving privileges of the  
16 person to be suspended **OR RESTRICTED** for a period of not more than ninety  
17 days. On receipt of the abstract of conviction and order, the department  
18 shall suspend **OR RESTRICT** the driving privilege of the person for the  
19 period of time ordered by the judge.

20 D. If a person who is convicted of a violation of this section has been  
21 previously convicted of a violation of this section, section 13-1102 or  
22 section 13-1103, subsection A, paragraph 1, in the driving of a vehicle,  
23 or section 28-708, 28-1381, 28-1382 or 28-1383 within a period of twenty-  
24 four months:

25 1. The person is guilty of a class 1 misdemeanor.

26 2. The person is not eligible for probation, pardon, suspension of  
27 sentence or release on any basis until the person has served not less  
28 than twenty days in jail.

29 3. The judge may require the surrender to a police officer of any driver  
30 license of the person and shall immediately forward the abstract of  
31 conviction to the department.

32 4. On receipt of the abstract of conviction, the department shall revoke  
33 the driving privilege of the person.

34 E. In applying the twenty-four month period provision of subsection D  
35 of this section, the dates of the commission of the offense shall be the  
36 determining factor, irrespective of the sequence in which the offenses  
37 were committed. A second or subsequent violation for which a conviction  
38 occurs as provided in this section does not include a conviction for an  
39 offense arising out of the same series of acts.

1 F. On pronouncement of a jail sentence under this section, and after the  
2 court receives confirmation that the person is employed or is a student,  
3 the court may provide in the sentence that if the defendant is employed  
4 or is a student the defendant can continue employment or schooling for  
5 not more than twelve hours per day nor more than five days per week. The  
6 defendant shall spend the remaining days or parts of days in jail until  
7 the sentence is served and shall be allowed out of jail only long enough  
8 to complete the defendant's actual hours of employment or schooling.

9 Section 4. Amend §28-695

10 **28-695. Aggressive driving; violation; classification; definition**

11 A. A person commits aggressive driving if both of the following occur:

12 1. During a course of conduct the person commits a violation of either  
13 section 28-701, subsection A or section 28-701.02 and at least two of  
14 the following violations:

15 (a) Failure to obey traffic control devices as provided in section 28-  
16 644.

17 (b) Overtaking and passing another vehicle on the right by driving off  
18 the pavement or main traveled portion of the roadway as provided in  
19 section 28-724.

20 (c) Unsafe lane change as provided in section 28-729.

21 (d) Following a vehicle too closely as provided in section 28-730.

22 (e) Failure to yield the right-of-way as provided in article 9 of this  
23 chapter.

24 2. The person's driving is an immediate hazard to another person or  
25 vehicle.

26 B. A person convicted of aggressive driving is guilty of a class 1  
27 misdemeanor.

28 C. In addition to any other penalty prescribed by law:

29 1. A person convicted of a violation of this section shall attend and  
30 successfully complete approved traffic survival school educational  
31 sessions that are designed to improve the safety and habits of drivers  
32 and that are approved by the department.

33 2. The court shall forward the abstract of conviction to the department  
34 and may order the department to suspend **OR RESTRICT** the person's driving  
35 privilege for thirty days.

36 D. If a person who is convicted of a violation of this section has been  
37 previously convicted of a violation of this section within a period of  
38 twenty-four months:

39 1. The person is guilty of a class 1 misdemeanor.

1 2. In addition to any other penalty prescribed by law, the court shall  
2 forward the abstract of conviction to the department. On receipt of the  
3 abstract of conviction, the department shall revoke the driving privilege  
4 of the person for one year.

5 E. The dates of the commission of the offense determine whether  
6 subsection D of this section applies. A second or subsequent violation  
7 for which a conviction occurs as provided in this section does not  
8 include a conviction for an offense arising out of the same series of  
9 acts.

10 F. For the purposes of this section "course of conduct" means a series  
11 of acts committed during a single, continuous period of driving.

12 Section 5. Amend §28-708

13 28-708. Racing on highways; classification; exception; definitions

14 A. A person shall not drive a vehicle or participate in any manner in a  
15 race, speed competition or contest, drag race or acceleration contest,  
16 test of physical endurance or exhibition of speed or acceleration or for  
17 the purpose of making a speed record on a street or highway.

18 B. A person who violates this section is guilty of a class 1 misdemeanor.  
19 If a person is convicted of a second or subsequent violation of this  
20 section within twenty-four months of a first conviction, the person is  
21 guilty of a class 6 felony and is not eligible for probation, pardon,  
22 suspension of sentence or release on any other basis until the person  
23 has served not less than ten days in jail or prison.

24 C. A person who is convicted of a first violation of this section shall  
25 pay a fine of not less than two hundred fifty dollars and may be ordered  
26 by the court to perform community restitution.

27 D. A person who is convicted of a subsequent violation of this section  
28 shall pay a fine of not less than five hundred dollars and may be ordered  
29 by the court to perform community restitution.

30 E. On pronouncement of a jail sentence under this section and in cases  
31 of extreme hardship, the court may provide in the sentence that if the  
32 defendant is employed or attending school and can continue employment or  
33 school the defendant may continue the employment or school for not more  
34 than twelve hours per day nor more than five days per week, and the  
35 defendant shall spend the remaining days or parts of days in jail until  
36 the sentence is served. The court may allow the defendant to be out of  
37 jail only long enough to complete the defendant's actual hours of  
38 employment or school.

39 F. If a person is convicted of violating this section, the judge may  
40 require the surrender to a police officer of any driver license of the

1 person and immediately forward the abstract of conviction to the  
2 department. On a first conviction, the judge may order the ~~suspension~~  
3 ~~of~~ DEPARTMENT TO SUSPEND OR RESTRICT the driving privileges of the person  
4 for a period of not more than ninety days. In the case of a first  
5 conviction and on receipt of the abstract of conviction and order of the  
6 court, the department shall suspend the driving privileges of the person  
7 for the period of time ordered by the judge. In the case of a second or  
8 subsequent conviction for an offense committed within a period of twenty-  
9 four months and on receipt of the abstract of conviction, the department  
10 shall revoke the driving privileges of the person.

11 G. The director may authorize in writing an organized and properly  
12 controlled event to utilize a highway or part of a highway even though  
13 it is prohibited by this section. The authorization shall specify the  
14 time of the event, the highway or part of a highway to be utilized and  
15 any special conditions the director may require for the particular event.

16 H. For the purposes of this section:

17 1. "Drag race" means either:

18 (a) The operation of two or more vehicles from a point side by side at  
19 accelerating speeds in a competitive attempt to outdistance each other.

20 (b) The operation of one or more vehicles over a common selected course  
21 and from the same point for the purpose of comparing the relative speeds  
22 or power of acceleration of the vehicle or vehicles within a certain  
23 distance or time limit.

24 2. "Racing" means the use of one or more vehicles in an attempt to  
25 outgain or outdistance another vehicle or prevent another vehicle from  
26 passing

27 Section 6. Amend §28-857

28 28-857. School bus signs; overtaking and passing school bus; violation; driver  
29 license suspension; civil penalty

30 A. On meeting or overtaking from either direction a school bus that has stopped  
31 on the highway, the driver of a vehicle on a highway shall:

32 1. Stop the vehicle before reaching the school bus, if the school bus is  
33 displaying the signal as provided in subsection D of this section and if  
34 alternately flashing lights are in use.

35 2. Not proceed until the school bus resumes motion or the signal and alternately  
36 flashing lights are no longer displayed.

37 B. A school bus shall have on the front and rear of the school bus a plainly  
38 visible sign containing the words "school bus" in letters not less than eight  
39 inches in height.

1 C. A school bus operated on a highway shall cover or conceal all markings  
2 indicating "school bus" unless the school bus is operated for the transportation  
3 of children to or from any of the following:  
4 1. School.  
5 2. School sponsored academic activities.  
6 3. School sponsored vocational and technical education.  
7 4. School sponsored athletic trips.  
8 5. School sponsored extracurricular activities.  
9 D. A school bus shall have a signal with the word "stop" printed on both sides  
10 in white letters not less than five inches high on a red background. The signal  
11 shall be an eighteen inch reflectorized octagon. When transporting school  
12 children to or from school or home, the operator of the school bus shall:  
13 1. Manually operate the signal in a manner so that the signal is clearly visible  
14 from both front and rear when extended from the left of the body of the school  
15 bus.  
16 2. Display the signal and alternately flashing lights if passengers are being  
17 received or discharged while the school bus is stopped on the roadway or a  
18 private road or driveway as defined in section 28-601.  
19 E. The driver of a vehicle on a highway with separate roadways need not stop  
20 on meeting or passing a school bus that is:  
21 1. On a different roadway.  
22 2. On a controlled access highway and the school bus is stopped in a loading  
23 zone that is a part of or adjacent to the highway and where pedestrians are  
24 not permitted to cross the roadway.  
25 F. For the purposes of subsection E of this section, a lane or group of lanes  
26 on either side of a two-way left turn lane is not considered a separate roadway.  
27 G. A person who is responsible for a violation of subsection A of this section  
28 is subject to a civil penalty as follows:  
29 1. The court shall impose a **minimum** civil penalty of **NOT MORE THAN** two hundred  
30 fifty dollars for the first violation.  
31 2. If a person violates this section a second time within a period of thirty-  
32 six months, the court shall impose a **minimum** civil penalty of **NOT MORE THAN**  
33 seven hundred fifty dollars and shall direct the department to ~~suspend driver~~  
34 ~~license~~ **RESTRICT THE DRIVING PRIVILEGES** of the person ~~the~~ for **AT LEAST THREE**  
35 **MONTHS BUT** not more than six months.  
36 ~~3~~ 4. If a person violates this section three or more times within a  
37 period of thirty-six months, the court shall impose a **minimum** civil  
38 penalty of **NOT MORE THAN** one thousand dollars and shall direct the  
39 department to suspend the driver license of the person for at least six  
40 months but not more than one year.  
41 Section 7. Amend §28-1387

1 28-1387. Prior convictions; alcohol or other drug screening, education  
2 and treatment; license suspension; supervised probation; civil  
3 liability; procedures

4 A. The court shall allow the allegation of a prior conviction or any  
5 other pending charge of a violation of section 28-1381, 28-1382 or 28-  
6 1383 or an act in another jurisdiction that if committed in this state  
7 would be a violation of section 28-1381, 28-1382 or 28-1383 filed twenty  
8 or more days before the date the case is actually tried and may allow  
9 the allegation of a prior conviction or any other pending charge of a  
10 violation of section 28-1381, 28-1382 or 28-1383 or an act in another  
11 jurisdiction that if committed in this state would be a violation of  
12 section 28-1381, 28-1382 or 28-1383 filed at any time before the date  
13 the case is actually tried if this state makes available to the defendant  
14 when the allegation is filed a copy of any information obtained  
15 concerning the prior conviction or other pending charge. Any conviction  
16 may be used to enhance another conviction irrespective of the dates on  
17 which the offenses occurred within the eighty-four month provision. For  
18 the purposes of this article, an order of a juvenile court adjudicating  
19 a person delinquent is equivalent to a conviction.

20 B. In addition to any other penalties prescribed by law, the judge shall  
21 order a person who is convicted of a violation of section 28-1381, 28-  
22 1382 or 28-1383 to complete alcohol or other drug screening that is  
23 provided by a facility approved by the department of health services,  
24 the United States department of veterans affairs or a probation  
25 department. If a judge determines that the person requires further  
26 alcohol or other drug education or treatment, the person may be required  
27 pursuant to court order to obtain alcohol or other drug education or  
28 treatment under the court's supervision from an approved facility. The  
29 judge may review an education or treatment determination at the request  
30 of the state, the defendant or the probation officer or on the judge's  
31 initiative. The person shall pay the costs of the screening, education  
32 or treatment unless, after considering the person's ability to pay all  
33 or part of the costs, the court waives all or part of the costs. If a  
34 person is referred to a screening, education or treatment facility, the  
35 facility shall report to the court whether the person has successfully  
36 completed the screening, education or treatment program. The court may  
37 accept evidence of a person's completion of alcohol or other drug  
38 screening pursuant to section 28-1445 as sufficient to meet the  
39 requirements of this section or section 28-1381, 28-1382 or 28-1383 or  
40 may order the person to complete additional alcohol or other drug  
41 screening, education or treatment programs. If a person has previously  
42 been ordered to complete an alcohol or other drug screening, education  
43 or treatment program pursuant to this section, the judge shall order the  
44 person to complete an alcohol or other drug screening, education or  
45 treatment program unless the court determines that alternative sanctions  
46 are more appropriate.

1 C. After a person who is sentenced pursuant to section 28-1381,  
2 subsection I has served twenty-four consecutive hours in jail or after  
3 a person who is sentenced pursuant to section 28-1381, subsection K or  
4 section 28-1382, subsection D or E has served forty-eight consecutive  
5 hours in jail and after the court receives confirmation that the person  
6 is employed or is a student, the court shall provide in the sentence  
7 that the defendant, if the defendant is employed or is a student and can  
8 continue the defendant's employment or schooling, may continue the  
9 employment or schooling for not more than twelve hours a day nor more  
10 than six days a week, unless the court finds good cause to not allow the  
11 release and places those findings on the record. The person shall spend  
12 the remaining day, days or parts of days in jail until the sentence is  
13 served and shall be allowed out of jail only long enough to complete the  
14 actual hours of employment or schooling.

15 D. Unless the license of a person convicted under section 28-1381 or 28-  
16 1382 has been or is suspended pursuant to section 28-1321 or 28-1385,  
17 the department on receipt of the abstract of conviction of a violation  
18 of section 28-1381 or 28-1382 shall suspend the license of the affected  
19 person for not less than ninety consecutive days.

20 E. When the department receives notification that the person meets the  
21 criteria provided in section 28-1385, subsection G, the department shall  
22 suspend the driving privileges of the person for not less than thirty  
23 consecutive days and shall restrict the driving privileges of the person  
24 for not less than sixty consecutive additional days to travel between  
25 any of the following:

26 1. The person's place of employment and residence and during specified  
27 periods of time while at employment.

28 2. The person's place of residence and the person's secondary or  
29 postsecondary school, according to the person's employment or  
30 educational schedule.

31 3. The person's place of residence and a screening, education or  
32 treatment facility for scheduled appointments.

33 4. The person's place of residence and the office of the person's  
34 probation officer for scheduled appointments.

35 5. BETWEEN THE PERSON'S PLACE OF RESIDENCE AND THE OFFICE OF A PHYSICIAN  
36 OR OTHER HEALTH CARE PROFESSIONAL.

37 6. BETWEEN THE PERSON'S PLACE OF RESIDENCE AND A CERTIFIED IGNITION  
38 INTERLOCK DEVICE SERVICE FACILITY.

39 7. TRANSPORTATION OF A DEPENDENT LIVING WITH THE PERSON TO THE  
40 DEPENDANT'S EMPLOYMENT, SECONDARY OR POSTSECONDARY SCHOOL OR MEDICAL  
41 APPOINTMENT.

42 F. If a person is placed on probation for violating section 28-1381 or  
43 28-1382, the probation shall be supervised unless the court finds that  
44 supervised probation is not necessary or the court does not have  
45 supervisory probation services.

1 G. Any political subdivision processing or using the services of a person  
2 ordered to perform community restitution pursuant to section 28-1381 or  
3 28-1382 does not incur any civil liability to the person ordered to  
4 perform community restitution as a result of these activities unless the  
5 political subdivision or its agent or employee acts with gross  
6 negligence.

7 ~~H. If a person fails to complete the community restitution ordered~~  
8 ~~pursuant to section 28-1381, subsection K or section 28-1382, subsection~~  
9 ~~E,~~ The court may order alternative sanctions TO COMMUNITY RESTITUTION  
10 ORDERED PURSUANT TO SECTION 28-1381, SUBSECTION K OR SECTION 1382,  
11 SUBSECTION E if the court determines that EDUCATION OR TREATMENT OR OTHER  
12 alternative sanctions are more appropriate.

13 I. Except for another violation of this article, the state shall not  
14 dismiss a charge of violating any provision of this article unless there  
15 is an insufficient legal or factual basis to pursue that charge.

16 Section 8. Repeal §28-1389

17 Section 28-1389 is repealed

18 Section 9. Amend §28-2322

19 28-2322. License plate requirement for nonresident's foreign vehicle

20 A person shall not operate a foreign vehicle owned by a nonresident on  
21 a highway and a nonresident owner shall not knowingly permit the  
22 foreign vehicle to be operated on a highway unless there is displayed  
23 on the vehicle the license plates assigned to the vehicle for the  
24 current registration year by the state or country of which the owner  
25 is a resident. A PERSON WHO VIOLATES THIS SECTION IS SUBJECT TO A  
26 CIVIL TRAFFIC VIOLATION.

27 Section 10. Amend §13-2328.

28 28-2328. Violation; classification

29 UNLESS OTHERWISE PROVIDED FOR IN THIS ARTICLE, A person who violates  
30 this article is guilty of a class 2 misdemeanor.

31 Section 11. Amend §28-2532

32 28-2532. Registration; violation; civil penalties

33 A. Except as provided in subsection B of this section, a person who is  
34 the resident or nonresident owner or operator of a motor vehicle, trailer  
35 or semitrailer that is required by law to be registered in this state  
36 and that is not registered or does not display license plates assigned  
37 by the department for the current registration year and who operates or  
38 knowingly permits the vehicle to be operated on a highway is subject to  
39 a civil penalty of three hundred dollars notwithstanding section 28-  
40 1598.

1 B. On proper presentation of evidence of current registration, a person  
2 who is charged with a violation of subsection A of this section is  
3 subject to a civil penalty of **NOT MORE THAN** fifty dollars.

4 C. A court shall not dismiss an action brought under this section merely  
5 because the defendant has obtained the appropriate license plates or  
6 registration after violating this section. A court may ~~decide not to~~  
7 ~~impose a~~ **WAIVE THE** civil penalty against a defendant for a violation of  
8 this section if the defendant was an operator but was not the owner of  
9 the motor vehicle, trailer or semitrailer.

10 Section 12. Amend §28-3473

11 ~~28-3473. Driving violations on a suspended, canceled, revoked or refused~~  
12 ~~license; classification; restricted privilege to drive~~

13 ~~A. Except as otherwise provided in this subsection, A person who drives~~  
14 ~~**SHALL NOT DRIVE** a motor vehicle on a public highway when the person's~~  
15 ~~privilege to drive a motor vehicle is suspended, revoked, canceled or~~  
16 ~~refused or when the person is disqualified from driving is guilty of a~~  
17 ~~class 1 misdemeanor. If the suspension is pursuant to section 28-1601~~  
18 ~~and the person presents to the court evidence that the person's privilege~~  
19 ~~to drive has been reinstated, the court may dismiss the charge of driving~~  
20 ~~under a suspended driver license.~~

21 B. Except for a suspension pursuant to section 28-1601 or 28-3308, on  
22 receipt of a record of the conviction of a person under this section,  
23 the department shall notify a person who is eligible for a restricted  
24 privilege to drive pursuant to this section that the person is eligible.  
25 The department shall issue a license that restricts the person's  
26 privilege to drive as follows:

27 1. Between the person's place of employment and residence and during  
28 specified periods of time while at employment.

29 2. Between the person's place of residence, the person's place of  
30 employment and the person's secondary or postsecondary school according  
31 to the person's employment or educational schedule.

32 3. Between the person's place of residence and a screening, education  
33 or treatment facility for scheduled appointments.

34 4. Between the person's place of residence and the office of the person's  
35 probation officer for scheduled appointments.

36 5. Between the person's place of residence and the office of a physician  
37 or other health care professional.

38 6. Between the person's place of residence and a certified ignition  
39 interlock device service facility.

1 7. TRANSPORTATION OF A DEPENDENT LIVING WITH THE PERSON TO THE  
2 DEPENDANT'S EMPLOYMENT, SECONDARY OR POSTSECONDARY SCHOOL OR MEDICAL  
3 APPOINTMENT.

4 C. On application, the department shall issue a driver license that  
5 restricts a person's privilege to drive pursuant to subsection B of this  
6 section and that is valid for one year only if all of the following  
7 apply:

8 1. The person has completed all requirements of the sentence imposed by  
9 the court.

10 2. The person has satisfied all suspension periods imposed on the  
11 person's driver license as a result of the conviction of or a finding  
12 of responsibility for a violation of any provision of this title except  
13 this section.

14 3. The person pays the applicable reinstatement fee prescribed by section  
15 28-3002.

16 D. IF THE SUSPENSION IS PURSUANT TO SECTION 28-1601 AND THE PERSON  
17 PRESENTS TO THE COURT EVIDENCE THAT THE PERSON'S PRIVILEGE TO DRIVE HAS  
18 BEEN REINSTATED, THE COURT MAY DISMISS THE COMPLAINT CHARGING A VIOLATION  
19 OF THIS SECTION.

20 E. UNLESS OTHERWISE PROVIDED, A PERSON WHO VIOLATES SUBSECTION A OF THIS  
21 SECTION IS SUBJECT TO A CIVIL PENALTY.

22 F. A PERSON WHO VIOLATES SUBSECTION A OF THIS SECTION IS GUILTY OF A  
23 CLASS 1 MISDEMEANOR IF EITHER:

24 1. THE PERSON'S PRIVILEGE TO DRIVE A MOTOR VEHICLE IS SUSPENDED, REVOKED,  
25 CANCELED OR REFUSED OR WHEN THE PERSON IS DISQUALIFIED FROM DRIVING AS  
26 A RESULT OF A VIOLATION OF AN OFFENSE LISTED IN CHAPTER THREE, ARTICLE  
27 FIVE OR CHAPTER FOUR OF THIS TITLE, OR

28 2. IF WITHIN A PERIOD OF THIRTY SIX MONTHS THE PERSON COMMITS A SECOND  
29 VIOLATION OF THIS SECTION.

30 Section 13. Amend §28-3480

31 ~~28-3480.~~ Operation in violation of restriction; classification

32 A. A person ~~who operates~~ SHALL NOT OPERATE a motor vehicle in violation  
33 of a driver license restriction ~~is guilty of a class 2 misdemeanor.~~

34 B. A PERSON WHO VIOLATES THIS SECTION IF THE RESTRICTION IS DUE TO THE  
35 REQUIRMENT TO WEAR CORRECTIVE LENSES WHILE OPERATING A MOTOR VEHICLE IS  
36 SUBJECT TO A CIVIL SANCTION.

37 C. A PERSON WHO VIOALTES THIS SECTION IF THE RESTRICTION IS FOR ANY OTHER  
38 REASON IS GUILTY OF A CLASS 2 MISDEMEANOR.

39 Section 32. Amend §28-3511

1 28-3511. Removal and immobilization or impoundment of vehicle; Arizona  
2 crime information center database

3 A. A peace officer shall cause the removal and either immobilization or  
4 impoundment of a vehicle if the peace officer determines that:

5 1. A person is driving the vehicle while any of the following applies:

6 (a) Except as otherwise provided in this paragraph, the person's driving  
7 privilege is ~~suspended~~ or revoked for any reason. A peace officer shall  
8 not cause the removal and either immobilization or impoundment of a  
9 vehicle pursuant to this paragraph if the person's privilege to drive  
10 is valid in this state.

11 (b) The person has not ever been issued a valid driver license or permit  
12 by this state and the person does not produce evidence of ever having a  
13 valid driver license or permit issued by another jurisdiction. This  
14 paragraph does not apply to the operation of an implement of husbandry.

15 (c) The person is subject to an ignition interlock device requirement  
16 pursuant to chapter 4 of this title and the person is operating a vehicle  
17 without a functioning certified ignition interlock device. This  
18 paragraph does not apply to the operation of a vehicle due to a  
19 substantial emergency as defined in section 28-1464.

20 (d) In furtherance of the illegal presence of an alien in the United  
21 States and in violation of a criminal offense, the person is transporting  
22 or moving or attempting to transport or move an alien in this state in  
23 a vehicle if the person knows or recklessly disregards the fact that the  
24 alien has come to, has entered or remains in the United States in  
25 violation of law.

26 (e) The person is concealing, harboring or shielding or attempting to  
27 conceal, harbor or shield from detection an alien in this state in a  
28 vehicle if the person knows or recklessly disregards the fact that the  
29 alien has come to, entered or remains in the United States in violation  
30 of law.

31 2. A vehicle is displayed for sale or for transfer of ownership with a  
32 vehicle identification number that has been destroyed, removed, covered,  
33 altered or defaced.

34 B. A peace officer shall cause the removal and impoundment of a vehicle  
35 if the peace officer determines that a person is driving the vehicle and  
36 if all of the following apply:

37 1. The person's driving privilege is canceled, ~~suspended~~ or revoked for  
38 any reason or the person has not ever been issued a driver license or  
39 permit by this state and the person does not produce evidence of ever  
40 having a driver license or permit issued by another jurisdiction.

1 2. The person is not in compliance with the financial responsibility  
2 requirements of chapter 9, article 4 of this title.

3 3. The person is driving a vehicle that is involved in an accident that  
4 results in either property damage or injury to or death of another  
5 person.

6 C. Except as provided in subsection D of this section, while a peace  
7 officer has control of the vehicle the peace officer shall cause the  
8 removal and either immobilization or impoundment of the vehicle if the  
9 peace officer has probable cause to arrest the driver of the vehicle for  
10 a violation of section 4-244, paragraph 34 or section 28-1382 or 28-  
11 1383.

12 D. A peace officer shall not cause the removal and either the  
13 immobilization or impoundment of a vehicle pursuant to subsection C of  
14 this section if all of the following apply:

15 1. The peace officer determines that the vehicle is currently registered  
16 and that the driver or the vehicle is in compliance with the financial  
17 responsibility requirements of chapter 9, article 4 of this title.

18 2. The spouse of the driver is with the driver at the time of the arrest.

19 3. The peace officer has reasonable grounds to believe that the spouse  
20 of the driver:

21 (a) Has a valid driver license.

22 (b) Is not impaired by intoxicating liquor, any drug, a vapor releasing  
23 substance containing a toxic substance or any combination of liquor,  
24 drugs or vapor releasing substances.

25 (c) Does not have any spirituous liquor in the spouse's body if the  
26 spouse is under twenty-one years of age.

27 4. The spouse notifies the peace officer that the spouse will drive the  
28 vehicle from the place of arrest to the driver's home or other place of  
29 safety.

30 5. The spouse drives the vehicle as prescribed by paragraph 4 of this  
31 subsection.

32 E. Except as otherwise provided in this article, a vehicle that is  
33 removed and either immobilized or impounded pursuant to subsection A, B  
34 or C of this section shall be immobilized or impounded for thirty days.  
35 An insurance company does not have a duty to pay any benefits for charges  
36 or fees for immobilization or impoundment.

37 F. The owner of a vehicle that is removed and either immobilized or  
38 impounded pursuant to subsection A, B or C of this section, the spouse  
39 of the owner and each person identified on the department's record with  
40 an interest in the vehicle immediately before the immobilization or

1 impoundment shall be provided with an opportunity for an immobilization  
2 or poststorage hearing pursuant to section 28-3514.

3 G. A law enforcement agency that employs the peace officer who removes  
4 and either immobilizes or impounds a vehicle pursuant to this section  
5 shall enter information about the removal and either immobilization or  
6 impoundment of the vehicle in the Arizona crime information center  
7 database within three business days after the removal and either  
8 immobilization or impoundment.

9 Section 14. Amend §28-4135

10 28-4135. Motor vehicle financial responsibility requirement; civil  
11 penalties; evidence at hearing

12 A. A motor vehicle that is operated on a highway in this state shall be  
13 covered by one of the following:

14 1. A motor vehicle or automobile liability policy that provides limits  
15 not less than those prescribed in section 28-4009.

16 2. An alternate method of coverage as provided in section 28-4076.

17 3. A certificate of self-insurance as prescribed in section 28-4007.

18 4. A policy that satisfies the financial responsibility requirements  
19 prescribed in article 2 of this chapter.

20 B. A person operating a motor vehicle on a highway in this state shall  
21 have evidence within the motor vehicle of current financial  
22 responsibility applicable to the motor vehicle. The evidence may be  
23 displayed on a wireless communication device that is in the motor  
24 vehicle. If a person displays the evidence on a wireless communication  
25 device pursuant to this subsection, the person is not consenting for law  
26 enforcement to access other contents of the wireless communication  
27 device.

28 C. Failure to produce evidence of financial responsibility on the request  
29 of a law enforcement officer investigating a motor vehicle accident or  
30 an alleged violation of a motor vehicle law of this state or a traffic  
31 ordinance of a city or town is a civil traffic violation that is  
32 punishable as prescribed in this section.

33 D. A citation issued for violating subsection B or C of this section  
34 shall be dismissed if the person to whom the citation was issued produces  
35 evidence to the appropriate court officer on or before the date and time  
36 specified on the citation for court appearance and in a manner specified  
37 by the court, including the certification of evidence by mail, of either  
38 of the following:

1 1. The financial responsibility requirements prescribed in this section  
2 were met for the motor vehicle at the date and time the citation was  
3 issued.

4 2. A motor vehicle or automobile liability policy that meets the  
5 financial responsibility requirements of this state and that insured the  
6 person and the motor vehicle the person was operating at the time the  
7 person received the citation regardless of whether or not the motor  
8 vehicle was named in the policy.

9 E. Except as provided in section 28-4137, a person who violates this  
10 section is subject to a civil penalty as follows:

11 1. The court shall impose a ~~minimum~~ civil penalty of **NOT MORE THAN** five  
12 hundred dollars for the first violation. On receipt of the abstract of  
13 the record of judgment, the department shall ~~suspend the driver license~~  
14 **RESTRICT THE DRIVING PRIVILEGES** of the person ~~and the registration and~~  
15 ~~license plates of the motor vehicle involved~~ for three months.

16 2. If a person violates this section a second time within a period of  
17 thirty-six months, the court shall impose a ~~minimum~~ civil penalty of **NOT**  
18 **MORE THAN** seven hundred fifty dollars. On receipt of the abstract of the  
19 record of judgment, the department shall ~~suspend the driver license~~  
20 **RESTRICT THE DRIVING PRIVILEGES** of the person ~~and the registration and~~  
21 ~~license plates of the motor vehicle involved~~ for six months.

22 3. If a person violates this section three or more times within a period  
23 of thirty-six months, the court shall impose a ~~minimum~~-civil penalty of  
24 **NOT MORE THAN** one thousand dollars. On receipt of the abstract of the  
25 record of judgment, the department shall suspend the driver license of  
26 the person and the registration and license plates of the motor vehicle  
27 involved for one year. The department shall require on reinstatement of  
28 the driver license, the registration and the license plates that the  
29 person file with the department proof of financial responsibility in  
30 accordance with article 3 of this chapter.

31 F. A court may require a person to produce an insurance identification  
32 card as evidence in a hearing for a violation of this section.

33 **G. RESTRICTION OF A PERSON'S PRIVILEGE TO DRIVE PURSUANT TO THIS SECTION**  
34 **SHALL BE FOR THE FOLLOWING PURPOSES:**

35 **1. BETWEEN THE PERSON'S PLACE OF EMPLOYMENT AND RESIDENCE AND DURING**  
36 **SPECIFIED PERIODS OF TIME WHILE AT EMPLOYMENT.**

37 **2. BETWEEN THE PERSON'S PLACE OF RESIDENCE, THE PERSON'S PLACE OF**  
38 **EMPLOYMENT AND THE PERSON'S SECONDARY OR POSTSECONDARY SCHOOL ACCORDING**  
39 **TO THE PERSON'S EMPLOYMENT OR EDUCATION SCHEDULE.**

40 **3. BETWEEN THE PERSON'S PLACE OF RESIDENCE AND THE OFFICE OF A PHYSICIAN**  
41 **OR OTHER HEALTH CARE PROFESSIONAL.**

1 4. BETWEEN THE PERSON'S PLACE OF RESIDENCE AND A SCREENING, EDUCATION  
2 OR TREATMENT FACILITY FOR SCHEDULED APPOINTMENTS.

3 5. BETWEEN THE PERSON'S PLACE OF RESIDENCE AND THE OFFICE OF THE PERSON'S  
4 PROBATION OFFICER FOR SCHEDULED APPOINTMENTS.

5 6. BETWEEN THE PERSON'S PLACE OF RESIDENCE AND A CERTIFIED IGNITION  
6 INTERLOCK DEVICE SERVICE FACILITY.

7 7. TRANSPORTATION OF A DEPENDENT LIVING WITH THE PERSON TO THE  
8 DEPENDANT'S EMPLOYMENT, SECONDARY OR POSTSECONDARY SCHOOL OR MEDICAL  
9 APPOINTMENT.

10 Section 15. Delayed effective date

11 This act is effective from and after December 31, 2017.

8/23/16

## **2017-03: Bailable offenses; hearing; schedule**

*Modifies requirements related to bond hearings in superior court and eliminates criminal traffic bond schedules in limited jurisdiction courts.*

### **Section 1. §13-3961. Offenses not bailable; purpose; preconviction; exceptions**

A hearing to determine if a person should be held without bond based upon being a danger to the community may be held on the court's own motion as well as on the motion of the state. Removes the statutory time frames for holding a hearing on the motion (to be addressed by court rule) as well as the requirement the case be placed on an expedited calendar and any trial be given a priority. The filing of a complaint does not add to the strength of the proof or the presumption required by the section to be drawn.

### **Section 2. §22-314. Preparation of fine schedule; collection; civil deposits**

Changes the title of the section. Eliminates the bond schedule for criminal traffic cases that the Justice of the Peace is required to prepare in a municipal court. Retains the requirement that a Justice of the Peace adopt a schedule of civil violations listing a specific deposit for each.

### **Section 17. §22-424. Preparation of fine schedule; collection; civil deposits**

Changes the title of the section. Eliminates the bond schedule for criminal traffic that the presiding judge is required to prepare in a justice of the peace court. Retains the requirement that a presiding judge adopt a schedule of civil violations listing a specific deposit for each.

1 Section 1. Amend §13-3961

2 13-3961. Offenses not bailable; purpose; preconviction; exceptions

3 A. A person who is in custody shall not be admitted to bail if the proof  
4 is evident or the presumption great that the person is guilty of the  
5 offense charged and the offense charged is one of the following:

- 6 1. A capital offense.
- 7 2. Sexual assault.
- 8 3. Sexual conduct with a minor who is under fifteen years of age.
- 9 4. Molestation of a child who is under fifteen years of age.
- 10 5. A serious felony offense if there is probable cause to believe that  
11 the person has entered or remained in the United States illegally. For  
12 the purposes of this paragraph:

13 (a) The court shall consider all of the following in making a  
14 determination that a person has entered or remained in the United States  
15 illegally:

16 (i) Whether a hold has been placed on the arrested person by the United  
17 States immigration and customs enforcement.

18 (ii) Any indication by a law enforcement agency that the person is in  
19 the United States illegally.

20 (iii) Whether an admission by the arrested person has been obtained by  
21 the court or a law enforcement agency that the person has entered or  
22 remained in the United States illegally.

23 (iv) Any information received from a law enforcement agency pursuant to  
24 section 13-3906.

25 (v) Any evidence that the person has recently entered or remained in the  
26 United States illegally.

27 (vi) Any other relevant information that is obtained by the court or  
28 that is presented to the court by a party or any other person.

29 (b) "Serious felony offense" means any class 1, 2, 3 or 4 felony or any  
30 violation of section 28-1383.

31 B. The purposes of bail and any conditions of release that are set by a  
32 judicial officer include:

- 33 1. Assuring the appearance of the accused.
- 34 2. Protecting against the intimidation of witnesses.
- 35 3. Protecting the safety of the victim, any other person or the  
36 community.

37 C. The initial determination of whether an offense is bailable pursuant  
38 to subsection A of this section shall be made by the magistrate or  
39 judicial officer at the time of the person's initial appearance.

1 D. Except as provided in subsection A of this section, a person who is  
2 in custody shall not be admitted to bail if the person is charged with  
3 a felony offense and ~~the state certifies by motion and~~ the court finds  
4 after a hearing ~~on the matter~~ HELD AS A RESULT OF A MOTION FILED BY THE  
5 STATE OR ON THE COURT'S OWN MOTION that there is clear and convincing  
6 evidence that the person charged poses a substantial danger to another  
7 person or the community or THE PERSON IS engaged in conduct constituting  
8 a violent offense, that no condition or combination of conditions of  
9 release may be imposed that will reasonably assure the safety of the  
10 other person or the community and that the proof is evident or the  
11 presumption great that the person committed the offense for which the  
12 person is charged. For the purposes of this subsection, "violent offense"  
13 means either of the following:

- 14 1. A dangerous crime against children.
- 15 2. Terrorism.

16 E. ~~On oral motion of the state,~~ The court shall order the hearing required  
17 by subsection D of this section ~~at or within twenty-four hours of the~~  
18 ~~initial appearance unless the person who is subject to detention or the~~  
19 ~~state moves for a continuance. A continuance that is granted on the~~  
20 ~~motion of the person shall not exceed five calendar days unless there~~  
21 ~~are extenuating circumstances. A continuance on the motion of the state~~  
22 ~~shall be granted on good cause shown and shall not exceed twenty-four~~  
23 ~~hours.~~ The prosecutor shall provide reasonable notice and an opportunity  
24 for victims and witnesses to be present and heard at any hearing. The  
25 person may be detained pending the hearing. The person is entitled to  
26 representation by counsel and is entitled to present information by  
27 proffer or otherwise, to testify and to present witnesses in the person's  
28 own behalf. Testimony of the person charged that is given during the  
29 hearing shall not be admissible on the issue of guilt in any subsequent  
30 judicial proceeding, except as it might relate to the compliance with  
31 or violation of any condition of release subsequently imposed or the  
32 imposition of appropriate sentence or in perjury proceedings, or for the  
33 purposes of impeachment. ~~The case of the person shall be placed on an~~  
34 ~~expedited calendar and, consistent with the sound administration of~~  
35 ~~justice, the person's trial shall be given priority.~~ The person may be  
36 admitted to bail in accordance with the Arizona rules of criminal  
37 procedure whenever a judicial officer finds that a subsequent event has  
38 eliminated the basis for detention.

1 F. The finding of an indictment or the filing of an information **OR**  
2 **COMPLAINT** does not add to the strength of the proof or the presumption  
3 to be drawn.

4 G. In a hearing pursuant to subsection D of this section, proof that the  
5 person is a criminal street gang member may give rise to the inference  
6 that the person poses a substantial danger to another person or the  
7 community and that no condition or combination of conditions of release  
8 may be imposed that will reasonably assure the safety of the other person  
9 or the community.

10 Section 2. Amend §22-314

11 22-314. Release; civil deposit; collection

12 A. The defendant, at any time after arrest and before conviction, shall  
13 be eligible for **bail RELEASE**, subject to section 13-3961 and any  
14 applicable rules adopted by the supreme court.

15 ~~B. The justice of the peace shall:~~

16 ~~1. Prepare or adopt for use a schedule of traffic violations not~~  
17 ~~involving the death of a person, or any felony traffic offense, listing~~  
18 ~~specific bail for each violation.~~

19 ~~2. Permit the collection of bail, or acceptance of proper bond in lieu~~  
20 ~~of bail, in accordance with the foregoing schedule and collect that bail,~~  
21 ~~for and on behalf of the court.~~

22 **C B.** The justice of the peace shall prepare or adopt for use a schedule  
23 of civil traffic violations, listing a specific deposit for each  
24 violation. The justice of the peace shall ensure that proper deposits  
25 for civil traffic violations are accepted for and on behalf of the court.

26 Section 3. Amend §22-424

27 22-424. Release; civil deposit; collection

28 A. The defendant, at any time after arrest, and before conviction, shall  
29 be eligible for **bail RELEASE**, subject to section 13-3961 and any  
30 applicable rules adopted by the supreme court.

31 ~~B. The presiding magistrate shall:~~

32 ~~1. Prepare a schedule of traffic violations not involving the death of~~  
33 ~~a person, or any felony traffic offense, listing specific bail for each~~  
34 ~~violation.~~

35 ~~2. Permit the collection of bail, or acceptance of proper bond in lieu~~  
36 ~~of bail, according to the foregoing schedule for and on behalf of the~~  
37 ~~court.~~

38 **C B.** The presiding magistrate shall prepare a schedule of civil traffic  
39 violations, listing a specific deposit for each violation. The presiding

- 1 magistrate shall ensure that proper deposits for civil traffic violations
  - 2 are accepted for and on behalf of the court.
- 8/22/16

## **2017-04: Competency examination; jurisdiction**

*Provides for increased jurisdiction of limited jurisdiction courts with respect to competency hearings.*

### **Section 14. §13-4503. Request for competency examination**

Allows the presiding judge of the superior court to authorize a justice of the peace court or a municipal court to exercise jurisdiction over competency hearings in that court upon the agreement of both judges.

Competency examination; jurisdiction

1 Section 1. Amend §13-4503

2 **13-4503. Request for competency examination**

3 A. At any time after the prosecutor charges a criminal offense by  
4 complaint, information or indictment, any party or the court on its own  
5 motion may request in writing that the defendant be examined to determine  
6 the defendant's competency to stand trial, to enter a plea or to assist  
7 the defendant's attorney. The motion shall state the facts on which the  
8 mental examination is sought.

9 B. Within three working days after a motion is filed pursuant to this  
10 section, the parties shall provide all available medical and criminal  
11 history records to the court.

12 C. The court may request that a mental health expert assist the court  
13 in determining if reasonable grounds exist for examining a defendant.

14 D. Once any court determines that reasonable grounds exist for further  
15 competency proceedings, **EXCEPT PURSUANT TO SUBSECTION E OF THIS SECTION,**  
16 the superior court shall have exclusive jurisdiction over all competency  
17 hearings.

18 **E. THE PRESIDING JUDGE OF THE SUPERIOR COURT IN EACH COUNTY MAY, WITH**  
19 **AGREEMENT OF THE JUSTICE OF THE PEACE OR MUNICIPAL COURT JUDGE AUTHORIZE**  
20 **A JUSTICE OF THE PEACE COURT OR A MUNICIPAL COURT TO EXERCISE**  
21 **JURISDICTION OVER COMPETENCY HEARINGS IN CASES ARISING OUT OF THAT COURT.**

8/23/16

## 2017-05: Criminal littering; classification

*Reduces the penalty for littering under specified circumstances.*

### **Section 1. §13-1603. Criminal littering or polluting; classification**

Reduces the penalty for criminal littering from a Class 2 misdemeanor to a petty offense if a person throws, places, drops, or permits to be dropped any litter up to 100 lbs or 35 cubic feet that is not immediately removed by the person provided the offense does not occur on or within 50 feet of a highway, beach or shoreline of any body of water used by the public.

Criminal littering; classification

1 Section 1. Amend §13-1603

2 **13-1603. Criminal littering or polluting; classification**

3 A. A person commits criminal littering or polluting if the person without  
4 lawful authority does any of the following:

5 1. Throws, places, drops or permits to be dropped on public property or  
6 property of another that is not a lawful dump any litter, destructive  
7 or injurious material that the person does not immediately remove.

8 2. Discharges or permits to be discharged any sewage, oil products or  
9 other harmful substances into any waters or onto any shorelines within  
10 this state.

11 3. Dumps any earth, soil, stones, ores or minerals on any land.

12 B. Criminal littering or polluting is punishable as follows:

13 1. A class 6 felony if the act is a knowing violation of subsection A  
14 in which the amount of litter or other prohibited material or substance  
15 exceeds three hundred pounds in weight or one hundred cubic feet in  
16 volume or is done in any quantity for a commercial purpose.

17 2. A class 1 misdemeanor if the act is a knowing violation of subsection  
18 A, paragraph 1 in which the amount of litter or prohibited material or  
19 substance is more than one hundred pounds in weight but less than three  
20 hundred pounds in weight or more than thirty-five cubic feet in volume  
21 but less than one hundred cubic feet in volume and is not done for a  
22 commercial purpose.

23 3. A class 1 misdemeanor if the act is not punishable under paragraph 1  
24 of this subsection and involves placing any destructive or injurious  
25 material on or within fifty feet of a highway, beach or shoreline of any  
26 body of water used by the public.

27 4. A class 2 misdemeanor if the act is **IN VIOLATION OF SUBSECTION A,  
28 PARAGRAPH 2 OR 3 AND IS** not punishable under paragraph 1, 2 or 3 of this  
29 subsection.

30 **5. A PETTY OFFENSE IF THE ACT IS IN VIOLATION OF SUBSECTION A, PARAGRAPH  
31 1 AND IS NOT PUNISHABLE UNDER PARAGRAPH 1, 2 OR 3 OF THIS SUBSECTION.**

32 C. If a fine is assessed for a violation of subsection A, paragraph 1  
33 or 2, one hundred per cent of any assessed fine shall be deposited in  
34 the general fund of the county in which the fine was assessed. At least  
35 fifty per cent of the fine shall be used by the county for the purposes  
36 of illegal dumping cleanup.

## **2017-06: Court Security Fund**

*Creates funding mechanisms to allow for funding of courthouse security improvements at the local and state levels.*

### Section 1. 12-305. County law library fund

Expands the authorized use of filing fee monies distributed by a Board of Supervisors to a local law library fund to allow for improvements, maintenance, or enhancements to courthouse security. Current law provides the monies be used only for additions, alternations, and repairs to a courthouse.

### Section 2. 28-3396. Court diversion fee

Redirects any excess defensive driving school court diversion fees not distributed to DPS crime labs from the general fund to a newly established statewide court security fund.

### Section 3. ( TBD ). Statewide Court Security Fund

Creates a new Statewide Court Security Fund and directs the administrative office of the courts to use the monies to meet minimum standards of courthouse security adopted by the Arizona Judicial Council. Monies do not revert to the general fund and are exempt from lapsing.

Courthouse security; funding

1 Section 1. Add §12-114.02

2 **12-114.02. Statewide court security fund**

3 **A. THE STATEWIDE COURT SECURITY FUND IS ESTABLISHED CONSISTING OF COURT**  
4 **DIVERSION FEES DEPOSITED PURSUANT TO SECTION 28-3396. THE**  
5 **ADMINISTRATIVE OFFICE OF THE COURTS SHALL ADMINISTER THE FUND.**

6 **B. MONIES IN THE FUND:**

7 **1. SHALL BE USED TO MEET MINIMUM STANDARDS OF COURTHOUSE SECURITY**  
8 **ADOPTED BY THE ARIZONA JUDICIAL COUNCIL.**

9 **2. DO NOT REVERT TO THE STATE GENERAL FUND.**

10 **3. ARE EXEMPT FROM THE PROVISIONS OF SECTION 35-190 RELATING TO LAPSING**  
11 **OF APPROPRIATIONS**

12 Section 2. Amend §12-305

13 Section 2. **12-305. County law library fund**

14 **A. A county law library fund is established in each county consisting**  
15 **of monies received pursuant to section 12-284.03, subsection A,**  
16 **paragraph 4 and section 41-178.**

17 **B. The county law library fund shall be used for the purposes of**  
18 **enhancing legal research capabilities in the county law library and**  
19 **shall be under the direction of a judge of the superior court in the**  
20 **county. The board of supervisors shall disburse monies from the fund**  
21 **only on the order of the presiding judge of the superior court.**

22 **C. If the balance in the county law library fund exceeds three thousand**  
23 **dollars at the close of the fiscal year, the board of supervisors by**  
24 **resolution adopted by vote of the members, and with the concurrence of**  
25 **the judge of the superior court in the county, may transfer the surplus**  
26 **of the fund in excess of three thousand dollars to a building repair**  
27 **fund. Monies so transferred shall be expended only for additions,**  
28 **alterations and repairs to the courthouse, OR TO IMPROVE, MAINTAIN AND**  
29 **ENHANCE COURTHOUSE SECURITY. The expenditures are subject to title 41,**  
30 **chapter 23.**

31 Section 2: Add §12-307

32 Section 3: Amend §28-3396

33 **28-3396. Court diversion fee**

34 **A. The presiding judge of each court shall:**

35 **1. Set the amount of the court diversion fee that an individual who**  
36 **attends a defensive driving school may be assessed.**

37 **2. Charge an individual a forty-five dollar surcharge if the individual**  
38 **attends a defensive driving school.**

- 1 3. Immediately inform the supreme court in writing of the amount of the  
2 court diversion fee that is established for the court and the total cost  
3 to attend a defensive driving school.
- 4 4. Immediately inform the supreme court in writing of any changes in the  
5 total cost to attend a defensive driving school.
- 6 B. Payment of the court diversion fee and surcharge is in lieu of payment  
7 of a civil penalty or criminal fine and any surcharge that are imposed  
8 for a traffic violation.
- 9 C. The driving school shall collect the court diversion fee and surcharge  
10 before or at the time an individual attends the school. On receipt of  
11 the diversion fee, the defensive driving school shall transmit the fee  
12 promptly to the appropriate court pursuant to procedures prescribed by  
13 the supreme court. On receipt of the surcharge, the defensive driving  
14 school shall transmit the surcharge promptly to the state treasurer for  
15 deposit, pursuant to sections 35-146 and 35-147, as follows:
- 16 1. The first ten million four hundred thousand dollars in revenue  
17 annually in the crime laboratory operations fund established by section  
18 41-1772.
- 19 2. All remaining money in the ~~state general fund~~ STATEWIDE COURT  
20 SECURITY FUND ESTABLISHED BY SECTION 12-114.02.  
21 8/29/16