

# Post-Conviction Actions Task Force Agenda

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Tuesday, May 7, 2018; 10:00 a.m. – 12:00 p.m.  
Conference Room 345 A&B  
State Courts Building, 1501 W. Washington, Phoenix, AZ 85007  
[Post-Conviction Actions Task Force Home Page](#)

| Time*      | Agenda Items  | Presenter  |
|------------|---|--|
| 10:00 a.m. | 1. Welcome and Opening Remarks<br>Approval of Minutes from November 27, 2018<br><input type="checkbox"/> <b>Formal Action/Request</b>                     | <i>Jerry Landau, Chair<br/>AOC Government Affairs<br/>Director</i> |
| 10:15 a.m. | 2. Report on legislative session<br><a href="#">HB2055</a> Juvenile court; jurisdiction<br><a href="#">HB2080</a> Restoration of civil rights             | <i>Jerry Landau</i>  |
| 11:00 a.m. | 3. Review of rules and forms due to passing legislation <ul style="list-style-type: none"><li>• Set Aside</li><li>• Restoration of civil rights</li></ul> | <i>Jerry Landau</i>  |
| 11:30 a.m. | 4. Discuss amendments to set aside statute re: Title 28 offenses (Transportation, Game & Fish)  | <i>Jerry Landau</i>  |
| 11:50 a.m. | 5. Future meetings<br>Good of the Order<br>Call to the public   | <i>Jerry Landau</i>  |
| 12:00 p.m. | 6. Adjournment  |  |

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*\*All times are approximate and subject to change. The committee chair reserves the right to set the order of the agenda. For any item on the agenda, the committee may vote to go into executive session as permitted by Arizona Code of Judicial Administration § 1-202. Please contact Kathy Sekardi, PCATF staff, at (602) 452-3253 or Susan Pickard, PCATF staff, at (602) 452-3252 with any questions concerning this agenda. Any person with a disability may request a reasonable accommodation, such as auxiliary aids or materials in alternative formats, by contacting Sabrina Nash at (602) 452-3849. Requests should be made as early as possible to allow time to arrange the accommodation.*



# Post-Conviction Actions Task Force Minutes

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Tuesday, November 27, 2018

Established by A.O. No. 2018-52

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**Present:** Jerry Landau, Chair; Julie Ahlquist; Kurt Altman; Alex Benezra; Cathy Clarich; Kirstin Flores; Mirisue Galindo; Jeremy Mussman; Aaron Nash; Tom O’Connell; Judge Kathleen Quigley; Lisa Royal; Leonard Ruiz; Judge Keith Russell; Mikel Steinfeld; Kent Volkmer; Kathy Waters

**Appearing Telephonically:** Colleen Clase, Ryan Glover, Judge John Hudson, Judge Margaret McCullough, Judge Sam Myers, Judge Antonio Riojas

**Absent:** Will Gaona, Donald Jacobson, Amber Sliwinski

**Presenters/Guests:** Cheryl Clark, Amy Love, Karen Nielsen, Dea Podysky

**Staff:** Kathy Sekardi; Susan Pickard and Theresa Barrett, Jennifer Greene

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## Welcome and Opening Remarks

With a quorum present, Jerry Landau, Chair, called the meeting to order at 10:08 a.m. and welcomed the members. Kathy Sekardi called the roll. Mr. Landau set forth his goal to adopt final recommendations for presentation to the Arizona Judicial Council

## Minutes

Mr. Landau presented the minutes of the August 20, 2018, meeting of the Task Force for approval.

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| <p><b>Motion:</b> To approve the minutes of the August 20, 2018 meeting by Mikel Steinfeld. <b>Second:</b> Lisa Royal <b>Vote:</b> Passed unanimously.</p> |
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Mr. Landau presented the minutes of the October 17, 2018, meeting of the Task Force for approval.

- The straw poll vote regarding A.R.S. 8-349 on page 11 was corrected to read 12-0.

|   |
|---|
| <p><b>Motion:</b> To approve the minutes of the October 17, 2018 meeting as amended by Mikel Steinfeld. <b>Second:</b> Lisa Royal. <b>Vote:</b> Passed unanimously.</p> |
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## Final Action on Juvenile Adjudication Set Aside Subcommittee

### A.R.S. § 8-348 – Setting Aside Adjudication

Judge Quigley invited subcommittee members in attendance to share additional insight. She described the subcommittee’s discussion regarding whether to recommend the repeal or amendment of §8-348. Citing an abundance of caution, the subcommittee decided not to recommend the repeal of §8-348. Judge Quigley enumerated the recommended amendments.

The Task Force reviewed the proposed legislation by paragraph and made the following changes.

| Subsection | Line | Amendment(s)  |
|------------|------|---|
| A.         | 11   | Sentence should read “The court shall inform the person of this right in writing at the disposition.” |

| Subsection | Line | Amendment(s)  |
|------------|------|---|
| B.         | 16   | Strike “or” after “The person.”   |
| C.         |      | <b>Issue:</b> It was expressed that set aside should not be granted if victim restitution is not paid in full. The <b>consensus</b> of the members was to approve paragraph C.4. as proposed by the subcommittee.   |
| D-H.       |      | No change.  |
| I.         | 33   | I.2. should read “An offense for which the person is currently required to register pursuant to 13-3821.”   |
|            | 38   | <b>Issue:</b> 1.4. DUI priors should not be deleted. The <b>consensus</b> of the members was to remove the strike out and amend I.4. to read, “4. An offense in violation of section 28-1381, 28-1382 or 28-1383 if the offense can be alleged as a prior violation pursuant to title 28, chapter 4.” |
|            | 41   | Add new I.5. that reads “An offense in violation of section 28-3473.”   |

**Motion:** To recommend to AJC §8-348 as amended by Alex Benezra. **Second:** Mikel Steinfeld **Vote:** Passed 20-1-0

### A.R.S. § 8-349 – Destruction of juvenile records

Judge Quigley summarized the subcommittee’s discussion regarding remaining with destruction as opposed to sealing juvenile records. The issue with sealing is it creates access to records that were previously unattainable/destroyed. The subcommittee members have agreed to continue to discuss sealing, the benefits to the juvenile, and necessary access protections for possible submission next year. Judge Quigley provided an overview of the subcommittee’s amendments.

**Issues noted:**

- Destroying records for juveniles who completed diversion.
- Destruction of record, restoration of right to possess a firearm, and age of person when destruction can be requested.

| Subsection | Line     | Amendment(s)  |
|------------|----------|---|
| A.         | 11       | <b>Action Item:</b> The task force suggested that the subcommittee consider limiting the subsections of section 13-501 to A and select part of B.   |
| B.         |          | No change.  |
| C.         | 24<br>25 | Add periods at the end of list items.   |
| D-E.       |          | No change.  |
| F.         | 35       | The task force discussed the age at which records should be destroyed considering the restoration of right to possess a firearm pursuant to 13-912.01(c) while reflecting upon 13-501A or B felonies but not misdemeanors and contemplating the record retention and destruction schedule for courts of general jurisdiction. |

**Subsection Line Amendment(s)**

**Action Item:** Amy Love asked to draft and circulate language such as “. . . 22 years of age except that a person cannot apply until age 30 if adjudicated for . . . (with list of specific offenses)”

- G-I. Except a discussion regarding the impact on receipt of monetary obligations when destroying rather than sealing records, no change.
- J 33 Strike “owed by the person.”
- K No change.
- J 38 Change “clerk of the court” to “clerk of the superior court” to further clarify.
- M-N. No change.

**Motion:** To recommend to AJC §8-349 as amended with language to be developed by Amy Love regarding the age of 30 exception by Jeremy Mussman. **Second:** Kathy Waters **Vote:** Passed unanimously.

Mr. Landau and Judge Quigley thanked all involved with the subcommittee recommendations.

### Call to the Public

Mr. Landau made the first call to the public at 12:00 p.m. Cheryl Clark spoke.

### Final Action on Automatic Restoration of Civil Rights

After discussing court processes and procedures regarding victim restitution and monetary obligation payments including civil and criminal restitution orders and property liens, the members discussed two versions of proposed amendments to A.R.S. §§ 13-906 through 13-910.

#### A.R.S. §§ 13-906 to 13-910

The first version, dated 11-20-18 11:34 p.m., contemplates automatic restoration of the rights to vote, hold public office of trust or profit and serve as a juror upon final discharge. The drafter, after discussions with stakeholders, is willing to amend § 13-906(B) to require full payment of victim restitution before automatic restoration of civil rights.

The second version, dated 9-17-18 1:43 a.m., limits automatic restoration of civil rights to a first felony offense, and offers restoration of rights for a second or subsequent conviction on application and at the discretion of the court.

#### Issues:

- The requirement of victim restitution being paid in full and the impact on those who have been ordered to pay an amount of victim restitution that the person may never be able to pay in full results in disparate treatment of the poor.
- The **consensus** of the members was to move forward with the version dated 11-20-18 11:34 p.m. with requirement of victim restitution be paid in full.
- This is a policy change that may be best brought by other entities.

The members considered three recommendations:

1. Clean up - Recommend that AJC include in the judicial branch legislative package a proposal that maintains the status quo regarding restoration of civil rights and includes clarifying amendments that make the statutes more understandable.

2. Broader/AJC - Recommend that AJC include in the judicial branch legislative package a proposal that includes statutory amendments that would allow for automatic restoration of civil rights in all cases, predicated on: 1. victim restitution being paid in full, and 2. the person having received a final discharge, with the ability of the court to order restoration even if victim restitution is not paid in full.
3. Broader/Coalition - Recommend that AJC work with other entities to recommend that the legislative vote to change the law and allow for automatic restoration of civil rights for all felons.

**Straw Poll:**

To recommend that only recommendation 1 above be presented to AJC. – Passed 18-2-1

**Motion:** To recommend that AJC include in the judicial branch legislative package a proposal that includes statutory amendments that would allow for automatic restoration of civil rights in all cases, predicated on: 1. victim restitution being paid in full, and 2. the person having received a final discharge, with the ability of the court to order restoration even if victim restitution is not paid in full.

**Vote:** Passed 11-9-0

Amendments to the version, dated 11-20-18 11:34 p.m. were completed during the meeting. The members authorized Mr. Landau to make any reorganization or renumbering needed post-meeting.

The **consensus** of the members was that if AJC does not desire to move forward on the automatic restoration, the clean-up version will be offered as an alternative.

### Discuss Setting Aside Convictions Where a Case Record Has Been Purged

Cathy Clarich notified the members that the timelines provided in §8-349 for destruction of record, §8-348 adjudication set aside, and those found in the record retention and destruction schedule are in conflict. As members have noted, a judge cannot make an order to set aside a record that does not exist due to destruction or purge practices.

**Action Item:** Ms. Clarich was asked to present this issue to the members of the Committee on Limited Jurisdiction Courts at their next meeting.

### Good of the Order/Call to the Public

Mr. Landau made the second call to the public at 2:45. No comment was made.

### Adjournment

The meeting adjourned at 2:50 p.m.

### Next Meeting:

The PCA-Juvenile Adjudication Set Aside Subcommittee will meet in late January to address destruction versus sealing, and provisions §13-501. A meeting will be scheduled for the Task Force when the subcommittee is ready to bring further recommendations forward.

State of Arizona  
House of Representatives  
Fifty-fourth Legislature  
First Regular Session  
2019

**CHAPTER 125**  
**HOUSE BILL 2055**

AN ACT

AMENDING SECTIONS 8-202, 8-348 AND 8-349, ARIZONA REVISED STATUTES;  
RELATING TO JUVENILE COURT.

(TEXT OF BILL BEGINS ON NEXT PAGE)

1 Be it enacted by the Legislature of the State of Arizona:  
2 Section 1. Section 8-202, Arizona Revised Statutes, is amended to  
3 read:  
4 8-202. Jurisdiction of juvenile court  
5 A. The juvenile court has original jurisdiction over all  
6 delinquency proceedings brought under the authority of this title.  
7 B. The juvenile court has exclusive original jurisdiction over all  
8 proceedings brought under the authority of this title except for  
9 delinquency proceedings.  
10 C. The juvenile court may consolidate any matter, except that the  
11 juvenile court shall not consolidate any of the following:  
12 1. A criminal proceeding that is filed in another division of  
13 superior court and that involves a child who is subject to the  
14 jurisdiction of the juvenile court.  
15 2. A delinquency proceeding with any other proceeding that does not  
16 involve delinquency, unless the juvenile delinquency adjudication  
17 proceeding is not heard at the same time or in the same hearing as a  
18 nondelinquency proceeding.  
19 D. The juvenile court has jurisdiction of proceedings to:  
20 1. Obtain judicial consent to the marriage, employment or  
21 enlistment in the armed services of a child, if consent is required by  
22 law.  
23 2. In an action in which parental rights are terminated pursuant to  
24 chapter 4, article 5 or 11 of this title, change the name of a minor child  
25 who is the subject of the action. If the minor child who is the subject  
26 of the action is twelve years of age or older, the court shall consider  
27 the wishes of the child with respect to the name change.  
28 E. The juvenile court has jurisdiction over both civil traffic  
29 violations and offenses listed in section 8-323, subsection B that are  
30 committed within the county by persons who are under eighteen years of age  
31 unless the presiding judge of the county declines jurisdiction of these  
32 cases. The presiding judge of the county may decline jurisdiction of  
33 civil traffic violations committed within the county by juveniles if the  
34 presiding judge finds that the declination would promote the more  
35 efficient use of limited judicial and law enforcement resources located  
36 within the county. If the presiding judge declines jurisdiction, juvenile  
37 civil traffic violations shall be processed, heard and disposed of in the  
38 same manner and with the same penalties as adult civil traffic violations.  
39 F. The orders of the juvenile court under the authority of this  
40 chapter or chapter 3 or 4 of this title take precedence over any order of  
41 any other court of this state except the court of appeals and the supreme  
42 court to the extent that they are inconsistent with orders of other  
43 courts.

1 G. Except as provided in subsection H of this section, jurisdiction  
2 of a child that is obtained by the juvenile court in a proceeding under  
3 this chapter or chapter 3 or 4 of this title shall be retained by it, for  
4 the purposes of implementing the orders made and filed in that proceeding,  
5 until the child becomes eighteen years of age, unless terminated by order  
6 of the court before the child's eighteenth birthday.

7 H. If the state files a notice of intent to retain jurisdiction  
8 when proceedings are commenced pursuant to section 8-301, paragraph 1 or  
9 2, the court shall retain jurisdiction over a juvenile who is at least  
10 seventeen years of age and who has been adjudicated a delinquent juvenile  
11 until the juvenile reaches nineteen years of age, unless before the  
12 juvenile's nineteenth birthday either:

13 1. Jurisdiction is terminated by order of the court.

14 2. The juvenile is discharged from the jurisdiction of the  
15 department of juvenile corrections pursuant to section 41-2820.

16 I. Persons who are under eighteen years of age shall be prosecuted  
17 in the same manner as adults if either:

18 1. The juvenile court transfers jurisdiction pursuant to section  
19 8-327.

20 2. The juvenile is charged as an adult with an offense listed in  
21 section 13-501.

22 J. THE JUVENILE COURT SHALL RETAIN JURISDICTION AFTER A JUVENILE'S  
23 EIGHTEENTH BIRTHDAY FOR THE PURPOSE OF DESIGNATING AN UNDESIGNATED FELONY  
24 OFFENSE AS A MISDEMEANOR OR FELONY, INCLUDING AFTER AN ADJUDICATION IS SET  
25 ASIDE PURSUANT TO SECTION 8-348.

26 Sec. 2. Section 8-348, Arizona Revised Statutes, is amended to  
27 read:

28 8-348. Setting aside adjudication; application; release from  
29 disabilities; exceptions

30 A. Except as provided in ~~subsections C and D~~ SUBSECTION I of this  
31 section, a person who is at least eighteen years of age, who has been  
32 adjudicated delinquent or incorrigible and who has fulfilled the  
33 conditions of probation and discharge ordered by the court or who is  
34 discharged from the department of juvenile corrections pursuant to section  
35 41-2820 on successful completion of the individual treatment plan may  
36 apply to the juvenile court to set aside the adjudication. The court ~~or~~  
37 ~~the department of juvenile corrections~~ shall inform the person of this  
38 right IN WRITING at the time ~~the person is discharged~~ OF THE DISPOSITION  
39 OF THE CASE.

40 B. The person or, ~~if authorized in writing,~~ the person's attorney,  
41 probation officer or parole officer may apply to set aside the  
42 adjudication. ~~A copy of the application shall be served on the~~  
43 ~~prosecutor.~~ THE CLERK OF THE COURT MAY NOT CHARGE A FILING FEE FOR AN  
44 APPLICATION TO SET ASIDE AN ADJUDICATION. THE CLERK SHALL TRANSMIT A COPY

1 OF THE APPLICATION TO THE COUNTY ATTORNEY IN THE COUNTY WHERE THE REFERRAL  
2 WAS MADE.

3 C. THE COURT MAY CONSIDER THE FOLLOWING FACTORS WHEN DETERMINING  
4 WHETHER TO SET ASIDE AN ADJUDICATION:

5 1. THE NATURE AND CIRCUMSTANCES OF THE OFFENSE ON WHICH THE  
6 ADJUDICATION IS BASED.

7 2. WHETHER THE PERSON HAS BEEN CONVICTED OF A FELONY OFFENSE.

8 3. WHETHER THE PERSON HAS ANY PENDING CRIMINAL CHARGES.

9 4. THE VICTIM'S INPUT.

10 5. ANY OTHER FACTOR THAT IS RELEVANT TO THE APPLICATION.

11 ~~B.~~ D. EXCEPT AS PROVIDED IN SUBSECTION F OF THIS SECTION, if the  
12 court grants the application, the court shall set aside the adjudication,  
13 DISMISS THE PETITION and shall order that the person be released from all  
14 penalties and disabilities resulting from the adjudication except those  
15 imposed by the department of transportation pursuant to section 28-3304,  
16 28-3306, 28-3307, or 28-3308 OR 28-3319. ~~Regardless of whether the court  
17 sets aside the adjudication, the adjudication may be used for any purpose  
18 as provided in section 8-207 or 13-501 and the department of  
19 transportation may use the adjudication for the purposes of enforcing the  
20 provisions of section 28-3304, 28-3306, 28-3307 or 28-3308 as if the  
21 adjudication had not been set aside.~~

22 ~~C. A person may not apply to set aside the adjudication if the  
23 person either:~~

24 ~~1. Has been convicted of a criminal offense.~~

25 ~~2. Has a criminal charge pending.~~

26 ~~3. Has not successfully completed all of the terms and conditions  
27 of probation or been discharged from the department of juvenile  
28 corrections pursuant to section 41-2820 on successful completion of the  
29 individual treatment plan.~~

30 ~~4. Has not paid in full all restitution and monetary assessments.~~

31 E. ON A SHOWING OF GOOD CAUSE, THE COURT MAY MODIFY ANY MONETARY  
32 OBLIGATION THAT IS OWED BY THE PERSON EXCEPT FOR VICTIM RESTITUTION.

33 F. IF THE COURT GRANTS AN APPLICATION, ANY REMAINING UNPAID  
34 MONETARY OBLIGATION CONTINUES TO BE OWED AND IS SUBJECT TO THE REMEDIES  
35 INCLUDED IN SECTIONS 8-344 AND 8-345 UNTIL THE MONETARY OBLIGATION IS  
36 PAID.

37 G. IF THE COURT DENIES AN APPLICATION, THE COURT SHALL STATE ITS  
38 REASONS FOR THE DENIAL IN WRITING.

39 H. IF A VICTIM HAS MADE A REQUEST FOR POST ADJUDICATION NOTICE, THE  
40 VICTIM HAS THE RIGHT TO BE PRESENT AND HEARD AT ANY HEARING ON THE  
41 APPLICATION. THE STATE SHALL PROVIDE THE VICTIM WITH NOTICE OF THE  
42 APPLICATION AND OF THE RIGHTS PROVIDED TO THE VICTIM IN THIS SECTION.

43 ~~B.~~ I. This section does not apply to a person who was adjudicated  
44 delinquent for any of the following:

- 1           1. ~~Am~~ A DANGEROUS offense ~~involving the infliction of serious~~  
2 ~~physical injury~~ as defined in section 13-105.
- 3           ~~2. An offense involving the use or exhibition of a deadly weapon or~~  
4 ~~dangerous instrument as defined in section 13-105.~~
- 5           2. AN OFFENSE FOR WHICH THERE HAS BEEN A FINDING OF SEXUAL  
6 MOTIVATION PURSUANT TO SECTION 13-118.
- 7           3. An offense in violation of title 13, chapter 14.
- 8           4. An offense in violation of section 28-1381, 28-1382, ~~OR 28-1383~~  
9 ~~OR 28-3473~~ IF THE OFFENSE CAN BE ALLEGED AS A PRIOR VIOLATION PURSUANT TO  
10 TITLE 28, CHAPTER 4.
- 11           ~~5. A civil traffic violation under title 28, chapter 3.~~
- 12           5. AN OFFENSE FOR WHICH THE PERSON HAS NOT PAID IN FULL THE VICTIM  
13 RESTITUTION ORDERED BY THE COURT.
- 14           Sec. 3. Section 8-349, Arizona Revised Statutes, is amended to  
15 read:
- 16           8-349. Destruction of juvenile records; electronic research  
17 records; definition
- 18           A. A person who IS AT LEAST EIGHTEEN YEARS OF AGE AND WHO has been  
19 ~~referred to juvenile court~~ ADJUDICATED DELINQUENT OR INCORRIGIBLE may  
20 apply for destruction of the person's juvenile court and department of  
21 juvenile corrections records.
- 22           ~~B. if the records concern a referral or citation that did not~~  
23 ~~result in further action or that resulted in diversion, placement in a~~  
24 ~~community based alternative program or INVOLVE~~ an adjudication for an  
25 offense other than an offense listed in section 13-501, subsection A or B  
26 or title 28, chapter 4. ~~the person shall file an application with the~~  
27 ~~juvenile court and shall serve a copy of the application on the county~~  
28 ~~attorney in the county in which the referral was made. The person shall~~  
29 ~~certify under oath that all of the following apply:~~
- 30           B. THE PERSON SHALL ATTEST TO ALL OF THE FOLLOWING IN THE  
31 APPLICATION:
- 32           1. The person is at least eighteen years of age.
- 33           2. The person has not been convicted of a felony offense or  
34 adjudicated delinquent for an offense that would be an offense listed in  
35 section 13-501, subsection A or B or title 28, chapter 4.
- 36           3. A criminal charge is not pending.
- 37           4. The person has ~~successfully~~ completed all of the terms and  
38 conditions of ~~court ordered~~ COURT-ORDERED probation or been discharged  
39 from the department of juvenile corrections pursuant to section 41-2820 on  
40 successful completion of the ~~individualized~~ INDIVIDUAL treatment plan.
- 41           5. All restitution ~~and monetary assessments have been~~ IS paid in  
42 full.
- 43           6. THE PERSON IS NOT UNDER THE JURISDICTION OF THE JUVENILE COURT  
44 OR THE DEPARTMENT OF JUVENILE CORRECTIONS.

1           7. THE PERSON IS NOT CURRENTLY REQUIRED TO REGISTER PURSUANT TO  
2 SECTION 13-3821.

3           8. THE PERSON HAS EITHER PAID ALL MONETARY OBLIGATIONS IN FULL OR  
4 HAS REQUESTED THE COURT TO MODIFY THE OUTSTANDING MONETARY OBLIGATIONS  
5 PURSUANT TO SUBSECTION K OF THIS SECTION.

6           C. The juvenile court may order the destruction of records under  
7 subsection ~~B~~ A of this section if the court finds all of the following:

- 8           1. The person is at least eighteen years of age.
- 9           2. The person has not been convicted of a felony offense.
- 10          3. A criminal charge is not pending.
- 11          4. The person was not adjudicated for an offense listed in section  
12 13-501, subsection A or B or title 28, chapter 4.

13          5. The person successfully completed ~~all~~ of the terms and  
14 conditions of probation or was discharged from the department of juvenile  
15 corrections pursuant to section 41-2820 on successful completion of the  
16 ~~individualized~~ INDIVIDUAL treatment plan.

17          6. All restitution ~~and monetary assessments have been~~ IS paid in  
18 full.

19          ~~7. The destruction of the records is in the interests of justice.~~

20          ~~8. The destruction of the records would further the rehabilitative  
21 process of the applicant.~~

22          7. ALL MONETARY OBLIGATIONS ARE EITHER PAID IN FULL OR HAVE BEEN  
23 MODIFIED PURSUANT TO SUBSECTION K OF THIS SECTION.

24          8. THE PERSON IS NOT UNDER THE JURISDICTION OF THE JUVENILE COURT  
25 OR THE DEPARTMENT OF JUVENILE CORRECTIONS.

26          9. THE PERSON IS NOT CURRENTLY REQUIRED TO REGISTER PURSUANT TO  
27 SECTION 13-3821.

28          ~~B. If the records concern a referral that resulted in an  
29 adjudication of delinquency for an offense not subject to subsection B of  
30 this section the person shall file the application with the juvenile court  
31 and shall serve a copy of the application on the county attorney in the  
32 county in which the referral was made.~~

33          D. A PERSON WHO IS NOT ELIGIBLE TO HAVE THE PERSON'S RECORDS  
34 DESTROYED PURSUANT TO SUBSECTION A OF THIS SECTION MAY APPLY TO HAVE THE  
35 PERSON'S JUVENILE COURT AND DEPARTMENT OF JUVENILE CORRECTIONS RECORDS  
36 DESTROYED PURSUANT TO SUBSECTION E OF THIS SECTION. The person shall  
37 ~~certify under oath that~~ ATTEST TO all of the following ~~apply~~ IN AN  
38 APPLICATION:

- 39          1. The person is at least twenty-five years of age.
- 40          2. The person has not been convicted of a felony offense.
- 41          3. A criminal charge is not pending.

42          ~~4. The person has successfully completed all of the terms and  
43 conditions of court ordered probation or been discharged from the  
44 department of juvenile corrections pursuant to section 41-2820 on  
45 successful completion of the individualized treatment plan.~~

1           ~~5.~~ 4. All restitution ~~and monetary assessments have been~~ IS paid  
2 in full.

3           5. THE PERSON HAS EITHER PAID ALL MONETARY OBLIGATIONS IN FULL OR  
4 HAS REQUESTED THE COURT TO MODIFY THE OUTSTANDING MONETARY OBLIGATIONS  
5 PURSUANT TO SUBSECTION K OF THIS SECTION.

6           6. THE PERSON IS NOT CURRENTLY REQUIRED TO REGISTER PURSUANT TO  
7 SECTION 13-3821.

8           E. The juvenile court may order the destruction of records ~~under~~  
9 ~~subsection D of this section~~ if the ~~county attorney does not object within~~  
10 ~~ninety days after the date of the notice and the~~ court finds that all of  
11 the following apply TO A PERSON WHO FILES AN APPLICATION PURSUANT TO  
12 SUBSECTION D OF THIS SECTION:

- 13           1. The person is at least twenty-five years of age.
- 14           2. The person has not been convicted of a felony offense.
- 15           3. A criminal charge is not pending.

16           ~~4. The person has successfully completed all of the terms and~~  
17 ~~conditions of probation, including the payment of all restitution, or been~~  
18 ~~discharged from the department of juvenile corrections pursuant to section~~  
19 ~~41-2820 on successful completion of the individualized treatment plan.~~

20           ~~5.~~ 4. All restitution ~~and monetary assessments have been~~ IS paid  
21 in full.

22           ~~6. The destruction of the records would be in the interests of~~  
23 ~~justice.~~

24           5. ALL MONETARY OBLIGATIONS ARE EITHER PAID IN FULL OR HAVE BEEN  
25 MODIFIED PURSUANT TO SUBSECTION K OF THIS SECTION.

26           6. THE PERSON IS NOT CURRENTLY REQUIRED TO REGISTER PURSUANT TO  
27 SECTION 13-3821.

28           7. The destruction of the records would further the rehabilitative  
29 process of the applicant.

30           F. The juvenile court and the department of juvenile corrections  
31 may store any records for research purposes.

32           G. AT THE JUVENILE'S DISPOSITION HEARING, THE COURT SHALL INFORM  
33 THE JUVENILE, IN WRITING, OF THE RIGHT TO THE DESTRUCTION OF THE  
34 JUVENILE'S COURT AND DEPARTMENT OF JUVENILE CORRECTIONS RECORDS.

35           H. THE CLERK OF THE COURT MAY NOT CHARGE A FILING FEE FOR THE  
36 APPLICATION TO DESTROY JUVENILE RECORDS.

37           I. THE CLERK OF THE COURT SHALL TRANSMIT A COPY OF AN APPLICATION  
38 SUBMITTED PURSUANT TO THIS SECTION TO THE COUNTY ATTORNEY IN THE COUNTY IN  
39 WHICH THE REFERRAL WAS MADE.

40           J. THE COUNTY ATTORNEY MAY FILE AN OBJECTION TO AN APPLICATION THAT  
41 IS SUBMITTED PURSUANT TO THIS SECTION FOR THE DESTRUCTION OF RECORDS.

42           K. ON A SHOWING OF GOOD CAUSE, THE COURT MAY MODIFY ANY MONETARY  
43 OBLIGATION EXCEPT FOR VICTIM RESTITUTION.

1           L. THE JUVENILE COURT, THE CLERK OF THE SUPERIOR COURT AND THE  
2 JUVENILE PROBATION DEPARTMENT, ON NOTIFICATION BY THE PROBATION  
3 DEPARTMENT, SHALL DESTROY THE RECORDS THAT CONCERN A REFERRAL OR CITATION  
4 THAT DID NOT RESULT IN FURTHER ACTION OR THAT RESULTED IN A SUCCESSFUL  
5 COMPLETION OF DIVERSION WITHIN NINETY DAYS AFTER THE PERSON WHO WAS THE  
6 SUBJECT OF THE REFERRAL OR CITATION REACHES EIGHTEEN YEARS OF AGE. THE  
7 PROBATION DEPARTMENT SHALL SEND A COPY OF THE NOTICE TO THE DEPARTMENT OF  
8 PUBLIC SAFETY CENTRAL STATE REPOSITORY.

9           M. WITHIN SIX MONTHS AFTER RECEIVING A NOTIFICATION FROM THE  
10 SUPERIOR COURT THAT A PERSON'S JUVENILE DELINQUENCY OR INCORRIGIBILITY  
11 RECORDS WERE DESTROYED, THE DEPARTMENT OF CHILD SAFETY SHALL DESTROY ALL  
12 COURT, JUVENILE PROBATION AND DEPARTMENT OF JUVENILE CORRECTIONS RECORDS  
13 THAT ARE IN THE DEPARTMENT OF CHILD SAFETY'S POSSESSION AND THAT WERE  
14 PRODUCED IN THE DELINQUENCY OR INCORRIGIBILITY MATTER.

15           N. FOR THE PURPOSES OF THIS SECTION, "SUCCESSFULLY" MEANS, IN THE  
16 DISCRETION OF THE COURT, THE PERSON SATISFIED THE CONDITIONS OF PROBATION.

APPROVED BY THE GOVERNOR APRIL 24, 2019.

FILED IN THE OFFICE OF THE SECRETARY OF STATE APRIL 24, 2019.

State of Arizona  
House of Representatives  
Fifty-fourth Legislature  
First Regular Session  
2019

**CHAPTER 149**  
**HOUSE BILL 2080**

AN ACT

PROVIDING FOR TRANSFERRING AND RENUMBERING; AMENDING SECTION 8-249, ARIZONA REVISED STATUTES, AS TRANSFERRED AND RENUMBERED; AMENDING SECTION 13-904, ARIZONA REVISED STATUTES; REPEALING SECTION 13-905, ARIZONA REVISED STATUTES; AMENDING SECTION 13-905, ARIZONA REVISED STATUTES, AS RENUMBERED; REPEALING SECTION 13-906, ARIZONA REVISED STATUTES; AMENDING TITLE 13, CHAPTER 9, ARIZONA REVISED STATUTES, BY ADDING A NEW SECTION 13-906; AMENDING SECTION 13-907, ARIZONA REVISED STATUTES, AS RENUMBERED; REPEALING SECTION 13-908, ARIZONA REVISED STATUTES; AMENDING TITLE 13, CHAPTER 9, ARIZONA REVISED STATUTES, BY ADDING A NEW SECTION 13-908; REPEALING SECTIONS 13-909 AND 13-910, ARIZONA REVISED STATUTES; AMENDING TITLE 13, CHAPTER 9, ARIZONA REVISED STATUTES, BY ADDING A NEW SECTION 13-910; REPEALING SECTION 13-911, ARIZONA REVISED STATUTES; AMENDING SECTIONS 13-2604, 13-3101 AND 16-1011, ARIZONA REVISED STATUTES; RELATING TO THE RESTORATION OF CIVIL RIGHTS.

(TEXT OF BILL BEGINS ON NEXT PAGE)

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

2 Section 1. Section 13-912.01, Arizona Revised Statutes, is  
3 transferred and renumbered for placement in title 8, chapter 2, article 4,  
4 Arizona Revised Statutes, as section 8-249 and, as so renumbered, is  
5 amended to read:

6 8-249. Restoration of civil rights; persons adjudicated  
7 delinquent

8 A. A person who was adjudicated delinquent and whose period of  
9 probation has been completed may have the right to possess or carry a gun  
10 or firearm restored by the judge who discharges the person at the end of  
11 the person's term of probation.

12 B. A person who was adjudicated delinquent and who has been  
13 discharged from probation, on proper application, may have the right to  
14 carry or possess a ~~gun or~~ firearm restored by the judge of the juvenile  
15 court in the county where the person was adjudicated delinquent or the  
16 judge's successors. The clerk of the superior court shall process the  
17 application on the request of the person involved or the person's  
18 attorney. The applicant shall serve a copy of the application on the  
19 county attorney.

20 C. If the person's adjudication was for a dangerous offense under  
21 section 13-704, a serious offense as defined in section 13-706, burglary  
22 in the first degree, burglary in the second degree or arson, the person  
23 may not file for the restoration of the right to possess or carry a gun or  
24 firearm until the person attains thirty years of age. If the person's  
25 adjudication was for any other felony offense, the person may not file for  
26 the restoration of the right to possess or carry a gun or firearm for two  
27 years from the date of the person's discharge.

28 Sec. 2. Section 13-904, Arizona Revised Statutes, is amended to  
29 read:

30 13-904. Suspension of civil rights and occupational  
31 disabilities

32 A. A conviction for a felony suspends the following civil rights of  
33 the person sentenced:

- 34 1. The right to vote.
- 35 2. The right to hold public office of trust or profit.
- 36 3. The right to serve as a juror.

37 4. During any period of imprisonment any other civil rights the  
38 suspension of which is reasonably necessary for the security of the  
39 institution in which the person sentenced is confined or for the  
40 reasonable protection of the public.

- 41 5. The right to possess a ~~gun or~~ firearm.

42 B. Persons sentenced to imprisonment shall not thereby be rendered  
43 incompetent as witnesses on the trial of a criminal action or proceeding,  
44 or incapable of making and acknowledging a sale or conveyance of property.

1 C. A person sentenced to imprisonment is under the protection of  
2 the law, and any injury to his person, not authorized by law, is  
3 punishable in the same manner as if the person was not convicted and  
4 sentenced.

5 D. The conviction of a person for any offense shall not work  
6 forfeiture of any property, except if a forfeiture is expressly imposed by  
7 law. All forfeitures to the state, unless expressly imposed by law, are  
8 abolished.

9 E. A person shall not be disqualified from employment by this state  
10 or any of its agencies or political subdivisions solely because of a prior  
11 conviction for a felony or misdemeanor within or without this state. A  
12 person may be denied employment by this state or any of its agencies or  
13 political subdivisions by reason of the prior conviction of a felony or  
14 misdemeanor if the offense has a reasonable relationship to the functions  
15 of the employment sought.

16 F. Subsection E of this section is not applicable to any law  
17 enforcement agency.

18 G. Any complaints concerning a violation of subsection E of this  
19 section shall be adjudicated in accordance with the procedures set forth  
20 in title 41, chapter 6 and title 12, chapter 7, article 6.

21 H. A person who is adjudicated delinquent under section 8-341 for a  
22 felony does not have the right to carry or possess a ~~gun or~~ firearm.

23 Sec. 3. Repeal

24 Section 13-905, Arizona Revised Statutes, is repealed.

25 Sec. 4. Section 13-907, Arizona Revised Statutes, is renumbered as  
26 section 13-905 and, as so renumbered, is amended to read:

27 13-905. Setting aside judgment of convicted person on  
28 discharge; application; release from disabilities;  
29 firearm possession; exceptions

30 A. Except as provided in subsection K of this section, every person  
31 convicted of a criminal offense, on fulfillment of the conditions of  
32 probation or sentence and discharge by the court, may apply to the court  
33 to have the judgment of guilt set aside. The convicted person shall be  
34 informed of this right at the time of sentencing.

35 B. The person or the person's attorney or probation officer may  
36 apply to set aside the judgment. The clerk of the court may not charge a  
37 filing fee for an application to have a judgment of guilt set aside.

38 C. The court shall consider the following factors when determining  
39 whether to set aside the conviction:

40 1. The nature and circumstances of the offense that the conviction  
41 is based on.

42 2. The applicant's compliance with the conditions of probation, the  
43 sentence imposed and any state department of corrections' rules or  
44 regulations, if applicable.

45 3. Any prior or subsequent convictions.

- 1           4. The victim's input and the status of victim restitution, if any.
- 2           5. The length of time that has elapsed since the completion of the
- 3 applicant's sentence.
- 4           6. The applicant's age at THE time of the conviction.
- 5           7. Any other factor that is relevant to the application.
- 6           D. If the application is granted, the court shall set aside the
- 7 judgment of guilt, dismiss the complaint, information or indictment and
- 8 order that the person be released from all penalties and disabilities
- 9 resulting from the conviction except those imposed by:
  - 10           1. The department of transportation pursuant to section 28-3304,
  - 11 28-3305, 28-3306, 28-3307, 28-3308, 28-3312 or 28-3319.
  - 12           2. The game and fish commission pursuant to section 17-314 or
  - 13 17-340.
- 14           E. A conviction that is set aside may be:
  - 15           1. Used as a conviction if the conviction would be admissible had
  - 16 it not been set aside.
  - 17           2. Alleged as an element of an offense.
  - 18           3. Used as a prior conviction.
  - 19           4. Pleaded and proved in any subsequent prosecution of the person
  - 20 by this state or any POLITICAL subdivision of this state for any offense.
  - 21           5. Used by the department of transportation in enforcing section
  - 22 28-3304, 28-3305, 28-3306, 28-3307, 28-3308, 28-3312 or 28-3319 as if the
  - 23 judgment of guilt had not been set aside.
- 24           F. The clerk of the court must notify the department of public
- 25 safety if a conviction is set aside. The department of public safety must
- 26 update the person's criminal history with an annotation that the
- 27 conviction has been set aside but may not redact or remove any part of the
- 28 person's record.
- 29           G. This section does not:
  - 30           1. Require a law enforcement agency to redact or remove a record or
  - 31 information from the record of a person whose conviction is set aside.
  - 32           2. Preclude the department of public safety or the board of
  - 33 fingerprinting from considering a conviction that has been set aside when
  - 34 evaluating an application for a fingerprint clearance card pursuant to
  - 35 section 41-1758.03 or 41-1758.07.
- 36           H. If the court denies an application to have a judgment of guilt
- 37 set aside, the court shall state its reasons for the denial in writing and
- 38 on the record.
- 39           I. A victim has the right to be present and be heard at any
- 40 proceeding in which the defendant has filed an application to have a
- 41 judgment of guilt set aside pursuant to this section. If the victim has
- 42 made a request for postconviction notice, the attorney for the state shall
- 43 provide the victim with notice of the defendant's application and of the
- 44 rights provided to the victim in this section.

1 J. Notwithstanding section ~~13-905 or 13-906~~ 13-910, if a conviction  
2 is set aside, the person's right to possess a ~~gun or~~ firearm is  
3 restored. This subsection does not apply to a person who was convicted of  
4 a serious offense as defined in section 13-706.

5 K. This section does not apply to a person who was convicted of any  
6 of the following:

7 1. A dangerous offense.

8 2. An offense for which the person is required or ordered by the  
9 court to register pursuant to section 13-3821.

10 3. An offense for which there has been a finding of sexual  
11 motivation pursuant to section 13-118.

12 4. An offense in which the victim is a minor under fifteen years of  
13 age.

14 5. An offense in violation of section 28-3473, any local ordinance  
15 relating to stopping, standing or operation of a vehicle or title 28,  
16 chapter 3, except a violation of section 28-693 or any local ordinance  
17 relating to the same subject matter as section 28-693.

18 Sec. 5. Repeal

19 Section 13-906, Arizona Revised Statutes, is repealed.

20 Sec. 6. Title 13, chapter 9, Arizona Revised Statutes, is amended  
21 by adding a new section 13-906, to read:

22 13-906. Restoration of civil rights; process

23 A. AT THE TIME OF SENTENCING, THE COURT SHALL INFORM A PERSON IN  
24 WRITING OF THE PERSON'S RIGHT TO THE RESTORATION OF CIVIL RIGHTS.

25 B. THE CLERK OF THE COURT SHALL NOTIFY THE DEPARTMENT OF PUBLIC  
26 SAFETY IF THE COURT RESTORES THE PERSON'S CIVIL RIGHTS, INCLUDING WHETHER  
27 A PERSON'S RIGHT TO POSSESS A FIREARM IS RESTORED. THE DEPARTMENT OF  
28 PUBLIC SAFETY SHALL UPDATE THE PERSON'S CRIMINAL HISTORY WITH AN  
29 ANNOTATION THAT THE PERSON'S CIVIL RIGHTS HAVE BEEN RESTORED AND ANY  
30 EXCEPTIONS ORDERED BUT MAY NOT REDACT OR REMOVE ANY PART OF THE PERSON'S  
31 RECORD.

32 C. THE RESTORATION OF A PERSON'S CIVIL RIGHTS DOES NOT PRECLUDE THE  
33 DEPARTMENT OF PUBLIC SAFETY OR THE BOARD OF FINGERPRINTING FROM  
34 CONSIDERING A CONVICTION OF A PERSON WHOSE CIVIL RIGHTS HAVE BEEN RESTORED  
35 WHEN EVALUATING AN APPLICATION FOR A FINGERPRINT CLEARANCE CARD PURSUANT  
36 TO SECTION 41-1758.03 OR 41-1758.07.

37 D. IF THE COURT DENIES AN APPLICATION FOR THE RESTORATION OF A  
38 PERSON'S CIVIL RIGHTS, THE COURT SHALL STATE ITS REASONS FOR THE DENIAL IN  
39 WRITING.

40 E. IF THE RESTORATION OF A PERSON'S CIVIL RIGHTS IS DISCRETIONARY  
41 WITH THE COURT, A VICTIM HAS THE RIGHT TO BE PRESENT AND BE HEARD AT ANY  
42 PROCEEDING IN WHICH THE DEFENDANT FILES AN APPLICATION FOR THE RESTORATION  
43 OF CIVIL RIGHTS. IF THE VICTIM HAS MADE A REQUEST FOR POSTCONVICTION  
44 NOTICE, THE ATTORNEY FOR THE STATE SHALL PROVIDE THE VICTIM WITH NOTICE OF

1 THE DEFENDANT'S APPLICATION AND OF THE RIGHTS PROVIDED TO THE VICTIM IN  
2 THIS SECTION.

3 Sec. 7. Section 13-912, Arizona Revised Statutes, is renumbered as  
4 section 13-907, and, as so renumbered, is amended to read:

5 13-907. Automatic restoration of civil rights for first  
6 offenders; exception; definition

7 A. ON FINAL DISCHARGE, any person who has not previously been  
8 convicted of ~~any other~~ A felony OFFENSE shall automatically be restored  
9 any civil rights that were lost or suspended ~~by~~ AS A RESULT OF the  
10 conviction if the person ~~both:~~

11 ~~1. Completes a term of probation or receives an absolute discharge~~  
12 ~~from imprisonment.~~

13 ~~2.~~ pays any ~~fine or~~ VICTIM restitution imposed.

14 B. A PERSON WHO IS ENTITLED TO THE RESTORATION OF ANY CIVIL RIGHTS  
15 PURSUANT TO THIS SECTION IS NOT REQUIRED TO FILE AN APPLICATION PURSUANT  
16 TO SECTION 13-908.

17 ~~B.~~ C. This section does not apply to a person's right to possess  
18 ~~weapons~~ A FIREARM as defined in section 13-3101 ~~unless the person applies~~  
19 ~~to a court pursuant to section 13-905 or 13-906.~~ THE COURT MAY ORDER THE  
20 RESTORATION OF THE RIGHT TO POSSESS A FIREARM PURSUANT TO SECTION 13-910.

21 D. FOR THE PURPOSES OF THIS SECTION, "FINAL DISCHARGE" MEANS THE  
22 COMPLETION OF PROBATION OR THE RECEIPT OF AN ABSOLUTE DISCHARGE FROM THE  
23 STATE DEPARTMENT OF CORRECTIONS OR THE UNITED STATES BUREAU OF PRISONS.

24 Sec. 8. Repeal

25 Section 13-908, Arizona Revised Statutes, is repealed.

26 Sec. 9. Title 13, chapter 9, Arizona Revised Statutes, is amended  
27 by adding a new section 13-908, to read:

28 13-908. Restoration of civil rights; application; definition

29 A. ON FINAL DISCHARGE, A PERSON WHO HAS PREVIOUSLY BEEN CONVICTED  
30 OF A FELONY OR WHO HAS NOT PAID ANY VICTIM RESTITUTION THAT WAS IMPOSED  
31 MAY APPLY TO THE SUPERIOR COURT TO HAVE THE PERSON'S CIVIL RIGHTS  
32 RESTORED. A PERSON WHO HAS RECEIVED AN ABSOLUTE DISCHARGE FROM  
33 IMPRISONMENT MAY FILE AN APPLICATION FOR RESTORATION OF CIVIL RIGHTS NO  
34 SOONER THAN TWO YEARS FROM THE DATE OF THE PERSON'S ABSOLUTE DISCHARGE.  
35 THE RESTORATION OF CIVIL RIGHTS IS IN THE DISCRETION OF THE JUDICIAL  
36 OFFICER.

37 B. THE PERSON OR THE PERSON'S ATTORNEY OR PROBATION OFFICER MAY  
38 FILE THE APPLICATION FOR THE RESTORATION OF CIVIL RIGHTS. THE CLERK OF  
39 THE COURT MAY NOT CHARGE A FILING FEE FOR AN APPLICATION. THE CLERK OF  
40 THE COURT SHALL FORWARD A COPY OF THE APPLICATION TO THE COUNTY ATTORNEY.

41 C. A PERSON WHOSE CIVIL RIGHTS WERE LOST OR SUSPENDED AS A RESULT  
42 OF A FELONY CONVICTION IN A UNITED STATES DISTRICT COURT AND WHOSE PERIOD  
43 OF PROBATION HAS BEEN COMPLETED MAY FILE THE APPLICATION FOR RESTORATION  
44 OF CIVIL RIGHTS IN THE COUNTY IN WHICH THE PERSON NOW RESIDES. THE PERSON

1 SHALL FILE AN AFFIDAVIT OF DISCHARGE FROM THE JUDICIAL OFFICER WHO  
2 DISCHARGED THE PERSON AT THE END OF THE TERM OF PROBATION.

3 D. A PERSON WHO HAS RECEIVED AN ABSOLUTE DISCHARGE FROM  
4 IMPRISONMENT AND WHO FILES AN APPLICATION FOR THE RESTORATION OF CIVIL  
5 RIGHTS SHALL FILE WITH THE APPLICATION A CERTIFICATE OF ABSOLUTE DISCHARGE  
6 FROM THE DIRECTOR OF THE STATE DEPARTMENT OF CORRECTIONS.

7 E. A PERSON WHOSE CIVIL RIGHTS WERE LOST OR SUSPENDED AS A RESULT  
8 OF A FELONY CONVICTION IN A UNITED STATES DISTRICT COURT AND WHO HAS  
9 RECEIVED AN ABSOLUTE DISCHARGE FROM IMPRISONMENT IN A FEDERAL PRISON SHALL  
10 FILE THE APPLICATION FOR THE RESTORATION OF CIVIL RIGHTS IN THE COUNTY IN  
11 WHICH THE PERSON NOW RESIDES. THE PERSON SHALL FILE WITH THE APPLICATION  
12 A CERTIFICATE OF ABSOLUTE DISCHARGE FROM THE DIRECTOR OF THE FEDERAL  
13 BUREAU OF PRISONS, UNLESS IT IS SHOWN TO BE IMPOSSIBLE TO OBTAIN A  
14 CERTIFICATE.

15 F. IF THE COURT GRANTS THE APPLICATION, THE COURT SHALL RESTORE THE  
16 PERSON'S CIVIL RIGHTS.

17 G. THIS SECTION DOES NOT APPLY TO A PERSON'S RIGHT TO POSSESS A  
18 FIREARM AS DEFINED IN SECTION 13-3101. THE COURT MAY ORDER THE  
19 RESTORATION OF THE RIGHT TO POSSESS A FIREARM PURSUANT TO SECTION 13-910.

20 H. FOR THE PURPOSES OF THIS SECTION, "FINAL DISCHARGE" MEANS THE  
21 COMPLETION OF PROBATION OR THE RECEIPT OF AN ABSOLUTE DISCHARGE FROM THE  
22 STATE DEPARTMENT OF CORRECTIONS OR THE UNITED STATES BUREAU OF PRISONS.

23 Sec. 10. Repeal

24 Section 13-909, Arizona Revised Statutes, is repealed.

25 Sec. 11. Renumber

26 Section 13-907.01, Arizona Revised Statutes, is renumbered as a new  
27 section 13-909.

28 Sec. 12. Repeal

29 Section 13-910, Arizona Revised Statutes, is repealed.

30 Sec. 13. Title 13, chapter 9, Arizona Revised Statutes, is amended  
31 by adding a new section 13-910, to read:

32 13-910. Restoration of right to possess a firearm

33 A. A PERSON WHO IS CONVICTED OF A DANGEROUS OFFENSE UNDER SECTION  
34 13-704 OR AN OFFENSE COMMITTED IN ANOTHER STATE THAT WOULD BE A DANGEROUS  
35 OFFENSE UNDER SECTION 13-704 IF COMMITTED IN THIS STATE MAY NOT FILE FOR  
36 THE RESTORATION OF THE RIGHT TO POSSESS OR CARRY A FIREARM. A PERSON WHO  
37 IS CONVICTED OF A SERIOUS OFFENSE AS DEFINED IN SECTION 13-706 OR AN  
38 OFFENSE COMMITTED IN ANOTHER STATE THAT WOULD BE A SERIOUS OFFENSE AS  
39 DEFINED IN SECTION 13-706 IF COMMITTED IN THIS STATE MAY NOT FILE FOR THE  
40 RESTORATION OF THE RIGHT TO POSSESS OR CARRY A FIREARM FOR TEN YEARS FROM  
41 THE DATE OF THE PERSON'S ABSOLUTE DISCHARGE. A PERSON WHO IS CONVICTED OF  
42 ANY OTHER FELONY OFFENSE MAY NOT FILE FOR THE RESTORATION OF THE RIGHT TO  
43 POSSESS OR CARRY A FIREARM FOR TWO YEARS FROM THE DATE OF THE PERSON'S  
44 ABSOLUTE DISCHARGE.

1           B. THE RESTORATION OF THE RIGHT TO POSSESS A FIREARM IS IN THE  
2 DISCRETION OF THE JUDICIAL OFFICER.

3           Sec. 14. Repeal

4           Section 13-911, Arizona Revised Statutes, is repealed.

5           Sec. 15. Section 13-2604, Arizona Revised Statutes, is amended to  
6 read:

7           13-2604. Forfeiture and disqualification from office

8           Notwithstanding ~~the provisions of~~ sections 13-904 and ~~13-912~~ 13-907,  
9 a person WHO IS convicted of violating section 13-2602 or 13-2603 shall  
10 forever be disqualified from becoming a public servant and ~~shall~~, if such  
11 person is a public servant at the time of his conviction, SHALL forfeit  
12 his office.

13          Sec. 16. Section 13-3101, Arizona Revised Statutes, is amended to  
14 read:

15          13-3101. Definitions

16          A. In this chapter, unless the context otherwise requires:

17          1. "Deadly weapon" means anything that is designed for lethal use.  
18 The term includes a firearm.

19          2. "Deface" means to remove, alter or destroy the manufacturer's  
20 serial number.

21          3. "Explosive" means any dynamite, nitroglycerine, black powder, or  
22 other similar explosive material, including plastic explosives. Explosive  
23 does not include ammunition or ammunition components such as primers,  
24 percussion caps, smokeless powder, black powder and black powder  
25 substitutes used for hand loading purposes.

26          4. "Firearm" means any loaded or unloaded handgun, pistol,  
27 revolver, rifle, shotgun or other weapon that will expel, is designed to  
28 expel or may readily be converted to expel a projectile by the action of  
29 an explosive. Firearm does not include a firearm in permanently inoperable  
30 condition.

31          5. "Improvised explosive device" means a device that incorporates  
32 explosives or destructive, lethal, noxious, pyrotechnic or incendiary  
33 chemicals and that is designed to destroy, disfigure, terrify or harass.

34          6. "Occupied structure" means any building, object, vehicle,  
35 watercraft, aircraft or place with sides and a floor that is separately  
36 securable from any other structure attached to it, that is used for  
37 lodging, business, transportation, recreation or storage and in which one  
38 or more human beings either are or are likely to be present or so near as  
39 to be in equivalent danger at the time the discharge of a firearm occurs.  
40 Occupied structure includes any dwelling house, whether occupied,  
41 unoccupied or vacant.

42          7. "Prohibited possessor" means any person:

43          (a) Who has been found to constitute a danger to self or to others  
44 or to have a persistent or acute disability or grave disability pursuant

1 to court order pursuant to section 36-540, and whose right to possess a  
2 firearm has not been restored pursuant to section 13-925.

3 (b) Who has been convicted within or without this state of a felony  
4 or who has been adjudicated delinquent for a felony and whose civil right  
5 to possess or carry a ~~gun or~~ firearm has not been restored.

6 (c) Who is at the time of possession serving a term of imprisonment  
7 in any correctional or detention facility.

8 (d) Who is at the time of possession serving a term of probation  
9 pursuant to a conviction for a domestic violence offense as defined in  
10 section 13-3601 or a felony offense, parole, community supervision, work  
11 furlough, home arrest or release on any other basis or who is serving a  
12 term of probation or parole pursuant to the interstate compact under title  
13 31, chapter 3, article 4.1.

14 (e) Who is an undocumented alien or a nonimmigrant alien traveling  
15 with or without documentation in this state for business or pleasure or  
16 who is studying in this state and who maintains a foreign residence  
17 abroad. This subdivision does not apply to:

18 (i) Nonimmigrant aliens who possess a valid hunting license or  
19 permit that is lawfully issued by a state in the United States.

20 (ii) Nonimmigrant aliens who enter the United States to participate  
21 in a competitive target shooting event or to display firearms at a sports  
22 or hunting trade show that is sponsored by a national, state or local  
23 firearms trade organization devoted to the competitive use or other  
24 sporting use of firearms.

25 (iii) Certain diplomats.

26 (iv) Officials of foreign governments or distinguished foreign  
27 visitors who are designated by the United States department of state.

28 (v) Persons who have received a waiver from the United States  
29 attorney general.

30 (f) Who has been found incompetent pursuant to rule 11, Arizona  
31 rules of criminal procedure, and who subsequently has not been found  
32 competent.

33 (g) Who is found guilty except insane.

34 8. "Prohibited weapon":

35 (a) Includes the following:

36 (i) An item that is a bomb, grenade, rocket having a propellant  
37 charge of more than four ounces or mine and that is explosive, incendiary  
38 or poison gas.

39 (ii) A device that is designed, made or adapted to muffle the  
40 report of a firearm.

41 (iii) A firearm that is capable of shooting more than one shot  
42 automatically, without manual reloading, by a single function of the  
43 trigger.

1 (iv) A rifle with a barrel length of less than sixteen inches, or  
2 shotgun with a barrel length of less than eighteen inches, or any firearm  
3 that is made from a rifle or shotgun and that, as modified, has an overall  
4 length of less than twenty-six inches.

5 (v) An instrument, including a nunchaku, that consists of two or  
6 more sticks, clubs, bars or rods to be used as handles, connected by a  
7 rope, cord, wire or chain, in the design of a weapon used in connection  
8 with the practice of a system of self-defense.

9 (vi) A breakable container that contains a flammable liquid with a  
10 flash point of one hundred fifty degrees Fahrenheit or less and that has a  
11 wick or similar device capable of being ignited.

12 (vii) A chemical or combination of chemicals, compounds or  
13 materials, including dry ice, that is possessed or manufactured for the  
14 purpose of generating a gas to cause a mechanical failure, rupture or  
15 bursting or an explosion or detonation of the chemical or combination of  
16 chemicals, compounds or materials.

17 (viii) An improvised explosive device.

18 (ix) Any combination of parts or materials that is designed and  
19 intended for use in making or converting a device into an item set forth  
20 in item (i), (vi) or (viii) of this subdivision.

21 (b) Does not include:

22 (i) Any fireworks that are imported, distributed or used in  
23 compliance with state laws or local ordinances.

24 (ii) Any propellant, propellant actuated devices or propellant  
25 actuated industrial tools that are manufactured, imported or distributed  
26 for their intended purposes.

27 (iii) A device that is commercially manufactured primarily for the  
28 purpose of illumination.

29 9. "Trafficking" means to sell, transfer, distribute, dispense or  
30 otherwise dispose of a weapon or explosive to another person, or to buy,  
31 receive, possess or obtain control of a weapon or explosive, with the  
32 intent to sell, transfer, distribute, dispense or otherwise dispose of the  
33 weapon or explosive to another person.

34 B. The items set forth in subsection A, paragraph 8, subdivision  
35 (a), items (i), (ii), (iii) and (iv) of this section do not include any  
36 firearms or devices that are possessed, manufactured or transferred in  
37 compliance with federal law.

38 Sec. 17. Section 16-1011, Arizona Revised Statutes, is amended to  
39 read:

40 16-1011. Counterfeiting election returns; violation;  
41 classification

42 A. A person who knowingly forges or counterfeits returns of an  
43 election purporting to have been held at a precinct or place where no  
44 election was in fact held, or who knowingly substitutes, forges or  
45 counterfeits returns of election instead of the true returns for a

1 precinct or place where an election was actually held, is guilty of a  
2 class 3 felony.

3 B. A person who knowingly substitutes, forges, counterfeits or  
4 tampers with ballot tabulations or totals or election results by  
5 electronic means or through the use of a computer, machine or other device  
6 is guilty of a class 3 felony. This subsection does not apply to the  
7 casting or tallying of ballots as provided by law or to the substitution  
8 or duplication of ballots as prescribed by sections 16-573, 16-574 and  
9 16-621.

10 C. Notwithstanding sections ~~13-905, 13-906~~ 13-907 and ~~13-912~~  
11 13-908, a person WHO IS convicted under this section shall not be  
12 automatically restored the right to vote.

APPROVED BY THE GOVERNOR APRIL 30, 2019.

FILED IN THE OFFICE OF THE SECRETARY OF STATE APRIL 30, 2019.



COURT

County, Arizona

STATE OF ARIZONA Plaintiff

-vs-

Defendant (FIRST, MI, LAST)

Date of Birth

Applicant is:  Defendant  Attorney for Defendant

Probation Officer  Guardian

[CASE/COMPLAINT NO.]

**APPLICATION UPON DISCHARGE TO:**

(check all that apply)

**RESTORE CIVIL RIGHTS**

**RESTORE FIREARM RIGHTS**

A.R.S. §§ 13-905, 13-906, 13-908, 13-909, 13-910, 13-911, 13-912 and 13-925

**REQUEST FOR RECONSIDERATION** (for applications previously denied)

Civil Rights

Firearm Rights

**SECTION I. CONVICTION(S)**

A Judgment of Guilt was entered against the me, the defendant, on the \_\_\_ day of \_\_\_\_\_, \_\_\_\_\_, on the conviction of:

- 1. Count I: \_\_\_\_\_
- 2. Count II: \_\_\_\_\_
- 3. Count III: \_\_\_\_\_
- 4. Count IV: \_\_\_\_\_

Additional counts continue on a separate page.

**SECTION II. STATE CONVICTION** (For federal convictions, see SECTION III.)

A Judgment of Guilt was entered against the me in the Superior Court of Arizona in \_\_\_\_\_ County.

- 1.  The above stated judgment of guilt and conviction for a felony is my first felony conviction in this or any other state and this application is for restoration of right to possess or carry a gun or firearm only.

**NOTE:** If this is your first felony conviction in this or any other state, any civil rights lost or suspended by the conviction are automatically restored if you completed a term of probation or received an absolute discharge from imprisonment and paid any fine or restitution imposed; however, your right to possess or carry a gun or firearm requires an application under this rule. Refer to **Section VII** of this application.

- 2.  I completed the conditions of probation. The Probation Department's order discharging me from probation is in the court file or attached to this form.
- 3.  I received from the Arizona Department of Corrections a Certificate of Absolute Discharge from Imprisonment on a date two (2) or more years before today's date, AND have attached a copy of Certificate to this petition.

4.  I have complied with all required terms of probation (including all employment, classes, community restitution, victim restitution or other court ordered monetary obligations, drug/alcohol testing, or other requirements.)
5.  I have not complied with all terms of my sentence. Explain:

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**SECTION III. FEDERAL CONVICTION** (For state convictions, see SECTION II.)

A Judgment of Guilt was entered against the me in United States District Court for the District of \_\_\_\_\_.

On the \_\_\_ day of \_\_\_\_\_, \_\_\_\_\_, :

1.  The above stated judgment of guilt and conviction for a felony is my first felony conviction in this or any other state and this application is for restoration of right to possess or carry a gun or firearm only.

**NOTE:** If this is your first felony conviction in this or any other state, any civil rights lost or suspended by the conviction are automatically restored if you completed a term of probation or received an absolute discharge from imprisonment and paid any fine or restitution imposed; however, your right to possess or carry a gun or firearm requires an application under this rule. Refer to **Section VII** of this application.

**(Question: Does this apply to federal first offenses also?)**

2.  I was sentenced to and successfully served a term of federal probation, received an Affidavit of Discharge from the judge who discharged me from probation, **AND** have attached a copy to this petition completed the conditions of probation.
3.  I was sentenced to and successfully served a federal prison term and received from the Federal Bureau of Prisons a Certificate of Absolute Discharge, or other official documentation provided by the Bureau of Prisons that indicates successful discharge from Imprisonment on a date two (2) or more years before today's date, **AND** I have attached a copy of the Certificate.
5.  I have complied with all required terms of probation (including all employment, classes, community restitution, victim restitution or other court ordered monetary obligations, drug/alcohol testing, or other requirements.)
6.  I have not complied with all terms of probation. Explain:

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**SECTION IV. VICTIM RESTITUTION AND COURT ORDERED MONETARY OBLIGATIONS**

1. Have you paid victim restitution in full?  Yes  No

If no, a restoration of rights will be denied without a showing of extraordinary circumstances. If you believe you have extraordinary circumstances explain below. *(Attach documentation you think is relevant for the court's consideration.)*

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- 
2. Have you paid all other court-ordered monetary obligations in this case (criminal fines and fees) in full?  Yes  No

If not, please explain:

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In some circumstances you may be eligible to apply to the court to mitigate the amount owed or convert monies owed to community restitution (State offenses only, not for Federal convictions).

#### SECTION V. PRIOR RESTORATION OF RIGHTS

1. Have you previously applied to have your rights restored?  Yes  No

If so, what was the date of your last application? \_\_\_\_\_

2. Have you been granted the restoration of your rights previously?  Yes  No  
3. Have you been denied the restoration of your rights previously?  Yes  No

#### SECTION VI. PENDING CASES AND ACTIVE WARRANTS

1. Are there any open criminal cases against you?  Yes  No  
2. Do you have an active warrant?  Yes  No

If yes to either question above, please explain:

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#### SECTION VII. RESTORATION OF FIREARM RIGHTS

**NOTE: Arizona Revised Statutes require:** If the person was convicted of an offense which would be a dangerous offense under section 13-704, the person may not file for the restoration of the right to possess or carry a gun or firearm. If the person was convicted of an offense which would be a serious offense as defined in section 13-706, the person may not file for the restoration of the right to possess or carry a gun or firearm for **ten years** from the date of the person's absolute discharge from imprisonment or discharge from probation. If the person was convicted of any other felony offense, the person may not file for the restoration of the right to possess or carry a gun or firearm for **two years** from the date of the person's absolute discharge from imprisonment or discharge from probation.

1.  I was convicted of a felony offense not listed in A.R.S. 13-704 or 13-706 and it has been **two** years since absolute discharge from imprisonment or probation

- 2.  I was convicted of a serious offense as defined in A.R.S. 13-706 and it has been **ten** years since absolute discharge from imprisonment or probation
- 3.  I was convicted of a dangerous offense as defined in A.R.S. 13-704. (if yes, you are not eligible to file for restoration of the right to possess or carry a gun or firearm.)

If you are requesting that your civil right to possess a gun or firearm be restored, please write your reasons for the request below:

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I understand that even if I am granted the right to possess a gun or firearm under Arizona law, it may not give me the right to possess a gun or firearm under federal law.

**SECTION VIII. OTHER INFORMATION FOR THE COURT**

Is there anything you would like the court to take into consideration?

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Attached is other pertinent documentation. List attached documents:

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**I understand that this application may be denied if information in this application is found to be inaccurate.**

**Under Oath I swear or affirm, under penalty of perjury, the information provided in this application is to the best of my knowledge true and correct.**

---

Defendant's Name Printed

---

Defendant's Signature

---

Address

**OR**

**To the best of my knowledge, the information provided in this application is true and correct.**

---

Attorney/Probation Officer's Name Printed

---

Attorney/Probation Officer's Signature

---

Address

**AUTHORIZATION TO PROCEED ON BEHALF OF DEFENDANT**

I authorize \_\_\_\_\_ [ ] Attorney, or [ ] Probation Officer to petition the Superior Court in \_\_\_\_\_ County, to take the above-indicated action.

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Date

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Defendant's Signature



|   |  |   |
|---|--|---|
| STATE OF ARIZONA, Plaintiff<br><br>-vs- |  | CASE NUMBER: _____<br><br><p style="text-align: center;"><b>ORDER REGARDING APPLICATION TO RESTORE CIVIL RIGHTS AND/OR RIGHT TO POSSESS OR OWN FIREARMS</b></p> |
| Defendant (FIRST, MI, LAST)             |  |   |
| Date of Birth                           |  |   |

Based on the information presented to the Court, **THE COURT FINDS:** (only those items marked)

- The prosecutor has received a copy of the Application to Restore Civil Rights and/or Right to Possess or Own Firearms.
- The Defendant **has met** all of the statutory requirements for the application to restore civil rights and to possess or own firearms.
- The Defendant **has not met** all of the statutory requirements for the application to possess or own firearms including:
  - The Defendant was convicted of a **dangerous** offense as defined in A.R.S. § 13-704.
  - The Defendant was convicted of a **serious** offense as defined in A.R.S. § 13-706 and **less than ten years** have passed from the date of discharge from probation or prison.
  - The Defendant was convicted of any other felony offense and **less than two years** have passed from the date of discharge from probation or prison.

**IT IS ORDERED:**

- GRANTING the application to restore civil rights **and** right to possess or own firearms.
- GRANTING the application to restore civil rights **excluding** the right to possess or own firearms.
- GRANTING the application to restore the right to possess or own firearms.
- DENYING the application to restore civil rights and right to possess or own firearms for the following reasons: \_\_\_\_\_
- The applicant **has not met** all statutory requirements for the application (as noted above):
- Other reasons: \_\_\_\_\_.

DATED this \_\_\_\_\_ day of \_\_\_\_\_, \_\_\_\_\_.

\_\_\_\_\_  
Presiding Judge

## TRAFFIC

### 28-3304. Mandatory revocation of license; definition

A. In addition to the grounds for mandatory revocation provided for in chapters 3, 4 and 5 of this title, the department shall immediately revoke the license of a driver on receipt of a record of the driver's conviction of any of the following offenses if the conviction is final:

1. A homicide or aggravated assault resulting from the operation of a motor vehicle.
2. A felony in the commission of which a motor vehicle is used.
3. Theft of a motor vehicle pursuant to section 13-1802.
4. Unlawful use of means of transportation pursuant to section 13-1803.
5. Theft of means of transportation pursuant to section 13-1814.
6. Drive by shooting pursuant to section 13-1209.
7. Failure to stop and render aid as required under the laws of this state if a motor vehicle accident results in the death or personal injury of another.
8. Perjury or the making of a false affidavit or statement under oath to the department under this chapter or under any other law relating to the ownership or operation of a motor vehicle.
9. Conviction or forfeiture of bail not vacated on a second or subsequent charge of the following offenses that are committed within eighty-four months:
  - (a) Reckless driving.
  - (b) Racing on highways.
  - (c) Any combination of a violation of section 28-1381 or 28-1382 and reckless driving, of a violation of section 28-1381 or 28-1382 and racing on highways, or of reckless driving and racing on highways, if they do not arise out of the same event.
10. Conviction or forfeiture of bail not vacated on a second charge of violating section 28-1381 or 28-1382 within eighty-four months.
11. Conviction or forfeiture of bail not vacated on a third or subsequent charge of violating section 28-1381 or 28-1382 within eighty-four months.
12. Conviction or forfeiture of bail not vacated on a charge of violating section 28-1381 or 28-1382 and the driver has been convicted within a period of eighty-four months of an offense in another jurisdiction that if committed in this state would be a violation of section 28-1381 or 28-1382.

1 B. In determining the starting date for the eighty-four month period prescribed in subsection A,  
2 paragraphs 9, 10, 11 and 12 of this section, the department shall use the date of the commission of  
3 the offense.

4 C. For the purposes of this section, "conviction" means a final adjudication or judgment, including  
5 an order of a juvenile court finding that a juvenile violated any provision of this title or committed  
6 a delinquent act that if committed by an adult would constitute a criminal offense.

7

8 **28-3305. Court action on conviction**

9 A. If a person is convicted of an offense or if a judgment is entered against the person for which  
10 revocation of the driver license of the person by the department is mandatory pursuant to this  
11 chapter, the court that ordered the conviction or judgment shall:

- 12 1. Require the person to surrender to the court all driver licenses held by the person.
- 13 2. Invalidate or destroy the driver licenses.
- 14 3. Forward a record of the conviction or judgment to the department.

15 B. A court with jurisdiction over offenses or civil traffic violations committed under this chapter,  
16 any other law of this state or a municipal ordinance regulating the operation of motor vehicles on  
17 highways shall forward a record of the conviction of or judgment against a person in the court,  
18 except for a violation related to standing or parking, to the department and may recommend the  
19 suspension of the driver license of the person.

20 C. If a court declares that an entire civil penalty is due pursuant to section 28-1601, the court shall  
21 immediately notify the department. After payment of the civil penalty, the court shall give notice  
22 immediately of full satisfaction of the civil penalty by a method approved by the department. On  
23 payment of a reinstatement fee as provided in section 28-3002, the department shall terminate the  
24 suspension of a driver license, a driver permit or the privilege of a nonresident to drive a motor  
25 vehicle in this state if no other grounds for suspension exist.

26

27 **28-3306. Discretionary license suspension or revocation; traffic survival school; hearing**

28 A. The department may suspend or revoke the license of a driver or require a licensee to attend  
29 and successfully complete approved traffic survival school educational sessions designed to  
30 improve the safety and habits of drivers on a showing by department records or other sufficient  
31 evidence that the licensee:

- 1 1. Has committed an offense for which mandatory revocation of the license is required on  
2 conviction.
- 3 2. Has been involved as a driver in an accident resulting in the death or personal injury of another  
4 or serious property damage.
- 5 3. Has been convicted of or adjudged to have violated traffic regulations governing the movement  
6 of vehicles with such a frequency that it indicates a disrespect for traffic laws and a disregard for  
7 the safety of other persons on the highways.
- 8 4. Has been convicted of reckless driving as provided in section 28-693 or is a habitually reckless  
9 or negligent driver of a motor vehicle.
- 10 5. Is medically, psychologically or physically incapable of operating a motor vehicle and, based  
11 on law enforcement, medical or other department information, the continued operation of a motor  
12 vehicle by the licensee would endanger the public health, safety and welfare.
- 13 6. Has committed or permitted an act involving an unlawful or fraudulent use of the license.
- 14 7. Has committed an offense in another jurisdiction that if committed in this state is grounds for  
15 suspension or revocation.
- 16 8. Has been convicted of a violation of section 28-1381 or 28-1382.
- 17 9. Has been convicted of a violation of section 28-1464.
- 18 B. On receipt of satisfactory evidence of a violation of a driver license restriction, the department  
19 may suspend or revoke the driver license.
- 20 C. On suspending or revoking the license of a person or requiring a licensee to attend and  
21 successfully complete approved traffic survival school educational sessions designed to improve  
22 the safety and habits of drivers pursuant to this section, the department shall notify the licensee in  
23 writing immediately.
- 24 D. On the receipt of the person's request for a hearing, the department shall set the hearing within  
25 sixty days. The department may hold the hearing in person, by telephone or by videoconference. If  
26 the department holds the hearing in person, the department shall hold the hearing in the county  
27 where the licensee resides unless the law enforcement agency issuing the citation or affidavit that  
28 authorizes the suspension or revocation requests at the time of issuance that the hearing be held in  
29 the county where the violation allegedly occurred.

1 E. If a hearing is held, the department or its duly authorized agent may administer oaths, may issue  
2 subpoenas for the attendance of witnesses and the production of relevant books and papers and  
3 may require a reexamination of the licensee.

4 F. At the hearing, the department shall either rescind its order of suspension or its order requiring  
5 the licensee to attend and successfully complete approved traffic survival school educational  
6 sessions or, if good cause exists, the department may uphold or extend the order, revoke the license  
7 or make any order that is within its discretionary power under this section and that is in the interest  
8 of public safety.

9 G. If a licensee receives notice requiring the licensee to attend and successfully complete approved  
10 traffic survival school educational sessions and the department receives information of  
11 noncompliance with this order, the department may amend the order to suspend or revoke the  
12 license.

13 H. A person whose driver license is suspended or revoked as provided in subsection A, paragraph  
14 5 of this section may submit a written request to the department for an administrative hearing. The  
15 person shall submit the request for a hearing within fifteen days after the department provides the  
16 person with notice of suspension or revocation. On receipt of a proper request for a hearing, the  
17 department shall provide the person with an opportunity for a hearing in the county where the  
18 person resides within thirty days after the department receives the request. The request for a  
19 hearing does not stay a summary suspension issued by the department.

20 I. The department shall remove a suspension from a record if the person has completed all  
21 requirements imposed under this title or by a court in this state except for payment of reinstatement  
22 fees as prescribed by section 28-3002. The person shall pay the appropriate reinstatement fees that  
23 is required under section 28-3002 when conducting a transaction with the department.

24  
25 **28-3307. Order to complete traffic survival school educational sessions**

26 A. If a licensee is required to attend and successfully complete approved traffic survival school  
27 educational sessions designed to improve the safety and habits of drivers pursuant to section 28-  
28 645, 28-647, 28-672, 28-695, 28-3306 or 28-3321, the department shall indicate on the computer  
29 record that the licensee is required to complete traffic survival school educational sessions.

30 B. On successful completion of the traffic survival school educational sessions, the department  
31 shall record satisfaction of the requirement on the licensee's computer record.

1 28-3308. Mandatory suspension; failure to appear

2 On notification by the court that a person failed to appear as directed for a scheduled court  
3 appearance after service of a criminal complaint alleging a violation of a provision of this title, the  
4 department shall suspend the person's driver license or nonresident operating privilege until the  
5 person appears. If the person appears and does not pay the person's fines, surcharges or  
6 assessments, on notification by the court the department shall suspend the person's driving  
7 privileges or restrict the person's driving privileges as described in section 28-144 until the fines,  
8 surcharges and assessments are paid.

9

10 28-3312. Mandatory disqualification of commercial driver licenses; definition

11 A. The department shall disqualify a person who is required to have a commercial driver license,  
12 who is a commercial driver license holder or who is a commercial instruction permit holder from  
13 driving a commercial motor vehicle as follows:

14 1. Except as provided in subsection E of this section and except as otherwise provided in this  
15 subsection, for at least one year if a person:

16 (a) Refuses a test in violation of section 28-1321.

17 (b) Is convicted of a first violation of any of the following:

18 (i) Driving a commercial motor vehicle under the influence of intoxicating liquor or a controlled  
19 substance or while having an alcohol concentration of 0.04 or more.

20 (ii) Leaving the scene of an accident involving a motor vehicle driven by the person.

21 (iii) Using a motor vehicle in the commission of a felony.

22 (iv) A violation of chapter 4, article 3 of this title while operating a noncommercial motor vehicle.

23 (v) Driving a commercial motor vehicle while, as a result of prior violations of this title committed  
24 while operating a commercial motor vehicle, the person's commercial driver license is revoked,  
25 suspended or canceled or the person is disqualified from operating a commercial motor vehicle.

26 (vi) Causing a fatality through the negligent operation of a commercial motor vehicle, including a  
27 conviction of manslaughter, homicide or negligent homicide resulting from operation of a motor  
28 vehicle.

29 2. For at least three years, if the person is convicted of any of the violations prescribed in paragraph  
30 1 of this subsection and the violation occurred while the person was transporting a hazardous

1 material in the quantity and under the circumstances that require placarding of the transport vehicle  
2 under the department's safety rules pursuant to chapter 14 of this title.

3 3. For the life of the person, if the person is convicted of two or more violations of any of the  
4 offenses prescribed in paragraph 1 of this subsection or of any combination of those offenses  
5 arising from two or more separate incidents. The department shall consider only offenses  
6 committed from and after December 31, 1989 in applying this paragraph.

7 4. Permanently if the person is convicted of using any motor vehicle in the commission of a felony  
8 involving the manufacture, distribution or dispensing of a controlled substance or possession with  
9 intent to manufacture, distribute or dispense a controlled substance.

10 5. For at least sixty consecutive days, if the person is convicted of two serious traffic violations  
11 committed in a motor vehicle arising from separate incidents occurring within a three year period  
12 from the date of the violation.

13 6. For at least one hundred twenty days served in addition to any other disqualification, if the  
14 person is convicted of a third or subsequent serious traffic violation committed in a motor vehicle  
15 arising from separate incidents occurring within a three year period from the date of the violation.

16 7. For at least sixty consecutive days, if the department determines that the person falsified  
17 information or documentation as part of the licensing process.

18 8. For at least one year, if the person is convicted of fraud related to the issuance of a commercial  
19 instruction permit or commercial driver license.

20 B. Except as provided in subsection C of this section, a person required to have a commercial  
21 driver license or a commercial driver license holder who is found responsible for violating an out-  
22 of-service order pursuant to section 28-5241 is disqualified from driving a commercial motor  
23 vehicle as follows:

24 1. For a period of one hundred eighty days if the person is found responsible for a first violation  
25 of an out-of-service order.

26 2. For a period of two years if the person is found responsible for a second violation of any out-of-  
27 service order during any ten year period arising from separate incidents.

28 3. For a period of three years if the person is found responsible for a third or subsequent violation  
29 of any out-of-service order during any ten year period arising from separate incidents.

30 C. A person required to have a commercial driver license or a commercial driver license holder  
31 who is found responsible for violating an out-of-service order pursuant to section 28-5241 while

1 transporting hazardous materials or while operating a commercial motor vehicle designed or used  
2 to transport sixteen or more passengers, including the driver, is disqualified from driving a  
3 commercial motor vehicle as follows:

4 1. For a period of one hundred eighty days if the person is found responsible for a first violation  
5 of an out-of-service order.

6 2. For a period of three years if the person is found responsible for a second or subsequent violation  
7 of any out-of-service order during any ten year period arising from separate incidents.

8 D. A person required to have a commercial driver license or a commercial driver license holder  
9 who is convicted of or found responsible for violating any federal, state or local railroad grade  
10 crossing law, ordinance or regulation is disqualified from driving a commercial motor vehicle as  
11 follows:

12 1. For a period of sixty days if a person is convicted of or found responsible for a first violation.

13 2. For a period of one hundred twenty days if a person is convicted of or found responsible for a  
14 second violation during any three year period.

15 3. For a period of one year if a person is convicted of or found responsible for a third or subsequent  
16 violation during any three year period.

17 E. If a federal agency determines that a commercial motor vehicle licensee is driving in a manner  
18 that constitutes an imminent hazard, the department, on receipt of notification by the federal  
19 government, shall disqualify the driver for a period not to exceed one year. The disqualification  
20 shall run concurrently with any other disqualification imposed on the driver. For the purposes of  
21 this subsection, "imminent hazard" means the existence of a condition that presents a substantial  
22 likelihood that death, serious illness, severe personal injury or a substantial endangerment to  
23 health, property or the environment may occur before the reasonably foreseeable completion date  
24 of a formal proceeding to decrease the risk of death, illness, injury or endangerment.

25 F. The department shall keep records of findings of responsibility for a civil traffic violation and  
26 of conviction of any moving criminal traffic violation for a commercial driver licensee for  
27 violations in any type of motor vehicle and for a person required to have a commercial driver  
28 license if the violations arise from the operation of a commercial motor vehicle. The department  
29 shall make the records available to other states, the United States secretary of transportation, the  
30 driver and any motor carrier or prospective motor carrier or the motor carrier's designated agent  
31 within ten days after receiving a report of a conviction or finding of responsibility in this state or

1 receipt of a report of a conviction or finding of responsibility or disqualification received from  
2 another state.

3 G. Disqualification for a serious traffic violation committed by a commercial driver license holder  
4 while operating a noncommercial motor vehicle applies only if the conviction results in the  
5 revocation, cancellation or suspension of the person's commercial driver license or noncommercial  
6 driver license.

7 H. The department may adopt rules establishing guidelines and conditions under which the  
8 department may reduce a disqualification for life pursuant to subsection A, paragraph 3 of this  
9 section to a disqualification of at least ten years. If a person's disqualification is reduced pursuant  
10 to rules adopted pursuant to this subsection and the person is subsequently convicted of a violation  
11 described in subsection A, paragraph 1 of this section, the person is permanently disqualified from  
12 driving a commercial vehicle and is not eligible to apply for a reduction of the disqualification  
13 pursuant to rules adopted pursuant to this subsection.

14 I. Except as provided in subsection E of this section, the beginning date of the disqualification  
15 shall be ten days after the date the department receives the report of conviction or finding of  
16 responsibility.

17 J. For the purposes of this section, "serious traffic violation" means a conviction or finding of  
18 responsibility for any of the following:

- 19 1. Excessive speeding involving a single offense for a speed of fifteen miles per hour or more  
20 above the posted speed limit.
- 21 2. Reckless driving as provided by section 28-693.
- 22 3. Aggressive driving as provided by section 28-695.
- 23 4. Racing as defined in section 28-708.
- 24 5. Improper or erratic traffic lane changes as provided by section 28-729.
- 25 6. Following the vehicle ahead too closely as provided by section 28-730.
- 26 7. A violation of this title that is connected with a fatal traffic accident.
- 27 8. Driving a commercial motor vehicle if the person has not been issued a valid commercial driver  
28 license pursuant to this chapter.
- 29 9. Driving a commercial motor vehicle without a commercial driver license in the person's  
30 possession.

1 10. Driving a commercial motor vehicle without having a valid endorsement for the type of  
2 commercial motor vehicle or motor vehicle combination being operated.

3  
4 28-3319. Action after license suspension, revocation or denial for driving under the influence or  
5 refusal of test; ignition interlock device requirement; definition

6 A. If, pursuant to section 28-1321, 28-1381, 28-1382, 28-1383, 28-3320 or 28-3322, the license of  
7 a driver or the driving privilege of a nonresident is suspended or revoked, the department shall not  
8 terminate the suspension or revocation or issue a special ignition interlock restricted driver license,  
9 if applicable, pursuant to chapter 4, article 3.1 of this title until the person provides proof of  
10 financial responsibility pursuant to chapter 9, article 3 of this title.

11 B. If, pursuant to section 28-1321, 28-1381, 28-1382, 28-1383, 28-3320 or 28-3322, an unlicensed  
12 resident is denied a license or permit to operate a motor vehicle, the department shall not issue a  
13 license or permit until the person provides proof of financial responsibility pursuant to chapter 9,  
14 article 3 of this title.

15 C. If a person whose license or driving privilege is suspended or revoked pursuant to section 28-  
16 1321, 28-1381, 28-1382, 28-1383 or 28-1385 is ordered, pursuant to section 28-1381, 28-1382,  
17 28-1383 or 28-1385, to attend alcohol or other drug screening, education or treatment, the  
18 department shall not either:

19 1. Terminate the suspension or issue a special ignition interlock restricted driver license, if  
20 applicable, pursuant to chapter 4, article 3.1 of this title until the person provides proof from the  
21 treatment facility that the person has completed or is participating satisfactorily in alcohol or other  
22 drug screening, education or treatment.

23 2. Issue a new license or a special ignition interlock restricted driver license, if applicable, pursuant  
24 to chapter 4, article 3.1 of this title to operate a motor vehicle after the revocation until the person  
25 provides proof from the facility that the person has completed the court ordered program.

26 D. On receipt of a report of conviction from a court for a violation that involved intoxicating liquor  
27 or that specifically requires the installation of a certified ignition interlock device, the department  
28 shall require any motor vehicle the convicted person operates to be equipped with a functioning  
29 certified ignition interlock device and the convicted person to meet the requirements prescribed in  
30 section 28-1461 as follows:

31 1. For twelve months if:

1 (a) Except as provided in subsection G of this section, the person is convicted of a violation of  
2 section 28-1381, section 28-1382, subsection A, paragraph 1 or section 28-1383, subsection A,  
3 paragraph 3, subdivision (a).

4 (b) The department determines that within a period of eighty-four months the person is convicted  
5 of a second or subsequent violation of section 28-1381 or section 28-1382, subsection A, paragraph  
6 1 with a prior conviction of a violation of section 28-1381, 28-1382 or 28-1383 or an act in another  
7 jurisdiction that if committed in this state would be a violation of section 28-1381, 28-1382 or 28-  
8 1383.

9 2. For eighteen months if the person is convicted of a violation of section 28-1382, subsection A,  
10 paragraph 2.

11 3. For twenty-four months if:

12 (a) The person is convicted of a violation of section 28-1382, subsection A, paragraph 2 and the  
13 department determines that within a period of eighty-four months the person has a prior conviction  
14 of a violation of section 28-1381, 28-1382 or 28-1383 or an act in another jurisdiction that if  
15 committed in this state would be a violation of section 28-1381, 28-1382 or 28-1383.

16 (b) The person is convicted of a violation of section 28-1383, subsection A, paragraph 1, 2 or 4 or  
17 paragraph 3, subdivision (b).

18 E. The requirement prescribed in subsection D of this section begins on the date of reinstatement  
19 of the person's driving privilege following a suspension or revocation or on the date of the  
20 department's receipt of the report of conviction, whichever occurs later.

21 F. A person who is required to equip a motor vehicle with a certified ignition interlock device  
22 pursuant to this section shall comply with chapter 4, article 5 of this title.

23 G. The department shall defer the remainder of the time period prescribed in subsection D,  
24 paragraph 1, subdivision (a) of this section commencing with the later of six months from the date  
25 the interlock was installed or the completion of the requirements of this subsection if all of the  
26 following apply:

27 1. The person is sentenced pursuant to section 28-1381, subsection I.

28 2. The person successfully completes an alcohol education program consisting of at least sixteen  
29 hours pursuant to section 28-1381.

30 3. The person has maintained a functioning ignition interlock device on all motor vehicles the  
31 person operates and has met the requirements of section 28-1461.

1 4. The person has not attempted to operate a vehicle with an alcohol concentration of 0.08 or more  
2 two or more times during the period of license restriction or limitation.

3 5. At the time of the offense, the person was not involved in a motor vehicle accident that resulted  
4 in physical injury or property damage.

5 6. All necessary compliance information has been provided to the department by the ignition  
6 interlock device provider, the alcohol screening program and the alcohol education program.

7 H. The deferment pursuant to subsection G of this section is permanent, unless the person is  
8 arrested for a violation of section 28-1381, 28-1382 or 28-1383 that occurs during the period of  
9 the deferment. If the person is arrested as described in this subsection, the department shall revoke  
10 the deferment and require the person to complete the remainder of the time period prescribed in  
11 subsection D, paragraph 1, subdivision (a) of this section.

12 I. Notwithstanding any other law, the department shall reduce the length of time that a person is  
13 required to have a functioning certified ignition interlock device installed in a motor vehicle  
14 pursuant to subsection D of this section by the length of time that the person is incarcerated in a  
15 jail or prison facility for a violation of section 28-1381 or 28-1383 that did not involve intoxicating  
16 liquor.

17 J. For the purposes of this section, "certified ignition interlock device" has the same meaning  
18 prescribed in section 28-1301.

## 19 20 **GAME AND FISH**

21  
22 17-314. Civil penalty for illegally taking, wounding, killing or possessing wildlife; recovery of  
23 civil penalty

24 A. The commission may impose a civil penalty against any person unlawfully taking, wounding  
25 or killing, or unlawfully in possession of, any of the following wildlife, or part thereof, to recover  
26 the following minimum sums:

27 1. For each turkey or javelina \$ 500.00

28 2. For each bear, mountain lion, pronghorn (antelope)

29 or deer, other than trophy \$1,500.00

30 3. For each elk or eagle, other than trophy or

31 endangered species \$2,500.00

1 4. For each predatory, fur-bearing or nongame animal \$ 250.00

2 5. For each small game or aquatic wildlife animal \$ 50.00

3 6. For each trophy or endangered species animal \$8,000.00

4 B. The commission may bring a civil action in the name of this state to enforce the civil penalty.

5 The civil penalty, or a verdict or judgment to enforce the civil penalty, shall not be less than the  
6 sum fixed in this section. The minimum sum that the commission may recover from a person  
7 pursuant to this section may be doubled for a second violation, verdict or judgment and tripled for  
8 a third violation, verdict or judgment. The action to enforce the civil penalty may be joined with  
9 an action for possession and recovery had for the possession as well as the civil penalty.

10 C. The pendency or determination of an action to enforce the civil penalty or for payment of the  
11 civil penalty or a judgment, or the pendency or determination of a criminal prosecution for the  
12 same taking, wounding, killing or possession, is not a bar to the other, nor does either affect the  
13 right of seizure under any other provision of the laws relating to game and fish.

14 D. All monies recovered pursuant to this section shall be placed in the wildlife theft prevention  
15 fund.

16

17 17-340. Revocation, suspension and denial of privilege of taking wildlife; civil penalty; notice;  
18 violation; classification

19 A. On conviction or after adjudication as a delinquent juvenile as defined in section 8-201 and in  
20 addition to other penalties prescribed by this title, the commission, after a public hearing, may  
21 revoke or suspend a license issued to any person under this title and deny the person the right to  
22 secure another license to take or possess wildlife for a period of not to exceed five years for:

23 1. Unlawful taking, unlawful selling, unlawful offering for sale, unlawful bartering or unlawful  
24 possession of wildlife.

25 2. Careless use of firearms that resulted in the injury or death of any person.

26 3. Destroying, injuring or molesting livestock, or damaging or destroying growing crops, personal  
27 property, notices or signboards or other improvements while hunting, trapping or fishing.

28 4. Littering public hunting or fishing areas while taking wildlife.

29 5. Knowingly allowing another person to use the person's big game tag, except as provided by  
30 section 17-332, subsection D.

31 6. A violation of section 17-303, 17-304, 17-316 or 17-341 or section 17-362, subsection A.

1 7. A violation of section 17-309, subsection A, paragraph 5 involving a waste of edible portions  
2 other than meat damaged due to the method of taking as follows:

3 (a) Upland game birds, migratory game birds and wild turkey: breast.  
4 (b) Deer, elk, pronghorn (antelope), bighorn sheep, bison (buffalo) and peccary (javelina): hind  
5 quarters, front quarters and loins.  
6 (c) Game fish: fillets of the fish.

7 8. A violation of section 17-309, subsection A, paragraph 1 involving any unlawful use of aircraft  
8 to take, assist in taking, harass, chase, drive, locate or assist in locating wildlife.

9 B. On conviction or after adjudication as a delinquent juvenile and in addition to any other  
10 penalties prescribed by this title:

11 1. For a first conviction or a first adjudication as a delinquent juvenile, for unlawfully taking or  
12 wounding wildlife at any time or place, the commission, after a public hearing, may revoke,  
13 suspend or deny the person's privilege to take wildlife for a period of up to five years.  
14 2. For a second conviction or a second adjudication as a delinquent juvenile, for unlawfully taking  
15 or wounding wildlife at any time or place, the commission, after a public hearing, may revoke,  
16 suspend or deny the person's privilege to take wildlife for a period of up to ten years.  
17 3. For a third conviction or a third adjudication as a delinquent juvenile, for unlawfully taking or  
18 wounding wildlife at any time or place, the commission, after a public hearing, may revoke,  
19 suspend or deny the person's privilege to take wildlife permanently.

20 C. In accordance with title 41, chapter 6, article 10 and notwithstanding subsection A of this  
21 section, a person against whom the commission imposes a civil penalty under section 17-314 for  
22 the unlawful taking, wounding, killing or possession of wildlife may be denied the right to obtain  
23 a license to take wildlife until the person has made full payment of the civil penalty.

24 D. On receiving a report from the licensing authority of a state that is a party to the wildlife violator  
25 compact adopted under chapter 5 of this title that a resident of this state has failed to comply with  
26 the terms of a wildlife citation, the commission, after a public hearing, may suspend any license  
27 issued under this title to take wildlife until the licensing authority furnishes satisfactory evidence  
28 of compliance with the terms of the wildlife citation.

29 E. In carrying out this section, the director shall notify the licensee, within one hundred eighty  
30 days after conviction, to appear and show cause why the license should not be revoked, suspended

1 or denied. The notice may be served personally or by certified mail sent to the address appearing  
2 on the license.

3 F. The commission shall furnish to license dealers the names and addresses of persons whose  
4 licenses have been revoked or suspended, and the periods for which they have been denied the  
5 right to secure licenses.

6 G. The commission may use the services of the office of administrative hearings to conduct  
7 hearings and to make recommendations to the commission pursuant to this section.

8 H. Except for a person who takes or possesses wildlife while under permanent revocation, a person  
9 who takes wildlife in this state, or attempts to obtain a license to take wildlife, at a time when the  
10 person's privilege to do so is suspended, revoked or denied under this section is guilty of a class 1  
11 misdemeanor.

12



1 **Rule 30. Restoring Civil Rights**

2

3 **Rule 30.1. Grounds; Notice**

4 **(a) Automatic Restoration for First Offense.** A person who has not previously been convicted  
5 of any other felony must automatically be restored any civil rights that were lost or suspended by  
6 the conviction, except the right to possess or carry a gun or firearm, if the person:

7 (1) completes a term of probation or receives an absolute discharge from imprisonment; and

8 (2) pays any fine or restitution imposed.

9 **(b) Second or Subsequent Offense.** A person who has been convicted of 2 or more felonies and  
10 whose period of probation has been completed or has received an absolute discharge from  
11 imprisonment may have any civil rights that were lost or suspended by the conviction restored by  
12 the court. A person whose civil rights were lost or suspended by 2 or more felony convictions in  
13 a United States District Court may apply to the superior court in the county in which the person  
14 now resides to have the person's civil rights restored.

15 **(c) Gun or Firearm Rights.** To restore the right to possess or carry a gun or firearm the person  
16 must file an application under Rule 30.2. The following persons may not file to restore the right  
17 to possess a gun or firearm:

18 (1) a person convicted of a dangerous offense under A.R.S. § 13-704;

19 (2) a person convicted of a serious offense as defined in A.R.S. § 13-706 until 10 years from the  
20 date of discharge from probation or from the date of absolute discharge from prison; or

21 (3) a person convicted of any other felony offense until 2 years from the person's discharge from  
22 probation or absolute discharge from prison.

23

24 **Rule 30.2. Application**

25 **(a) Contents.** An application under this rule must include the applicant's name, address, date of  
26 birth, and signature, the offenses for which the applicant was convicted, the place and date of  
27 conviction, the sentence imposed, the status of victim restitution payment and other court-  
28 ordered monetary obligations, and the relief the applicant is requesting. The applicant must

1 attach to the application any documents and affidavits required by law and may attach other  
2 supporting documents and affidavits.

3 **(b) Place of Filing and Filing Fee.** The applicant must file an application with the court that  
4 sentenced the applicant. An applicant who was convicted in a United States District Court may  
5 apply for restoration of rights in the superior court in the county where the person now resides.  
6 The clerk may not charge a fee for filing an application.

7 **(c) Processing of Application.** The court must send a copy of the application to the applicable  
8 prosecuting agency no later than 10 days of filing.

9 **(d) Victim Notification.** The victim has the right to be present and be heard at any proceeding in  
10 which the defendant has filed an application to have civil rights restored. If the victim in a state  
11 court matter has requested post-conviction notice, the prosecuting agency must provide the  
12 victim with notice of the defendant's application and the rights provided to the victim. The  
13 prosecuting agency must provide notice to the victim of the opportunity to be heard if the victim  
14 requested post-conviction notification.

15

### 16 **Rule 30.3. State's Response**

17 Within 60 days after the application is filed, the State and victim may file a written response  
18 stating their reasons for opposing the application, if any. The State must send a copy of the  
19 response to the applicant's attorney or the applicant, if unrepresented.

20

### 21 **Rule 30.4. Reply**

22 The applicant may file a reply but must do so no later than 15 days after the State's response is  
23 filed.

24

### 25 **Rule 30.5. Hearing**

26 On either party's request or on its own, the court may set a hearing. A hearing must be held no  
27 later than 120 days after the application's filing, unless the court finds good cause for an  
28 extension. The prosecuting agency must provide post-conviction victim notice of the hearing  
29 date and the right to be present and heard if the victim requested post-conviction notification.

1 **Rule 30.6. Disposition**

2 **(a) Considerations.** Whether to restore civil rights shall be in the discretion of the superior court  
3 judge.

4 **(b) Additional Considerations for Applications Filed Under A.R.S. § 13-925.** On the  
5 petition's filing the court must set a hearing. At the hearing, the person must present  
6 psychological or psychiatric evidence in support of the petition. The State must provide the court  
7 with the person's criminal history records, if any. The court must receive evidence on and  
8 consider the following before granting or denying a petition filed by a prohibited possessor under  
9 A.R.S. § 13-925:

10 (1) the circumstances that resulted in the person being a prohibited possessor as defined in  
11 A.R.S. § 13-3101(A)(7)(a), or subject to 18 U.S.C. § 922(d)(4) or (g)(4);

12 (2) the person's record, including the person's mental health record and criminal history record, if  
13 any;

14 (3) the person's reputation based on character witness statements, testimony, or other character  
15 evidence;

16 (4) whether the person is a danger to self or others or has persistent, acute, or grave disabilities or  
17 whether the circumstances that led to the original order, adjudication, or finding remain in effect;

18 (5) any change in the person's condition or circumstances that is relevant to the relief sought; and

19 (6) any other evidence deemed admissible by the court.

20 **(c) Burden of Proof.** The petitioner must prove by clear and convincing evidence the following:

21 (1) the petitioner is not likely to act in a manner that is dangerous to public safety; and

22 (2) granting the requested relief is not contrary to the public interest.

23 **(d) Court Findings.** At the hearing's conclusion, the court must issue findings of fact and  
24 conclusions of law.

25 **(e) Denial.** If the court denies an application, its order must state the reasons for the denial in  
26 writing, including any statutory requirements the applicant has not met.

27 **(f) Subsequent Application.** If an application is denied, the defendant may file a new  
28 application after satisfying all requirements or after resolving any other reason for denial.

29 **(g) Order.** The clerk must transmit the order to the applicant, the prosecutor, and the Department  
30 of Public Safety. If the order is a result of an application filed under A.R.S. § 13-925, a copy of  
31 the order must be provided to the Supreme Court and the Department of Public Safety. The

1 Supreme Court and the Department of Public Safety must update, correct, modify, or remove the  
2 person's record in any database available to the national instant criminal background check  
3 system. Within 10 court days after receiving the notification from the court, the Department of  
4 Public Safety must notify the United States Attorney General that the person no longer falls  
5 within the provisions of A.R.S. § 13-3101 (A)(7)(a) or 18 U.S.C. § 922(d)(4) or (g)(4).  
6

7 **Rule 29. Setting Aside a Conviction**

8  
9 **Rule 29.1. Grounds; Notice**

10 **(a) Generally.** A person who has completed probation or a sentence may apply in writing to the  
11 court to set aside a conviction under A.R.S. § 13-907. The court must provide a person with  
12 written notice of this opportunity at the time of sentencing.

13 **(b) Sex Trafficking Victims.** Under A.R.S. § 13-907.01, a sex trafficking victim may apply in  
14 writing to the court to vacate the victim's conviction under A.R.S. § 13-3214, or a city or town  
15 ordinance that has the same or substantially similar elements, if the offense was committed  
16 before July 24, 2014.