

# Post-Conviction Actions Task Force Agenda

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Tuesday, November 27, 2018; 10:00 a.m. – 3:00 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 Approval of Minutes from August 20, 2018 Approval of Minutes from October 17, 2018 <input type="checkbox"/> <i>Formal Action/Request</i>	<i>Jerry Landau, Chair</i> <i>AOC Government Affairs</i> <i>Director</i>
10:15 a.m.	2. Final Action on Juvenile Workgroup legislative drafts <ul style="list-style-type: none"> <li>• ARS § 8-348 Setting aside adjudication                V. 11-21-18 8:41 am</li> <li><input type="checkbox"/> <i>Formal Action/Request</i></li> <li>• ARS § 8-349 Destruction of juvenile records                V. 11-21-18 6:55 am</li> <li><input type="checkbox"/> <i>Formal Action/Request</i></li> </ul>	<i>Jerry Landau</i> <i>Judge Kathleen Quigley</i>
12:00 p.m.	<i>Lunch break (\$5.00)</i>	
12:30 p.m.	3. Final Action on automatic restoration of civil rights <ul style="list-style-type: none"> <li>• Draft legislation - Public Defender A.R.S. §§ 13-906 to 13-910, V.6 dated 9-17-18 1:43 am</li> <li>• Draft legislation –A. R. S. §§ 13-906 to 13-910, V.4 dated 11-20-18 11:34 pm</li> <li><input type="checkbox"/> <i>Formal Action/Request</i></li> </ul>	<i>Jerry Landau</i> <i>Jeremy Mussman</i> <i>Judge Sam Myers</i>
2:30 p.m.	4. Discuss setting aside convictions where a case record has been purged	<i>Cathy Clarich</i>
3:15 p.m.	5. Good of the Order/Call to the public	<i>Jerry Landau</i>
3:30 p.m.	Adjournment	



# Post-Conviction Actions Task Force Draft Minutes

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Tuesday, August 20, 2018

Established by A.O. No. 2018-52

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**Present:** Jerry Landau, Chair; Kurt Altman; Cathy Clarich; Kirstin Flores; Judge John Hudson; Donald Jacobson; Jeremy Mussman; Judge Sam Myers; Aaron Nash; Tom O’Connell; Judge Kathleen Quigley; Judge Antonio Riojas; Lisa Royal; Leonard Ruiz; Amber Sliwinski; Mikel Steinfeld; Kent Volkmer

**Appearing Telephonically:** Alex Benezra (*until 12:30*); Ryan Glover; Judge Margaret McCullough (*until 1:30*); Judge Keith Russell (*after 1:37*)

**Absent:** Julie Ahlquist; Colleen Clase; Mirisue Galindo; Will Gaona; Kathy Waters

**Presenters/Guests:** Beth Broeker; Cheryl Clark; Anthony Coulson; Jennifer Greene; Sandra Hunter; Chris Phillis; Beth Rosenberg

**Staff:** Kathy Sekardi; Susan Pickard

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## Welcome and Opening Remarks

With a quorum present, Jerry Landau, Chair, welcomed the members. Self-introductions were made by all who were in attendance either in person or on the telephone. Then Mr. Landau laid out his goal of finalizing the statutes and forms related to the recommendations of the PCA Juvenile Adjudication Set Aside Subcommittee. He noted that he would be conducting two “Call to the Public” comment periods: one before lunch and one before the meeting’s adjournment.

## Minutes

Mr. Landau presented the minutes of the July 10, 2018, meeting of the Task Force for approval.

**Motion:** To approve the minutes of July 10, 2018, as presented by Aaron Nash. **2<sup>nd</sup>:** Kurt Altman

**Vote:** Passed unanimously.

## Review Recommendations of the Juvenile Adjudication Set Aside Subcommittee

Judge Quigley began by thanking the members of the Subcommittee for their efforts in developing the recommendations. Her honor presented the recommendations highlighting:

- Allow the court to retain jurisdiction until the juvenile is age 19, if adjudicated for an undesignated class 6 felony, and
- 13-912.01 has two issues that need to be addressed:
  - Paragraph A states, juveniles who have been “adjudicated delinquent” which encompasses felonies and misdemeanors. The statute is out of date. Only a juvenile

who has been adjudicated delinquent for a felony loses his/her right to possess a firearm.

- the amount of time a person who has lost the right to possess a firearm must wait to apply differs greatly between adults (after 10 years) and juveniles (age 30).
- Change the record retention schedule to retain juvenile records for 60 years.
- Investigate presumptive records sealing for juveniles who meet certain criteria.
- Provide judicial officer training regarding:
  - The loss of right to possess a firearm and verbal and written notice to the juvenile.
  - The impact of a short stay at the Arizona Department of Juvenile Corrections. If a juvenile court judge sends a juvenile to ADJC, but there is not sufficient time for the staff to process and determine a treatment program for the youth (30 days), that youth may not have the time to meet ADJA's requirements before being discharged. This prevents the youth from obtaining an absolute discharge from ADJC. An absolute discharge impacts the time needed for the youth to have rights restored, adjudications set aside, or records sealed.
  - The clearance of criminal history and fingerprints. If a youth is charged as an adult and the case handled by the Superior Court, the youth is fingerprinted. If that case is later reverse transferred to the juvenile court or the prosecutor dismisses the adult charges and decides to prosecute the youth as a juvenile, the fingerprints remain accessible in the adult criminal history record. The Department of Public Safety has shared an email address that can be used to submit minute entries regarding the reverse transfer or dismissal, so DPS can clear that information from the criminal history records.

## Statutes

Mr. Landau walked the members through the proposed statutory amendments that were drafted to capture the Subcommittee's recommendations, remove antiquated language, and reorganize.

§8-202 Section (D)(3) would allow the retention of jurisdiction until age 19 in cases where the person was adjudicated delinquent for an undesignated class 6 felony.

No concerns noted.

§8-341 Along with minor grammatical corrections, section R was moved to §8-431(B) would allow the consolidation of all sections relating to the prohibition of a person adjudicated delinquent to carry or possess a firearm in one section.

No concerns noted.

§8-348

- Adds conforming language regarding section 8-202 and retention of jurisdiction.
- Requires the court to inform the juvenile of the right to apply to set aside the adjudication in writing at the time of disposition.
- Prohibits a filing fee for the application.
- Defines the factors that the court must consider.
- Identifies when a set-aside adjudication may be used.
- Requires the court to state its reasons for denying the set aside in writing and on the record.
- Requires victim post adjudication notification, if requested.
- Prohibits set aside for certain offenses.

- Allows the court to designate an undesignated class 6 felony.

**Concerns/Comments:**

- Is “adjudicated incorrigible” an antiquated term? No, it is still in use.
- Does the requirement that the court notify the juvenile of the right to apply for set aside at disposition work within court processes and procedures?
  - Processes and procedures will be developed internally. Requiring the court to make the notification means the notification will be centrally located, rather than with probation and ADJC, and the notification will be standardized. Perhaps the notice could be included in the standardized probation terms and commitment order.
- Are juveniles put on “parole?” Section (C)(2) change “parole” to “conditional liberty”
- Add “those imposed by” after “except” in (D) and remove that same language at the beginning of (D)(1).
- Section (E) change “A conviction” to “An adjudication.”
- Section (F) delete second sentence.
- Section (I) change “the attorney for the state” to “the state.”
- There is no definition of “successful” or “satisfactorily,” therefore these terms have been removed.
- Section (J) how can a person apply based upon a court finding? The court shall not grant an application to set aside, if. . . a dangerous or serious offense subsequent to 18. . .”
  - Delete (J)
  - Add “or convicted” after “who was adjudicated delinquent”
- Section (A) change “if jurisdiction is extended” to “if jurisdiction is retained”

**Action Item:** Mr. Landau to address (K)(5) with ADOT.

§3-348.01 Allows the court to designate an undesignated class 6 felony.

**Concerns/Comments:**

Change “adjudicated of” to “adjudicated for” and “defendant” to “person”

§8-349 Sections (B) and (C) – Age 18 or 19

- Section (B)(4) and (C)(5) delete “satisfactorily” and “all of”
- Section (B) “The person shall certify under oath. . .” A person cannot certify, but he/she can avow.
- Section (B)(5) change to read: “All victim restitution owed by the person has been paid in full, or that extenuating circumstances exist and sealing the records is in the interests of justice.” Because restitution is addressed separately in code, it is not included in the term of probation or commitment to ADJC.
- Need to address extenuating circumstances and moneys owed by persons other than the juvenile.
- Do not create a victim right for sealing but maintain for set-aside.

## Call to the Public

A call to the public was made at 12:26 p.m. No comment was made.

## Review Recommendations of the Juvenile Adjudication Set Aside Subcommittee (Continued.)

### §8-349 Sections (D) and (E) – Age 21

- Sections (D)(5) and (E)(5) change to mirror (C)(5)
- Section (D) change “serve” to “provide” – In all other instances of requiring the juvenile to serve the application change “served” to “provide.”
- Because the records are currently destroyed, (I)(3) and (4) broaden access to the record through the juvenile.

### §8-431 **Concerns/Comments:**

- Section (A) and (B) delete “pursuant to Title 8, Chapter 3”
- Sections (C) and (D) were redrafted to read:
  - “C. A person who was adjudicated delinquent for a felony who has been discharged from probation or from the department of juvenile corrections pursuant to section 41-2820 on successful completion of the individualized treatment plan may apply after **two years** from the date of discharge or release or escape from custody to the juvenile court in the county where the juvenile was adjudicated delinquent to have the right to carry or possess a firearm restored. This subsection does not apply to a person who was adjudicated delinquent for any of the following offenses:
    1. a dangerous offense as defined in section 13-704,
    2. a serious offense or a violent or aggravated offense as defined in section 13-706,
    3. burglary in the second degree,
    4. arson.
  - D. The clerk of the superior court shall process the application on the request of the person involved or the person's attorney. the applicant shall provide a copy of the application to the prosecutor.”
- Section (F) was redrafted to read:
  - “The person’s right to possess a firearm under this section, if not previously restored, is restored **ten years** from the date of adjudication or release or escape from custody.”
- Add section that discusses what an “extenuating circumstance” might be.
- Add victim notification section.
- Remove the term “gun;” use only “firearm.” In statute and on forms and in instructions.

### §13-3113 **Concerns/Comments:**

- A juvenile does not have a right to carry, so “carry or” should be removed from the first sentence.

Redrafted to read:

“A person who was previously adjudicated delinquent for an offense and whose right to possess a firearm is not restored is guilty of a class 5 felony for a first offense and a class 4 felony for a second or subsequent offense.”

§13-3101 Requires further review regarding “civil.”

<b>Motion:</b> Subject to further edits, recommend by Judge Myers. <b>2<sup>nd</sup>:</b> Judge Quigley <b>Vote:</b> Passed unanimously.
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## Forms and Instructions

Judge Quigley presented regarding set aside, sealing, and restoration of firearms forms and instructions.

### Comments/Concerns:

- The caption of the set aside application form should read: “Application to Set Aside a Juvenile Adjudication and Restore Right to Possess a Firearm”
- In the instructions add “at least 18 or 19”
- Split application to seal from application to set aside
- Include monetary obligations with restitution payments as the same extenuating circumstances may apply to both. Additionally, the statute should reference monetary obligations. The sealed and set aside actions should mirror each other regarding financial obligations.
- Make room to explain the extenuating circumstances.
- Endorse any law enforcement agency on the order, so that they may consider records management.

**Action Item:** Mr. Landau asked Tom O’Connell and the Forms Subcommittee to review and make technical and conforming changes as needed.

## Entering and removal of juvenile adjudications into NICS

Mr. Landau introduced Anthony Coulson, a consultant to the Arizona Criminal Justice Commission (ACJC) and to the NICS Task Force. There is a statutory requirement, that states if a person is a prohibited possessor, data about that person must transferred into the National Instant Criminal System (NICS). The Task Force, with input from stakeholders, has made several recommendations. One of the major recommendations that involved the courts was the inclusion of all mental health adjudications being included in the NICS indexes. These adjudications are automatically transmitted to NICS. Other issues that have been or are being addressed by the NICS Task Force include felony conviction, indictments, verified complaints, active warrants, drug use, mental health, orders of protection, and domestic violence.

Recently and purely by accident, the FBI discovered that no one outside of the courts and DPS were aware of the prohibited possessor status of juveniles with felony adjudications. Currently, a juvenile who was adjudicated for a serious or dangerous offense, has not had the right to possess a firearm restored, and seeks to purchase a firearm, will pass the background check conducted by a retailer who has a Federal Firearm License (FFL). Arizona needs to correct this reporting.

The NICS Task Force is recommending that the same method used with the mental health adjudications be used for reporting prohibited possessor status of a juvenile with a felony adjudication. Once the rules for reporting to and removal from the indexes as well as the nuances and implications are determined, the next step is to determine how far back in the records should reporting go? ACJA working with the AOC make these determinations.

### **Comments/Concerns:**

- How much information can an FFL see?
  - An FFL receives only a deny, delay, or proceed response and cannot see any data.
- Once this is put into place, a person who has a juvenile felony adjudication and continues to be a prohibited possessor, will be blocked from purchasing a firearm and protected from committing that crime.

### **Discuss pending rule change petition re: Criminal Rules 24.3(c)(3)**

This discussion was tabled until the September meeting.

### **Good of the Order/Call to the public**

Mr. Landau made the second call to the public. No comments were made.

The agenda for the September meeting will include

- Discuss pending rule change petition re: Criminal Rules 24.3(c)(3)
- Vote to finalize juvenile records sealing, adjudication set aside, and restoration of firearm statutes, forms, and instructions
- Discuss diversion
- Discuss restoration of civil rights

Mr. Landau proposed an October 17, 2018, meeting.

### **Adjournment**

The meeting adjourned at 3:01 p.m.

### **Next Meeting:**

Thursday, September 13, 2018

10:00 a.m. to 3:00 p.m.

Conference Rooms 329 & 330

# Post-Conviction Actions Task Force Draft Minutes

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Thursday, October 17, 2018

Established by A.O. No. 2018-52

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

**Appearing Telephonically:** Colleen Clase, Donald Jacobson

**Absent:** Kirstin Flores, Will Gaona, Ryan Glover, Judge John Hudson, Judge Margaret McCullough, Judge Sam Myers, Amber Sliwinski

**Juvenile Adjudication Set Aside Subcommittee Members Present:** Joseph Kelroy, Eric Meaux, Christina Phillis

**Presenters/Guests:** Jeff Cappelli, Victor Cervantes, Jr., Cheryl Clark, Anthony Coulson, Joel Edman, Art Glenberg, Karen Nielsen, Virginia Metz, Gordon Metz

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

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## Welcome and Opening Remarks -

With a quorum present, Jerry Landau, Chair, welcomed the members. Self-introductions were made by all who were in attendance either in person or on the telephone. Then Mr. Landau explained the goals for the PCA Juvenile Adjudication Set Aside Subcommittee draft legislation, forms and instructions, late breaking legislative proposals from Maricopa, and restoration of rights.

## Minutes

Mr. Landau presented the minutes of the September 13, 2018, meeting of the Task Force for approval.

<p><b>Motion:</b> To approve the minutes of the September 13, 2018 meeting by Judge Riojas. <b>Second:</b> Jeremy Mussman. <b>Vote:</b> Passed unanimously.</p>
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## Discuss PCA Juvenile Adjudication Set Aside Subcommittee Legislative Drafts

Judge Quigley thanked the subcommittee members, all of whom are well-versed in juvenile law, for sharing their expertise and time.

### A.R.S. § 8-348 – Setting Aside Adjudication (taken out of agenda order)

Judge Quigley shared a synopsis of the subcommittee outreach and discussions regarding set aside and shared the consensus of the members to not repeal set aside. The task force discussed the legislative draft agreeing to grammatic amendments along with the following additional amendments:

- Subsection A
- Added “and no longer under the jurisdiction of the juvenile court or the department of juvenile corrections.

- Subsection C
  - Changed “shall” to “may” making the factor consideration discretionary and retaining C.1.
  - Removed compliance with probation and conditional liberty conditions and imposed sentence.
  - Added felony convictions and pending criminal charges to the factors for consideration
  - Limited restitution to that owed by the person
  - Retaining C.4. (victim’s input)
- Subsection D
  - Required the court to dismiss the petition
  - Removed the exception for Game and Fish Commission that is not currently in law
- Subsection E
  - Repealed allowances for future use of the adjudication.
  - Continued the requirement that all remaining unpaid monetary obligations are still owed and subject to remedy from section 8-349(K).
- Subsection F
  - Allowed mitigation of monetary obligations except for victim restitution.

**Straw Polls:**

- Granting Mr. Landau the authority to remove subsection J.5. if ADOT agrees. **Vote: 12-0**
- Removing “convicted” from subsection J. Noting that “convicted” is in current law. **Vote: 11-1**
- Striking the current subsections C and D and replacing them with new subsection J. **Vote: 9-3**

The legislative proposal as amended by the Task Force will be taken forward to the Committee on Juvenile Court on October 18.

**A.R.S. § 8-349 – Sealing of juvenile records**

Judge Quigley explained the complexities of moving from destruction of juvenile records to sealing juvenile records. With that understanding, the members agreed to the following amendments to the draft legislation:

- Section Title & throughout
  - Revert from sealing to destruction
- Subsections B & D
  - Added a requirement that the applicant no longer be under the jurisdiction of the juvenile court or the department of juvenile corrections.
  - Added a requirement that the applicant not be required to register pursuant to A.R.S. §13-3821
  - Returned monetary assessments to the draft
  - Limited restitution and monetary assessments to those moneys owed by the applicant
  - Reverted to the requirement of restitution and monetary assessments being paid in full.
  - Removed extenuating circumstances.
  - Returned “successfully” in D.
  - Returned the court’s discretion regarding ordering the record destroyed.
- Subsection E
  - Retained as amended because it does not change the meaning of the subsection.
- Subsection F & G
  - Reverted to age 25 from 21.

- Added a requirement that the applicant not be required to register pursuant to A.R.S. §13-3821
  - Limited restitution and monetary assessments to those moneys owed by the applicant.
  - Reverted to the requirement of restitution and monetary assessments being paid in full.
  - Removed extenuating circumstances.
  - Reverted to the requirement of restitution and monetary assessments being paid in full.
- Subsection K
- Retained the amendment that added automatic destruction of juvenile records concerning a referral or citation that did not result in further action or that resulted in a successful completion of diversion.
- Subsection L
- Retained the amendment that requires the Department of Child Safety to destroy certain records within six months of notice of juvenile records destruction.
- Subsection M
- Retained the definition of “successful.”

**Straw Polls:**

- Combine amended A.R.S. §§ 8-348 and 8-349 and run as single bill. **Vote:** 12-0
- Move forward with § 8-349 as amended and ask the subcommittee to continue consideration. **Vote:** 12-9

**A.R.S. § 8-305 – Detention center; dangerous offenses**

Mr. Landau presented the history of detention of pre-adjudication youth who have been charged with a dangerous offense as an adult. Currently, at issue is, whether these amendments should move forward and who should submit the amendments to the legislature.

Eric Meaux explained the proposed legislation from the County Supervisor’s Association that would give the court guidance regarding and the discretion to decide the detention of these youth.

After providing input, the members agreed the proposal was outside the Task Force’s scope and did not make a recommendation.

**A.R.S. § 8-341 – Juvenile offenses; probation**

Mr. Landau provided the background for this proposed legislation.

Mr. Meaux discussed policy and practice associated with youth probation violations and subsequent felony adjudications. The current use of evidence-based risk assessment and the amendments to this section would give court discretion regarding low-risk offenders and intensive probation.

Again, because this proposal was out of scope for Task Force, the members provided input, but did not take formal action.

**Call to the Public**

Mr. Landau made the first of two calls to the public. The following people offered their input to the members:

- Cheryl Clark, Pinal County, Arizona People Power
- Virginia Metz
- Art Glenberg, Tempe People Power
- Victor Cervantes, Jr., Restore Your Vote

## Discuss Juvenile Subcommittee Forms and Instructions

Recognizing the content of the earlier discussion and amendments to the proceeding legislative proposals, Tom O'Connell was asked to review and conform the Legal Requirements Instructions for all Applications, Application to Set Aside/Instructions, Application to Seal/Instructions, and Application to Restore Firearm Rights/Instructions.

The advisements regarding the limitations of restoring the right for a juvenile to possess a firearm were discussed. The members agreed that no changes were necessary.

## Discuss Automatic Restoration of Civil Rights

Two proposals were presented.

### Proposal 1 would:

- Civil Rights (the right to vote, hold public office of trust or profit, and serve as a juror)
  - Grant automatic restoration for first time offenders and persons who were convicted of Prop. 100 offenses. This is not dependent upon the payment in full of restitution or monetary obligations.
  - Allow a person who is not eligible for automatic restoration, with a second or subsequent felony offense (state or federal) to apply to have civil rights restored upon termination of probation.
  - Allow a person who is not eligible for automatic restoration (state or federal offenses) to apply to have civil rights restored upon absolute discharge from the department of corrections.
- Firearms
  - Prohibit a person who committed a dangerous offense under §13-704 from applying to have firearm rights restored.
  - Allow a person who committed a serious offense, or a violent or aggravated offense as defined in §13-706 to apply for restoration of firearm rights 10 years after discharge.
  - Allow a person who committed an offense not defined in §§13-704 and 13-706 to apply for restoration of firearm rights 2 years after discharge.
  - Move restoration of right to possess a firearm regarding adjudicated juveniles to Title 8.

### Proposal 2 would:

- Civil Rights (the right to vote, hold public office of trust or profit, and serve as a juror)
  - Grant automatic restoration of civil rights upon final discharge.
  - Define final discharge as completion of probation or receipt of a certificate of absolute discharge.
- Firearms
  - Same as above.

After determining that the Task Force should not recommend any changes to the firearms portion of the proposals, the members debated the civil rights portions and will continue this discussion at the November 27, meeting.

The members agreed by consensus that Prop 100 offenses should be granted automatic restoration of civil rights whether 1<sup>st</sup> or subsequent conviction.

**Straw Poll:**

- Absent resolution to the philosophical discussion about automatic restoration, , move forward on statutory clean-up on Proposal 1. **Vote: 12-0**

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

Mr. Landau discussed the agenda for the November meeting which will include:

- Finalization of juvenile adjudication set aside; destruction of juvenile records, and restoration of firearm statutes, forms, and instructions.
- Resolution of restoration of civil rights discussion.

The second call to the public was made. No comment was made.

**Adjournment**

The meeting adjourned at 3:28 p.m.

**Next Meeting:**

Tuesday, November 27, 2018 - 10:00 a.m. to 3:00 p.m. - Conference Rooms 345 A&B



setting aside adjudications; requirements

1  
2 8-348. Setting aside adjudication; application; release from  
3 disabilities; exceptions

4 A. Except as provided in ~~subsections C and D~~ SUBSECTION I of this  
5 section, a person who is at least eighteen years of age who has  
6 been adjudicated delinquent or incorrigible and who has fulfilled  
7 the conditions of probation and discharge ordered by the court or  
8 who is discharged from the department of juvenile corrections  
9 pursuant to section 41-2820 on successful completion of the  
10 individual treatment plan may apply to the juvenile court to set  
11 aside the adjudication. The court ~~or the department of juvenile~~  
12 ~~corrections~~ shall inform the person of this right IN WRITING at  
13 ~~the time the person is discharged~~ DISPOSITION. THE CLERK OF THE  
14 COURT SHALL NOT CHARGE A FILING FEE FOR AN APPLICATION TO HAVE AN  
15 ADJUDICATION SET ASIDE.

16 B. The person or, ~~if authorized in writing,~~ the person's attorney,  
17 probation officer or parole officer may apply to set aside the  
18 adjudication. ~~A copy of the application shall be served on the~~  
19 ~~prosecutor.~~ THE CLERK SHALL TRANSMIT A COPY OF THE APPLICATION TO  
20 THE COUNTY ATTORNEY IN THE COUNTY IN WHICH THE REFERRAL WAS MADE.

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

- 23 1. THE NATURE AND CIRCUMSTANCES OF THE OFFENSE UPON WHICH THE  
24 ADJUDICATION IS BASED.
- 25 2. WHETHER THE PERSON HAS BEEN CONVICTED OF A FELONY OFFENSE.
- 26 3. WHETHER THE PERSON HAS ANY PENDING CRIMINAL CHARGES.
- 27 4. THE VICTIM'S INPUT AND THE STATUS OF VICTIM RESTITUTION OWED BY  
28 THE PERSON, IF ANY.
- 29 5. ANY OTHER FACTOR THAT IS RELEVANT TO THE APPLICATION.

30 ~~B D.~~ EXCEPT AS PROVIDED BY SUBSECTION F, if the court grants the  
31 application, the court shall set aside the adjudication, DISMISS  
32 THE PETITION and shall order that the person be released from all  
33 penalties and disabilities resulting from the adjudication except  
34 those imposed by the department of transportation pursuant to  
35 section 28-3304, 28-3306, 28-3307, ~~or~~ 28-3308 OR 28-3319.

36 ~~Regardless of whether the court sets aside the adjudication, the~~  
37 ~~adjudication may be used for any purpose as provided in section 8-~~  
38 ~~207 or 13-501 and the department of transportation may use the~~  
39 ~~adjudication for the purposes of enforcing the provisions of~~

~~section 28-3304, 28-3306, 28-3307 or 28-3308 as if the adjudication had not been set aside.~~

E. THE COURT UPON A SHOWING OF GOOD CAUSE MAY, AT THE TIME OF CONSIDERING AN APPLICATION TO SET ASIDE, MODIFY ANY MONETARY OBLIGATION OWED BY THE PERSON, EXCEPT VICTIM RESTITUTION.

F. IF AN APPLICATION TO SET ASIDE AN ADJUDICATION IS GRANTED, ALL REMAINING UNPAID MONETARY OBLIGATIONS CONTINUE TO BE OWED AND ARE SUBJECT TO ALL REMEDIES PURSUANT TO SECTIONS 8-344 AND 8-345 UNTIL THE MONETARY OBLIGATIONS ARE PAID.

G. IF THE COURT DENIES AN APPLICATION TO HAVE AN ADJUDICATION SET ASIDE, THE COURT SHALL STATE ITS REASONS FOR THE DENIAL IN WRITING.

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

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

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

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

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

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

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

~~1. An offense involving the infliction of serious physical injury as defined in section 13-105.~~

~~2. An offense involving the use or exhibition of a deadly weapon or dangerous instrument~~ A DANGEROUS OFFENSE as defined in section 13-105.

~~3~~ 2. An offense in violation of title 13, chapter 14 FOR WHICH THE PERSON IS CURRENTLY REQUIRED OR ORDERED BY THE COURT TO REGISTER PURSUANT TO SECTION 13-3821.

~~4. An offense in violation of section 28-1381, 28-1382, 28-1383 or 28-3473.~~

~~5. A civil traffic violation under title 28, chapter 3.~~

3. AN OFFENSE FOR WHICH THERE HAS BEEN A FINDING OF SEXUAL MOTIVATION PURSUANT TO SECTION 13-118.

11/21/18  
8:41 am

juvenile court; destruction of records

1 8-349. Destruction of juvenile records; electronic research  
2 records

3 A. A person ~~who has been referred to juvenile court~~ ADJUDICATED  
4 DELINQUENT OR INCORRIGIBLE may apply for destruction of the  
5 person's juvenile court RECORD and department of juvenile  
6 corrections records IF

7 ~~B. If The records concern a referral or citation that did not~~  
8 ~~result in further action or that resulted in diversion, OR~~  
9 ~~placement in a community based alternative program or an THE~~  
10 RECORDS INVOLVE AN adjudication for an offense other than an  
11 offense listed in section 13-501, subsection A or B, or title 28,  
12 chapter 4, ~~the person shall file an application with the juvenile~~  
13 ~~court and shall serve a copy of the application on the county~~  
14 ~~attorney in the county in which the referral was made. The person~~  
15 ~~shall certify under oath that all of the following apply:~~ THE COURT  
16 SHALL INFORM THE PERSON OF THIS RIGHT IN WRITING AT THE  
17 DISPOSITION.

18 B. THE CLERK OF THE COURT SHALL NOT CHARGE A FILING FEE FOR AN  
19 APPLICATION TO HAVE JUVENILE RECORDS DESTROYED.

20 C. THE APPLICANT SHALL STATE THAT:

21 1. The person is at least eighteen years of age.

22 2. THE PERSON IS NO LONGER UNDER THE JURISDICTION OF THE JUVENILE  
23 COURT OR THE DEPARTMENT OF JUVENILE CORRECTIONS.

24 ~~2~~ 3. The person has not been convicted of a felony offense

25 ~~3~~ 4. A criminal charge is not pending

26 ~~4~~ 5. The person was not adjudicated delinquent for an offense that  
27 would be an offense listed in section 13-501, subsection A or B or  
28 title 28, chapter 4.

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

31 ~~5~~ 7. The person has ~~successfully~~ completed ~~all of~~ the terms and  
32 conditions of court ordered probation or HAS been discharged from  
33 the department of juvenile corrections pursuant to section 41-2820  
34 on successful completion of the individualized treatment plan.

35 ~~6~~ 8. All restitution HAS BEEN PAID IN FULL.

36 9. ALL monetary assessments have been paid in full OR THE APPLICANT  
37 REQUESTS THE COURT TO FIND GOOD CAUSE TO MODIFY THE OUTSTANDING  
38 ASSESSMENTS PURSUANT TO SUBSECTION J.

1 ~~C~~ D. The juvenile court may order the destruction of records  
2 under subsection ~~B A of this section~~ if the court finds all of  
3 the following:

- 4 1. The person is at least eighteen years of age.
- 5 ~~2.~~ 2. THE PERSON IS NO LONGER UNDER THE JURISDICTION OF THE JUVENILE  
6 COURT OR THE DEPARTMENT OF JUVENILE CORRECTIONS.
- 7 ~~2~~ 3. The person has not been convicted of a felony offense
- 8 ~~3~~ 4. A criminal charge is not pending.
- 9 ~~4~~ 5. The person was not adjudicated delinquent for an offense that  
10 would be an offense listed in section 13-501, subsection A or B or  
11 title 28, chapter 4.
- 12 ~~6.~~ 6. THE PERSON IS NOT CURRENTLY REQUIRED TO REGISTER PURSUANT TO  
13 SECTION 13-3821.
- 14 ~~5~~ 7. The person successfully completed ~~all of~~ the terms and  
15 conditions of probation or was discharged from the department of  
16 juvenile corrections pursuant to section 41-2820 on successful  
17 completion of the individualized treatment plan.
- 18 ~~6~~ 8. All restitution ~~and~~ HAS BEEN PAID IN FULL.
- 19 ~~9.~~ 9. EXCEPT AS PROVIDED IN SUBSECTION J, ALL monetary assessments  
20 have been paid in full.

21 ~~7. The destruction of the records is in the interests of justice.~~  
22 ~~8 The destruction of the records would further the rehabilitative~~  
23 ~~process of the applicant.~~

24 ~~D E. If the records concern a referral that resulted in an~~  
25 ~~adjudication of delinquency for an offense not subject to~~ A PERSON  
26 WHO IS NOT ELIGIBLE TO HAVE THE PERSON'S RECORDS DESTROYED PURSUANT  
27 TO subsection ~~B A of this section~~ the person shall file the  
28 application with the juvenile court and shall a copy of the  
29 application on the county attorney in the county in which the  
30 referral was made. The person shall certify under oath that all of  
31 the following MAY apply TO HAVE THE PERSON'S JUVENILE COURT AND  
32 DEPARTMENT OF JUVENILE CORRECTIONS RECORDS DESTROYED PURSUANT TO  
33 SUBSECTION G.

34 F. THE APPLICANT SHALL STATE THAT:

- 35 1. The person is at least ~~twenty-five~~ TWENTY-TWO years of age.
- 36 2. The person has not been convicted of a felony offense.
- 37 3. A criminal charge is not pending.
- 38 ~~4. The person has successfully completed all of the terms and~~  
39 ~~conditions of court ordered probation or been discharged from the~~  
40 ~~department of juvenile corrections pursuant to section 41-2820 on~~

1 ~~successful completion of the individualized treatment plan.~~ THE  
2 PERSON IS NOT REQUIRED TO REGISTER PURSUANT TO SECTION 13-3821.  
3 5. All restitution ~~and~~ HAS BEEN PAID IN FULL.  
4 6. ALL monetary assessments have been paid in full OR THE APPLICANT  
5 REQUESTS THE COURT TO FIND GOOD CAUSE TO MODIFY THE OUTSTANDING  
6 ASSESSMENTS PURSUANT TO SUBSECTION J.  
7 E G. The juvenile court may order the destruction of records under  
8 THIS subsection ~~D of this section~~ if ~~the county attorney does not~~  
9 ~~object within ninety days after the date of the notice and~~ the  
10 court finds that all of the following apply:  
11 1. The person is at least ~~twenty-five~~ TWENTY-TWO years of age.  
12 2. The person has not been convicted of a felony offense.  
13 3. A criminal charge is not pending.  
14 ~~4. The person has successfully completed all of the terms and~~  
15 ~~conditions of court ordered probation or been discharged from the~~  
16 ~~department of juvenile corrections pursuant to section 41-2820 on~~  
17 ~~successful completion of the individualized treatment plan.~~  
18 5 4. THE PERSON IS NOT REQUIRED TO REGISTER PURSUANT TO SECTION  
19 13-3821.  
20 5. All restitution ~~and monetary obligations have~~ HAS BEEN PAID IN  
21 FULL.  
22 6. ~~The destruction of the records would be in the interests of~~  
23 ~~justice.~~ EXCEPT AS PROVIDED IN SUBSECTION J, ALL MONETARY  
24 ASSESSMENTS HAVE BEEN PAID IN FULL.  
25 7. The destruction of the records would further the rehabilitative  
26 process of the applicant.  
27 H. THE CLERK SHALL TRANSMIT A COPY OF AN APPLICATION FOR  
28 DESTRUCTION OF RECORDS TO THE COUNTY ATTORNEY IN THE COUNTY IN  
29 WHICH THE REFERRAL WAS MADE.  
30 I. THE COUNTY ATTORNEY MAY FILE AN OBJECTION TO THE APPLICATION.  
31 J. THE COURT UPON A SHOWING OF GOOD CAUSE MAY, AT THE TIME OF  
32 CONSIDERING AN APPLICATION FOR DESTRUCTION OF RECORDS, MODIFY ANY  
33 MONETARY OBLIGATION OWED BY THE PERSON, EXCEPT VICTIM RESTITUTION.  
34 F K. The juvenile court and the department of juvenile corrections  
35 may store any records for research purposes.  
36 L. WITHIN 90 DAYS OF THE PERSON BECOMING 18 YEARS OF AGE AND UPON  
37 NOTIFICATION BY THE PROBATION DEPARTMENT, THE JUVENILE COURT, THE  
38 CLERK OF THE COURT, AND THE JUVENILE PROBATION DEPARTMENT SHALL  
39 DESTROY RECORDS CONCERNING A REFERRAL OR CITATION THAT DID NOT  
40 RESULT IN FURTHER ACTION OR THAT RESULTED IN A SUCCESSFUL  
41 COMPLETION OF DIVERSION. THE PROBATION DEPARTMENT SHALL SEND A

1 COPY OF THE NOTICE TO THE DEPARTMENT OF PUBLIC SAFETY CENTRAL STATE  
2 REPOSITORY.  
3 M. WITHIN SIX MONTHS OF NOTIFICATION BY THE SUPERIOR COURT THAT A  
4 PERSON'S JUVENILE DELINQUENCY OR INCORRIGIBILITY RECORDS WERE  
5 DESTROYED, THE DEPARTMENT OF CHILD SAFETY SHALL DESTROY ALL COURT,  
6 JUVENILE PROBATION, AND ARIZONA DEPARTMENT OF JUVENILE CORRECTIONS  
7 RECORDS IN ITS POSSESSION PRODUCED IN THE DELINQUENCY OR  
8 INCORRIGIBILITY MATTER.  
9 N. FOR THE PURPOSES OF THIS SECTION "SUCCESSFUL" MEANS, IN THE  
10 DISCRETION OF THE COURT, THE PERSON SATISFIED THE CONDITIONS OF  
11 PROBATION.

11/21/18

6:55 am



Restoration of civil rights; eligibility

1 Section 1. Renumbering:

2 A.R.S. Section 13-904 is renumbered Section 13-906

3 A.R.S. Section 13-905 is renumbered Section 13-907

4 A.R.S. Section 13-906 is renumbered Section 13-908

5 A.R.S. Section 13-907 is renumbered Section 13-904

6 A.R.S. Section 13-907.01 is renumbered Section 13-905

7 A.R.S. Section 13-908 is renumbered Section 13-910

8 A.R.S. Section 13-912.01 is renumbered Section 8-249

9 Section 2. Repeal

10 A.R.S. Section 13-910, 13-911, and 13-912 are repealed

11 Section 3. A.R.S. Section 13-906 is amended to read:

12 13-906. Suspension of civil rights and occupational disabilities

13 A. A conviction for a felony suspends the following civil rights  
14 of the person sentenced:

15 1. The right to vote.

16 2. The right to hold public office of trust or profit.

17 3. The right to serve as a juror.

18 4. During any period of imprisonment any other civil rights the  
19 suspension of which is reasonably necessary for the security of  
20 the institution in which the person sentenced is confined or for  
21 the reasonable protection of the public.

22 5. The right to possess a ~~gun or~~ firearm.

23 B. UPON FINAL DISCHARGE, A PERSON CONVICTED OF ANY FELONY SHALL  
24 AUTOMATICALLY BE RESTORED THE RIGHT TO VOTE, THE RIGHT TO HOLD  
25 PUBLIC OFFICE OF TRUST OR PROFIT, AND THE RIGHT TO SERVE AS A  
26 JUROR, EXCEPT THAT THE RIGHT TO POSSESS A FIREARM SHALL NOT BE  
27 RESTORED UNLESS ORDERED BY THE COURT UNDER §§ 13-907, 13-908, OR  
28 13-910. AS USED IN THIS SUBSECTION, "FINAL DISCHARGE" MEANS  
29 COMPLETION OF PROBATION OR RECEIPT OF A CERTIFICATE OF ABSOLUTE  
30 DISCHARGE FROM THE ARIZONA DEPARTMENT OF CORRECTIONS.

31 C. THIS SECTION DOES NOT:

32 1. REQUIRE A LAW ENFORCEMENT AGENCY TO REDACT OR REMOVE A RECORD  
33 OR INFORMATION FROM THE RECORD OF A PERSON WHOSE CIVIL RIGHTS ARE  
34 RESTORED.

35 2. PRECLUDE THE DEPARTMENT OF PUBLIC SAFETY OR THE BOARD OF  
36 FINGERPRINTING FROM CONSIDERING A CONVICTION OF A PERSON WHOSE  
37 CIVIL RIGHTS HAVE BEEN RESTORED WHEN EVALUATING AN APPLICATION FOR  
38 A FINGERPRINT CLEARANCE CARD PURSUANT TO SECTION 41-1758.03 OR 41-  
39 1758.07.

1 ~~B~~ D. Persons sentenced to imprisonment shall not thereby be  
2 rendered incompetent as witnesses upon the trial of a criminal  
3 action or proceeding, or incapable of making and acknowledging a  
4 sale or conveyance of property.

5 ~~C~~E. A person sentenced to imprisonment is under the protection of  
6 the law, and any injury to his person, not authorized by law, is  
7 punishable in the same manner as if such person was not convicted  
8 and sentenced.

9 ~~D~~ F. The conviction of a person for any offense shall not work  
10 forfeiture of any property, except if a forfeiture is expressly  
11 imposed by law. All forfeitures to the state, unless expressly  
12 imposed by law, are abolished.

13 ~~E~~ G. A person shall not be disqualified from employment by this  
14 state or any of its agencies or political subdivisions, nor shall  
15 a person whose civil rights have been restored be disqualified to  
16 engage in any occupation for which a license, permit or certificate  
17 is required to be issued by this state solely because of a prior  
18 conviction for a felony or misdemeanor within or without this  
19 state. A person may be denied employment by this state or any of  
20 its agencies or political subdivisions or a person who has had his  
21 civil rights restored may be denied a license, permit or  
22 certificate to engage in an occupation by reason of the prior  
23 conviction of a felony or misdemeanor if the offense has a  
24 reasonable relationship to the functions of the employment or  
25 occupation for which the license, permit or certificate is sought.

26 ~~F~~ H. Subsection E of this section is not applicable to any law  
27 enforcement agency.

28 ~~G~~ I. Any complaints concerning a violation of subsection E of this  
29 section shall be adjudicated in accordance with the procedures set  
30 forth in title 41, chapter 61 and title 12, chapter 7, article 6.

31 ~~H~~ J. A person who is adjudicated delinquent under § 8-341 for a  
32 felony does not have the right to carry or possess a gun or firearm.  
33 Section 4. A.R.S. Section 13-907 is amended to read:

34 13-907. Restoration of right to possess a firearm; persons  
35 completing probation

36 ~~A. A person who has been convicted of two or more felonies and~~  
37 ~~whose period of probation has been completed may have any civil~~  
38 ~~rights which were lost or suspended by the felony conviction~~  
39 ~~restored by the judge who discharges him at the end of the term of~~  
40 ~~probation.~~

1 A. On proper application, a person who has been discharged from  
2 probation either before or after adoption of this chapter may have  
3 ~~any civil rights~~ THE RIGHT TO POSSESS A FIREARM which ~~were~~ WAS  
4 lost or suspended by THE PERSON'S ~~the~~ felony conviction restored  
5 by the ~~superior~~ court ~~judge by whom the person was sentenced or~~  
6 ~~the judge's successors in office from~~ IN the county in which the  
7 person was originally convicted. The clerk of the superior court  
8 shall have the responsibility for processing the application on  
9 request of the person involved or the person's attorney. The  
10 superior court shall serve a copy of the application on the county  
11 attorney.

12 B. A PERSON WHO HAS BEEN CONVICTED OF A FELONY IN THE UNITED STATES  
13 DISTRICT COURT AND WHOSE PERIOD OF PROBATION HAS BEEN COMPLETED  
14 MAY APPLY TO HAVE THE RIGHT TO POSSESS A FIREARM UNDER ARIZONA LAW  
15 WHICH WAS LOST OR SUSPENDED BY A FELONY CONVICTION IN A UNITED  
16 STATES DISTRICT COURT RESTORED BY THE SUPERIOR COURT IN THE COUNTY  
17 IN WHICH THE PERSON RESIDES.

18 ~~B~~ C. If the person was convicted of a dangerous offense under §  
19 13-704 OR AN OFFENSE THAT WOULD BE A DANGEROUS OFFENSE UNDER  
20 SECTION 13-704 IF COMMITTED IN THIS STATE, the person may not file  
21 for the restoration of the right to possess or carry a ~~gun or~~  
22 firearm. If the person was convicted of a serious offense OR A  
23 VIOLENT OR AGGRAVATED OFFENSE as defined in section 13-706 OR AN  
24 OFFENSE THAT WOULD BE A SERIOUS OFFENSE OR A VIOLENT OR AGGRAVATED  
25 OFFENSE AS DEFINED IN SECTION 13-706 IF COMMITTED IN THIS STATE  
26 the person may not file for the restoration of the right to possess  
27 or carry a ~~gun or~~ firearm for ten years from the date of his  
28 discharge from probation. If the person was convicted of any other  
29 felony offense, the person may not file for the restoration of the  
30 right to possess or carry a ~~gun or~~ firearm for two years from the  
31 date of the person's discharge from probation.

32 Section 5. A.R.S. Section 13-906 is amended to read:

33 13-908. Restoration of right to possess a firearm; persons  
34 discharged from prison

35 ~~A. On proper application, a person who has been convicted of two~~  
36 ~~or more felonies and who has received an absolute discharge from~~  
37 ~~imprisonment may have any civil rights which were lost or suspended~~  
38 ~~by his conviction restored by the superior court judge by whom the~~  
39 ~~person was sentenced or the judge's successors in office from the~~  
40 ~~county in which the person was originally sentenced.~~

1 ~~B~~ A. ON PROPER APPLICATION, A PERSON WHO HAS BEEN CONVICTED OF A  
2 FELONY AND WHO HAS A RECEIVED AN ABSOLUTE DISCHARGE FROM  
3 IMPRISONMENT MAY HAVE THE RIGHT TO POSSESS A FIREARM RESTORED. ~~A~~  
4 ~~person who is subject to subsection A of this section~~ THE PERSON  
5 may file, no sooner than two years from the date of his absolute  
6 discharge, an application for restoration of ~~civil rights~~ THE RIGHT  
7 TO POSSESS A FIREARM that shall be accompanied by a certificate of  
8 absolute discharge from the director of the state department of  
9 corrections. The clerk of the superior court that sentenced the  
10 applicant shall have the responsibility for processing  
11 applications for restoration of ~~civil rights~~ THE RIGHT TO POSSESS  
12 A FIREARM upon request of the person involved, the person's  
13 attorney or a representative of the state department of  
14 corrections. The superior court shall serve a copy of the  
15 application on the county attorney.

16 B. A PERSON WHO HAS RECEIVED AN ABSOLUTE DISCHARGE FROM  
17 IMPRISONMENT IN A FEDERAL PRISON MAY HAVE THE RIGHT TO POSSESS A  
18 FIREARM UNDER ARIZONA LAW WHICH WAS LOST OR SUSPENDED AS A RESULT  
19 OF THE FELONY CONVICTION RESTORED BY THE SUPERIOR COURT IN THE  
20 COUNTY IN WHICH THE PERSON NOW RESIDES. THE PERSON SHALL FILE WITH  
21 THE APPLICATION A CERTIFICATE OF ABSOLUTE DISCHARGE FROM THE  
22 DIRECTOR OF THE FEDERAL BUREAU OF PRISONS.

23 C. If the person was convicted of a dangerous offense under section  
24 13-704, OR AN OFFENSE THAT WOULD BE A DANGEROUS OFFENSE UNDER  
25 SECTION 13-706 IF COMMITTED IN THIS STATE, the person may not file  
26 for the restoration of the right to possess or carry a gun or  
27 firearm. If the person was convicted of a serious offense OR A  
28 VIOLENT OR AGGRAVATED OFFENSE as defined in section 13-706 OR AN  
29 OFFENSE THAT WOULD BE A SERIOUS OFFENSE OR A VIOLENT OR AGGRAVATED  
30 AS DEFINED IN SECTION 13-706 IF COMMITTED IN THIS STATE, the person  
31 may not file for the restoration of the right to possess or carry  
32 a gun or firearm for ten years from the date of his absolute  
33 discharge from imprisonment. If the person was convicted of any  
34 other felony offense, the person may not file for the restoration  
35 of the right to possess or carry a gun or firearm for two years  
36 from the date of the person's absolute discharge from imprisonment.  
37 Section 6. A.R.S. Section 13-909 is added to read:

38 13-909. NOTICE REGARDING THE RESTORATION OF THE RIGHT TO POSSESS  
39 A FIREARM  
40 THE CLERK OF THE COURT MUST NOTIFY THE DEPARTMENT OF PUBLIC SAFETY  
41 IF A PERSON'S RIGHT TO POSSESS A FIREARM IS RESTORED. THE

1 DEPARTMENT OF PUBLIC SAFETY MUST UPDATE THE PERSON'S CRIMINAL  
2 HISTORY WITH AN ANNOTATION THAT THE PERSON'S RIGHT TO POSSESS A  
3 FIREARM HAS BEEN RESTORED AND ANY EXCEPTIONS ORDERED, BUT MAY NOT  
4 REDACT OR REMOVE ANY PART OF THE PERSON'S RECORD.

5 Section 7. A.R.S. Section 13-908 is amended to read.

6 13-910. Restoration of the right to possess a firearm in the  
7 discretion of the superior court judge

8 ~~Except as provided in § 13-912, the~~ THE restoration of civil  
9 ~~rights and the dismissal of the accusation or information under~~  
10 ~~the provisions of this chapter~~ THE RIGHT TO POSSESS A FIREARM shall  
11 be in the discretion of the superior court ~~judge by whom the person~~  
12 ~~was sentenced or his successor in office.~~

9/17/2018

1:43 pm



## Restoration of civil rights; procedure

### 1 Section 1. Renumbering:

2 A.R.S. Section 13-904 is renumbered Section 13-906

3 A.R.S. Section 13-905 is renumbered Section 13-909

4 A.R.S. Section 13-906 is renumbered Section 13-910

5 A.R.S. Section 13-907 is renumbered Section 13-904

6 A.R.S. Section 13-907.01 is renumbered Section 13-905

7 A.R.S. Section 13-912 is renumbered Section 13-908

8 A.R.S. Section 13-912.01 is renumbered Section 8-249

### 9 Section 2. Repeal

10 A.R.S. Section 13-908, 13-909, 13-910 and 13-911 are repealed

11 Section 3. A.R.S. §13-906 as renumbered is amended to read:

12 **13-906. Suspension of civil rights and occupational disabilities**

13 A. A conviction for a felony suspends the following civil rights  
14 of the person sentenced:

15 1. The right to vote.

16 2. The right to hold public office of trust or profit.

17 3. The right to serve as a juror.

18 4. During any period of imprisonment any other civil rights the  
19 suspension of which is reasonably necessary for the security of  
20 the institution in which the person sentenced is confined or for  
21 the reasonable protection of the public.

22 5. The right to possess ~~a gun or~~ firearm.

23 B. Persons sentenced to imprisonment shall not thereby be rendered  
24 incompetent as witnesses upon the trial of a criminal action or  
25 proceeding, or incapable of making and acknowledging a sale or  
26 conveyance of property.

27 C. A person sentenced to imprisonment is under the protection of  
28 the law, and any injury to his person, not authorized by law, is  
29 punishable in the same manner as if such person was not convicted  
30 and sentenced.

31 D. The conviction of a person for any offense shall not work  
32 forfeiture of any property, except if a forfeiture is expressly  
33 imposed by law. All forfeitures to the state, unless expressly  
34 imposed by law, are abolished.

35 E. A person shall not be disqualified from employment by this state  
36 or any of its agencies or political subdivisions, nor shall a  
37 person whose civil rights have been restored be disqualified to  
38 engage in any occupation for which a license, permit or certificate  
39 is required to be issued by this state solely because of a prior  
40 conviction for a felony or misdemeanor within or without this  
41 state. A person may be denied employment by this state or any of  
42 its agencies or political subdivisions or a person who has had his

1 civil rights restored may be denied a license, permit or  
2 certificate to engage in an occupation by reason of the prior  
3 conviction of a felony or misdemeanor if the offense has a  
4 reasonable relationship to the functions of the employment or  
5 occupation for which the license, permit or certificate is sought.  
6 F. Subsection E of this section is not applicable to any law  
7 enforcement agency.

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

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

14 Section 4. Title 13, Chapter 9 is amended by adding section 13-  
15 907

16 13-907. Restoration of civil rights; application; firearm  
17 possession; exceptions

18 A. EXCEPT AS PROVIDED IN THIS CHAPTER, EVERY PERSON CONVICTED OF  
19 A FELONY OFFENSE, ON FULFILLMENT OF THE CONDITIONS OF PROBATION OR  
20 SENTENCE OF IMPRISONMENT AND DISCHARGE BY THE COURT, MAY APPLY TO  
21 THE SUPERIOR COURT TO HAVE THE PERSON'S CIVIL RIGHTS RESTORED. THE  
22 CONVICTED PERSON SHALL BE INFORMED OF THIS RIGHT AT THE TIME  
23 OF SENTENCING.

24 B. THE PERSON OR THE PERSON'S ATTORNEY OR PROBATION OFFICER MAY  
25 APPLY TO RESTORE THE PERSON'S CIVIL RIGHTS. THE CLERK OF THE COURT  
26 MAY NOT CHARGE A FILING FEE FOR AN APPLICATION TO HAVE CIVIL RIGHTS  
27 RESTORED. THE SUPERIOR COURT SHALL FORWARD A COPY OF THE  
28 APPLICATION TO THE COUNTY ATTORNEY.

29 C. IF THE APPLICATION IS GRANTED, THE COURT SHALL RESTORE THE  
30 PERSON'S CIVIL RIGHTS EXCEPT AS OTHERWISE PROVIDED FOR IN THIS  
31 CHAPTER.

32 D. THE CLERK OF THE COURT MUST NOTIFY THE DEPARTMENT OF PUBLIC  
33 SAFETY IF A PERSON'S CIVIL RIGHTS ARE RESTORED. THE DEPARTMENT OF  
34 PUBLIC SAFETY MUST UPDATE THE PERSON'S CRIMINAL HISTORY WITH AN  
35 ANNOTATION THAT THE PERSON'S CIVIL RIGHTS HAVE BEEN RESTORED AND  
36 ANY EXCEPTIONS ORDERED, BUT MAY NOT REDACT OR REMOVE ANY PART OF  
37 THE PERSON'S RECORD.

38 E. THIS SECTION DOES NOT:

39 1. REQUIRE A LAW ENFORCEMENT AGENCY TO REDACT OR REMOVE A RECORD  
40 OR INFORMATION FROM THE RECORD OF A PERSON WHOSE CIVIL RIGHTS ARE  
41 RESTORED.

42 2. PRECLUDE THE DEPARTMENT OF PUBLIC SAFETY OR THE BOARD OF  
43 FINGERPRINTING FROM CONSIDERING A CONVICTION OF A PERSON WHOSE

1 CIVIL RIGHTS HAVE BEEN RESTORED WHEN EVALUATING AN APPLICATION FOR  
2 A FINGERPRINT CLEARANCE CARD PURSUANT TO SECTION 41-1758.03 OR 41-  
3 1758.07.

4 F. IF THE COURT DENIES AN APPLICATION TO HAVE A PERSON'S CIVIL  
5 RIGHTS RESTORED, THE COURT SHALL STATE ITS REASONS FOR THE DENIAL  
6 IN WRITING AND ON THE RECORD.

7 G. IF RESTORATION OF CIVIL RIGHTS IS DISCRETIONARY WITH THE COURT,  
8 A VICTIM HAS THE RIGHT TO BE PRESENT AND BE HEARD AT ANY PROCEEDING  
9 IN WHICH THE DEFENDANT HAS FILED AN APPLICATION TO HAVE CIVIL  
10 RIGHTS RESTORED. IF THE VICTIM HAS MADE A REQUEST FOR  
11 POSTCONVICTION NOTICE, THE ATTORNEY FOR THE STATE SHALL PROVIDE  
12 THE VICTIM WITH NOTICE OF THE DEFENDANT'S APPLICATION AND OF THE  
13 RIGHTS PROVIDED TO THE VICTIM IN THIS SECTION.

14 H. IF THE PERSON WAS CONVICTED OF A DANGEROUS OFFENSE UNDER SECTION  
15 13-704 OR AN OFFENSE THAT WOULD BE A DANGEROUS OFFENSE UNDER  
16 SECTION 13-704 IF COMMITTED IN THIS STATE THE PERSON MAY NOT FILE  
17 FOR THE RESTORATION OF THE RIGHT TO POSSESS OR CARRY A FIREARM. IF  
18 THE PERSON WAS CONVICTED OF A SERIOUS OFFENSE OR A VIOLENT OR  
19 AGGRAVATED OFFENSE AS DEFINED IN SECTION 13-706 OR AN OFFENSE THAT  
20 WOULD BE A SERIOUS OFFENSE OR A VIOLENT OR AGGRAVATED AS DEFINED  
21 IN SECTION 13-706 IF COMMITTED IN THIS STATE THE PERSON MAY NOT  
22 FILE FOR THE RESTORATION OF THE RIGHT TO POSSESS OR CARRY A FIREARM  
23 FOR TEN YEARS FROM THE DATE OF HIS DISCHARGE FROM PROBATION. IF  
24 THE PERSON WAS CONVICTED OF ANY OTHER FELONY OFFENSE, THE PERSON  
25 MAY NOT FILE FOR THE RESTORATION OF THE RIGHT TO POSSESS OR CARRY  
26 A FIREARM FOR TWO YEARS FROM THE DATE OF THE PERSON'S DISCHARGE  
27 FROM PROBATION.

28 I. FOR THE PURPOSES OF THIS SECTION, "FINAL DISCHARGE" MEANS  
29 COMPLETION OF PROBATION OR RECEIPT OF A CERTIFICATE OF ABSOLUTE  
30 DISCHARGE FROM THE ARIZONA DEPARTMENT OF CORRECTIONS OR THE UNITED  
31 STATES BUREAU OF PRISONS.

32 Section 5. A.R.S. section 13-908 as renumbered and is amended as  
33 follows

34 13-908. Automatic Restoration of civil rights; exception

35 A. Any person who has not previously been convicted of ~~any other~~  
36 A felony OFFENSE AND A PERSON WHO HAS ONLY BEEN CONVICTED OF A  
37 FELONY OFFENSE THAT RESULTED IN BEING SENTENCED PURSUANT TO SECTION  
38 13-901.01 shall UPON APPLICATION FILED PURSUANT TO SECTION 13-907  
39 automatically be restored any civil rights that were lost or  
40 suspended ~~by~~ AS A RESULT OF the conviction if the person ~~both~~:

1 ~~1.~~ completes a term of probation or receives an absolute discharge  
2 from imprisonment.

3 2. Pays ~~any fine or~~ VICTIM restitution imposed.

4 B. This section does not apply to a person's right to possess  
5 ~~weapons~~ A FIREARM as defined in section 13-3101 unless the person  
6 applies to a court pursuant to section ~~13-905 or 13-906~~ 13-907.

7 Section 6. A.R.S. section 13-909 as renumbered is amended to  
8 read

9 13-909. Restoration of civil rights; second or subsequent  
10 conviction; persons completing probation

11 A. A person who has been convicted IN SUPERIOR COURT of ~~two or~~  
12 ~~more felonies~~ AN OFFENSE NOT LISTED IN SECTION 13-908, and whose  
13 period of probation has been completed may AT THE DISCRETION OF  
14 THE COURT have any civil rights which were lost or suspended by  
15 the felony conviction restored by the ~~judge who discharges him~~  
16 COURT at the end of the term of probation.

17 ~~B. On proper application, A person who has been discharged from~~  
18 ~~probation either before or after adoption of this chapter may have~~  
19 ~~any civil rights which were lost or suspended by the felony~~  
20 ~~conviction restored by the superior court judge by whom the person~~  
21 ~~was sentenced or the judge's successors in office from IN the~~  
22 ~~county in which the person was originally convicted. The clerk of~~  
23 ~~the superior court shall have the responsibility for processing~~  
24 ~~the application on request of the person involved or the person's~~  
25 ~~attorney. The superior court shall serve a copy of the application~~  
26 ~~on the county attorney.~~

27 B. A PERSON WHO HAS BEEN CONVICTED IN THE UNITED STATES DISTRICT  
28 COURT OF AN OFFENSE NOT LISTED IN SECTION 13-908, AND WHOSE PERIOD  
29 OF PROBATION HAS BEEN COMPLETED MAY AT THE DISCRETION OF THE  
30 SUPERIOR COURT IN THE COUNTY IN WHICH THE PERSON RESIDES COURT  
31 HAVE ANY CIVIL RIGHTS THAT WERE LOST OR SUSPENDED BY THE FELONY  
32 CONVICTION RESTORED.

33 ~~C. If the person was convicted of a dangerous offense under section~~  
34 ~~13-704 the person may not file for the restoration of the right to~~  
35 ~~possess or carry a gun or firearm. If the person was convicted of~~  
36 ~~a serious offense as defined in section 13-706 the person may not~~  
37 ~~file for the restoration of the right to possess or carry a gun or~~  
38 ~~firearm for ten years from the date of his discharge from~~  
39 ~~probation. If the person was convicted of any other felony offense,~~  
40 ~~the person may not file for the restoration of the right to possess~~

1 ~~or carry a gun or firearm for two years from the date of the~~  
2 ~~person's discharge from probation.~~

3 Section 7. A.R.S. 13-910 as renumbered is amended as follows:

4 13-910. Applications by persons discharged from prison

5 A. ~~On proper application,~~ A person who has been convicted of ~~two~~  
6 ~~or more felonies~~ A FELONY OFFENSE NOT LISTED IN SECTION 13-908 and  
7 who has received an absolute discharge from imprisonment may have  
8 any civil rights which were lost or suspended ~~by his~~ AS A RESULT  
9 OF THE conviction restored by the superior court ~~judge by whom the~~  
10 ~~person was sentenced or the judge's successors in office from~~ IN  
11 the county in which the person was originally sentenced. THE PERSON  
12 SHALL FILE WITH THE APPLICATION A CERTIFICATE OF ABSOLUTE DISCHARGE  
13 FROM THE DIRECTOR OF THE STATE DEPARTMENT OF CORRECTIONS.

14 B. ~~A person who is subject to subsection A of this section may~~  
15 ~~file, no sooner than two years from the date of his absolute~~  
16 ~~discharge, an application for restoration of civil rights that~~  
17 ~~shall be accompanied by a certificate of absolute discharge from~~  
18 ~~the director of the state department of corrections. The clerk of~~  
19 ~~the superior court that sentenced the applicant shall have the~~  
20 ~~responsibility for processing applications for restoration of~~  
21 ~~civil rights upon request of the person involved, the person's~~  
22 ~~attorney or a representative of the state department of~~  
23 ~~corrections. The superior court shall serve a copy of the~~  
24 ~~application on the county attorney.~~

25 B. A PERSON WHO HAS BEEN CONVICTED IN THE UNITED STATES DISTRICT  
26 COURT OF AN OFFENSE NOT LISTED IN SECTION 13-908 AND WHO HAS  
27 RECEIVED AN ABSOLUTE DISCHARGE FROM IMPRISONMENT IN A FEDERAL  
28 PRISON MAY AT THE DISCRETION OF THE SUPERIOR COURT IN THE COUNTY  
29 IN WHICH THE PERSON RESIDES COURT HAVE ANY CIVIL RIGHTS THAT WERE  
30 LOST OR SUSPENDED BY THE FELONY CONVICTION RESTORED. THE PERSON  
31 SHALL FILE WITH THE APPLICATION A CERTIFICATE OF ABSOLUTE DISCHARGE  
32 FROM THE DIRECTOR OF THE FEDERAL BUREAU OF PRISONS, UNLESS IT IS  
33 SHOWN TO BE IMPOSSIBLE TO OBTAIN SUCH CERTIFICATE

34 C. ~~If the person was convicted of a dangerous offense under section~~  
35 ~~13-704, the person may not file for the restoration of the right~~  
36 ~~to possess or carry a gun or firearm. If the person was convicted~~  
37 ~~of a serious offense, the person may not file for the restoration~~  
38 ~~of the right to possess or carry a gun or firearm for ten years~~  
39 ~~from the date of his absolute discharge from imprisonment. If the~~  
40 ~~person was convicted of any other felony offense, the person may~~  
41 ~~not file for the restoration of the right to possess or carry a~~

- 1 ~~gun or firearm for two years from the date of the person's absolute~~
- 2 ~~discharge from imprisonment.~~

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**ARIZONA CODE OF JUDICIAL ADMINISTRATION**  
**Part 3: Superior Court**  
**Chapter 4: Administration**  
**Section 3-402: Superior Court Records Retention and Disposition Schedule**

**A. Definitions.** In this section the following definitions apply:

“Case data” means the electronic information about a case, but not images of documents, maintained by the clerk or the court, generally found in a case management system, and often posted to the or the court’s website.

“Case file” means all documents and other material filed with the clerk of the court in an action or proceeding, either in paper or electronic format, and includes items such as CDs, DVDs, or other material requiring the use of a computer to read, as well as oversized items that do not fit within a typical paper case file or that exceed the size permitted to be filed through the e-filing system, depositions and transcripts. *Case file* includes case management system data but does not include exhibits submitted at a hearing or a trial.

“Clerk of Superior Court” or “Clerk” means the person who is appointed or elected in each county for the purpose of keeping and disposing of all documents, records, instruments, books, papers, depositions, exhibits and transcripts in any action or proceeding in the superior court.

“Records manager” means the person or persons responsible for keeping and disposing of any records held by the superior court or any department of the superior court, other than the records held by the clerk of superior court.

“State Library, Archives, and Public Records (LAPR)” means the division of the Arizona Secretary of State that is the archives for Arizona state government, which is mandated by law to collect, preserve and make available to the public and all branches of government, permanent public records, historical manuscripts, photographs and other materials that contribute to the understanding of Arizona history.

**B. General Provisions.**

1. Permanent records. At the end of the Retention Period with Court, set forth in the table in section D below, the clerk or the records manager must transfer to LAPR all records, regardless of format, that have a retention period designated as *permanent*, unless otherwise instructed by LAPR. The clerk and the records manager must work with LAPR to follow LAPR’s established requirements for transfer.

2. Early transfer of records to LAPR. Clerks and records managers at courts with insufficient records storage areas may transfer records to LAPR that are within 5 years of the end of their Retention Period with Court.
3. Electronic case files and case data. At the end of the Retention Period with Court, set forth in section D below, the clerk and the records manager must destroy electronic case files and case data not designated as having a retention period of *permanent*. Electronic case files designated as having a retention period of *permanent* must be transferred to LAPR at a time when LAPR has the capacity to accept electronic records.
4. Paper case files and administrative records. At the end of the Retention Period with Court, set forth in section D below, the clerk may destroy case files that are primarily in paper format, and the clerk and the records manager may destroy other records, regardless of format, not designated as having a retention period of *permanent*. Paper case files and other records designated as having a retention period of *permanent* must be transferred to LAPR.
5. Microfilm. Until national standards for the long-term preservation of electronic records are in place, records transferred to LAPR pursuant to the provisions of this schedule shall be in either paper or microfilm format. For any records that are microfilmed, the film negative shall also be sent to LAPR.
6. No duty to migrate to new technology. The clerk and the records manager are not responsible for migrating to new technology any material filed in an action or proceeding that is recorded in a format, such as CD and DVD that must be read by a computer.
7. Conflicting authority. To the extent that the retention periods specified in this schedule vary from any statutory provision, the longer period of retention, whether in statute or the schedule, applies.
8. Sealed files. A case file or portions of a case file sealed by order of the court must remain sealed in perpetuity, unless otherwise ordered by the court that issued the order sealing the case file or portions of the case file.
9. Completeness of schedule. This records retention and disposition schedule is intended to cover all superior court records. If a record cannot be located in this schedule, the clerk or the records manager should use his or her best judgment to place a record within a category that is already identified.
10. LAPR Retention. The column titled LAPR Retention, set forth in the table in section D below, is intended to inform courts about what occurs with court records once the records leave the judicial branch. This code section does not set policy for the executive branch of the State of Arizona.

11. Destruction of non-permanent records. When a paper case file or other paper record is eligible for destruction, the clerk and the records manager shall take proper precautions to protect the privacy of the individuals identified in the case file or other record and destroy the complete case file or other record by shredding, burning, or pulverizing the physical case file or other record. Electronic images of case file documents, data, or other records shall be deleted from all electronic repositories in which they reside, including servers and hard drives. The court may keep a list, containing minimal information, such as case number, case type, party name, and date of destruction, capturing any case files or other records destroyed, so that the court will know that a case file or other record has been destroyed and has not been merely misplaced or never existed.

**C. Authority.** Az. Const. Art. 6, §§ 3 and 23 authorize the supreme court to administer the courts of this state and to establish duties for the clerk of the superior court in each county by rule. A.R.S. § 41-151.09 requires superior court clerks to transfer all permanent files to LAPR at the end of their prescribed retention period, pursuant to court rules. Rule 29, Rules of the Supreme Court, requires the court to adopt retention and disposition schedules for court records.

**D. Retention and Disposition Schedule.** The clerk of superior court or the records manager shall retain and dispose of superior court records according to the following schedule:

Records Series #	Records Series Title	Retention Period with Court	LAPR Retention	Retention Period on Arizona Supreme Court and Local Court Public Websites	Remarks
<b>CASE FILES HELD BY THE CLERK OF COURT</b>					
1.	CIVIL CASE FILES, FILED ON OR BEFORE DECEMBER 31, 1959	50 years from the year the case was filed. However, clerks who wish to retain these files in their local office permanently and make them available to the public may retain these files.	Permanent	50 years from the year the case was filed.	Clerks may transfer these case files to LAPR at any time.

Records Series #	Records Series Title	Retention Period with Court	LAPR Retention	Retention Period on Arizona Supreme Court and Local Court Public Websites	Remarks
2.	CIVIL CASE FILES, FILED ON OR AFTER JANUARY 1, 1960	50 years from the year the case was filed	Permanent	50 years from the year the case was filed	Clerks must transfer these case files to LAPR after 50 years.
3.	FAMILY LAW CASE FILES, including paternity, and all other matters arising out of Title 25, A.R.S., FILED ON OR BEFORE DECEMBER 31, 1959	50 years from the year the case was filed. However, clerks who wish to retain these files in their local office permanently and make them available to the public may retain these files.	Permanent	50 years from the year the case was filed.	Clerks may transfer these case files to LAPR at any time.
4.	FAMILY LAW CASE FILES, including paternity, and all other matters arising under Title 25, A.R.S., FILED ON OR AFTER JANUARY 1, 1960	50 years from the year the case was filed	Permanent	50 years from the year the case was filed	Clerks must transfer these case files to LAPR after 50 years.

Records Series #	Records Series Title	Retention Period with Court	LAPR Retention	Retention Period on Arizona Supreme Court and Local Court Public Websites	Remarks
5.	ORDER OF PROTECTION CASE FILES	50 years from the year the case was filed	N/A	50 years from the year the case was filed	Clerks of court wish to separate order of protection case files from injunction against harassment and injunction against workplace harassment case files. Injunction against harassment and injunction against workplace harassment case files are to be treated as civil case files.
6.	MENTAL HEALTH CASE FILES FILED ON OR BEFORE DECEMBER 31, 1959	50 years from the year the case was filed. However, clerks who wish to retain these files in their local office permanently and make them available to the public may retain these files.	Permanent	50 years from the year the case was filed.	Clerks may transfer these case files to LAPR at any time.
7.	MENTAL HEALTH CASE FILES FILED ON OR AFTER JANUARY 1, 1960	50 years from the year the case was filed	Permanent	50 years from the year the case was filed	Clerks must transfer these case files to LAPR after 50 years.

Records Series #	Records Series Title	Retention Period with Court	LAPR Retention	Retention Period on Arizona Supreme Court and Local Court Public Websites	Remarks
8.	<p>PROBATE CASE FILES, including guardianships, conservatorships, decedents' estates, trusts, and related matters, as well as proceedings to challenge or enforce the decision of one authorized to make health care decisions for a patient, FILED ON OR BEFORE DECEMBER 31, 1959</p>	<p>75 years from the year the case was filed. However, clerks who wish to retain these files in their local office permanently and make them available to the public may retain these files.</p>	Permanent	<p>75 years from the year the case was filed.</p>	<p>Clerks may transfer these case files to LAPR at any time.</p> <p>Pursuant to Rule 94(h)(2), Rules of the Supreme Court, the clerk may destroy any voucher filed in support of an account by a trustee, personal representative, or any litigant. Under this rule, the destruction may occur 5 years after the fiscal year received.</p>

Records Series #	Records Series Title	Retention Period with Court	LAPR Retention	Retention Period on Arizona Supreme Court and Local Court Public Websites	Remarks
9.	PROBATE CASE FILES, including guardianships, conservatorships, decedents' estates, trusts, and related matters, as well as proceedings to challenge or enforce the decision of one authorized to make health care decisions for a patient, FILED ON OR AFTER JANUARY 1, 1960	75 years from the year the case was filed	Permanent	75 years from the year the case was filed	<p>Clerks must transfer these case files to LAPR after 75 years.</p> <p>Pursuant to Rule 94(h)(2), Rules of the Supreme Court, the clerk may destroy any voucher filed in support of an account by a trustee, personal representative, or any litigant. Under this rule, the destruction may occur 5 years after the fiscal year received.</p>
10.	GENERAL STREAM ADJUDICATION CASE FILES	25 years from the year the case was filed or 5 years from the date of the final non-appealable order, whichever is later	Permanent	25 years from the year the case was filed or 5 years from the date of the final non-appealable order, whichever is later	

<b>Records Series #</b>	<b>Records Series Title</b>	<b>Retention Period with Court</b>	<b>LAPR Retention</b>	<b>Retention Period on Arizona Supreme Court and Local Court Public Websites</b>	<b>Remarks</b>
11.	CRIMINAL CASE FILES, except capital felony case files, FILED ON OR BEFORE DECEMBER 31, 1959	50 years from the year the case was filed. However, clerks who wish to retain these files in their local office permanently and make them available to the public may retain these files.	Permanent	50 years from the year the case was filed.	Clerks may transfer these case files to LAPR at any time.
12.	CRIMINAL CASE FILES, except capital felony case files, FILED ON OR AFTER JANUARY 1, 1960	50 years from the year the case was filed	Permanent	50 years from the year the case was filed	Clerks must transfer these case files to LAPR after 50 years.
13.	CRIMINAL CAPITAL FELONY CASE FILES	On the death of the defendant	Permanent	On the death of the defendant	Clerks must transfer these case files to LAPR on the death of the defendant.
14.	JUVENILE ADOPTION, SEVERANCE, AND DEPENDENCY CASE FILES	100 years from the granting, denial, dismissal, or expiration of the matter as to all children	Permanent	N/A	Clerks must transfer these case files to LAPR after 100 years.
15.	JUVENILE DELINQUENCY CASE FILES	After satisfaction of A.R.S. § 8-349 or 25 years following the year the case was filed	N/A	After satisfaction of A.R.S. § 8-349 or 25 years following the year the case was filed	

Records Series #	Records Series Title	Retention Period with Court	LAPR Retention	Retention Period on Arizona Supreme Court and Local Court Public Websites	Remarks
16.	JUVENILE ABORTION CASE FILES	7 years after the ruling on the petition, motion, or final appeal, or 5 years after the date of the minor's 18 <sup>th</sup> birthday, whichever is later	N/A	N/A	
17.	JUVENILE TRAFFIC CASE FILES, when filed in the superior court	Until the minor reaches age 19	N/A	Until the minor reaches age 19	
18.	APPEAL FROM A LOWER COURT CASE FILES, both civil and criminal	5 years after the superior court issues its order disposing of the case	N/A	5 years after the superior court issues its order disposing of the case	

Records Series #	Records Series Title	Retention Period with Court	LAPR Retention	Remarks
<b>FINANCIAL AND MISCELLANEOUS RECORDS HELD BY THE CLERK OF COURT</b>				
19.	CASE FINANCIAL RECORDS, not part of a case file			Any records of receipt and disbursement of child support, fines, fees, restitution, and reimbursement payments that are not part of a case file are working files of the clerk and are, therefore, not covered by this schedule. The clerk may destroy such files when the reference value has been served.
	a. Bank account reconciliations, record of outstanding checks, record of deposits in transit, bank statements, canceled checks, canceled deposit slips, bank issued debit and credit memos, and any documentation that requests the adjustment or void of a case financial record	5 years after the fiscal year received or prepared	N/A	This retention period is established to satisfy the requirements of a contract between the Fines/Fees and Restitution Enforcement (FARE) program and an outside vendor.
	b. Expenditure records, including vouchers, invoices, purchase orders, authorizations, reimbursement requests, etc.	5 years after the fiscal year received or prepared	N/A	
	c. Periodic financial reports to federal, state, and local agencies	5 years after the fiscal year prepared	N/A	
	d. Triennial, external review report required by the minimum accounting standards	Retain until subsequent audit received	N/A	
	e. Procurement records			
	i. Solicitation canceled before vendor responses are opened	1 year after cancelation	N/A	
	ii. Solicitation canceled after vendor responses are opened	3 years after cancelation	N/A	
	iii. Documents related to successful vendor where contract executed	6 years after end of contract	N/A	

<b>Records Series #</b>	<b>Records Series Title</b>	<b>Retention Period with Court</b>	<b>LAPR Retention</b>	<b>Remarks</b>
	iv. Documents related to unsuccessful vendor where contract executed	3 years after contract or other agreement signed with competing vendor	N/A	
	v. Documents related to award made yet contract cannot be executed	3 years after contract negotiations end	N/A	
	vi. Protests, protest records, and court response	3 years after contract or other agreement signed with competing vendor	N/A	
20.	WILLS FILED for SAFEKEEPING	75 years from date received	Permanent	Former A.R.S. § 14-2901, as added by Laws 1973, Ch. 75, § 4, which authorized a testator to deposit his or her will with a court for safekeeping, was repealed by Laws 1984, Ch. 368, § 6. The minimum age to prepare a will is 18 years, and an additional 75 years encompasses a typical life span. Clerks must transfer these wills to LAPR after 75 years.
21.	WARRANTS AND SUBPOENAS THAT ARE NOT PART OF A CASE FILE, such as pen register, search warrant, trap and trace, handwriting exemplar, and nursing subpoena	1 year following the date served or issued, whichever is later	N/A	Confidential wiretap warrants and subpoenas are addressed separately in record series 22, since these warrants and subpoenas can involve lengthy periods of investigation and require a longer period of retention.
22.	CONFIDENTIAL WIRETAP WARRANTS AND SUBPOENAS THAT ARE NOT PART OF A CASE FILE	5 years following the date served or issued, whichever is later	N/A	
23.	GRAND JURY RECORDS			
	a. Empanelment documents	5 years from the end of the term of empanelment	N/A	
	b. Minutes of grand jury votes	1 year from the date of the minutes	N/A	

<b>Records Series #</b>	<b>Records Series Title</b>	<b>Retention Period with Court</b>	<b>LAPR Retention</b>	<b>Remarks</b>
24.	EXHIBITS SUBMITTED at TRIAL or HEARING in any case type, other than in historically significant and landmark cases, which are governed by section E, herein.	Upon dismissal, disposition, or final appellate ruling, whichever comes later, and then 30 days after mailing notice to responsible parties to claim the evidence, all unless otherwise ordered by the court	N/A	Clerks are encouraged to identify historically significant and landmark cases prior to the expiration of the retention period for exhibits. LAPR will accept diagrams, maps, photographs, and any other paper-based materials. LAPR will not accept three dimensional objects, clothing, or security-sensitive exhibits such as weapons, drugs, money, and bio-hazardous materials, so these exhibits should be destroyed.
25.	CASE DOCKET OR REGISTER OF ACTIONS	Retain for the same period of time as the underlying case, pursuant to this schedule	Permanent	Clerks may transfer the case docket or register of actions to LAPR with the corresponding case file.
26.	BAIL BONDSMEN ANNUAL, WRITTEN CERTIFICATION REQUIRED BY RULE 7.1(f), RULES OF CRIM PRO.	3 years from the date filed	N/A	
27.	CORRESPONDENCE OR EMAIL SENT OR RECEIVED CONCERNING REQUESTED RECORDS OR INFORMATION	Until reference value served	N/A	
28.	MARRIAGE AFFIDAVITS	Permanent; however clerks may transfer these records to LAPR at any time.	Permanent	These records are permanent records regardless of where they are located.
29.	MARRIAGE CERTIFICATES OR LICENSES	Permanent; however clerks may transfer these records to LAPR at any time.	Permanent	These records are permanent records regardless of where they are located.
30.	NOTARY AFFIDAVIT APPLICATIONS AND BONDS	Until expired or revoked	N/A	
31.	POWER OF ATTORNEY TO WRITE BONDS	Until expired or revoked	N/A	
32.	PROCESS SERVER APPLICATIONS	4 years from the date filed	N/A	

Records Series #	Records Series Title	Retention Period with Court	LAPR Retention	Remarks
33.	PROCESS SERVER INVESTIGATION CASE FILE	4 years from the date closed	N/A	
34.	PUBLIC OFFICIAL FINANCIAL DISCLOSURE STATEMENT	10 years from the date filed	N/A	
35.	RETURNED MAIL OR EMAIL, not associated with a particular case	1 year from the date returned	N/A	
36.	SPECIAL APPOINTMENT APPLICATIONS	Until reference value served	N/A	
37.	ADMINISTRATIVE ORDERS	10 years from the year filed	Permanent	

**MISCELLANEOUS RECORDS HELD BY THE CLERK OF COURT, THE COURT, OR COURT ADMINISTRATION**

38.	THE VERBATIM RECORD, INCLUDING COURT REPORTER NOTES AND ELECTRONIC RECORDINGS OF A COURT PROCEEDING, HEARING, OR TRIAL			
	a. Criminal non-capital cases, including grand jury, writs of habeas corpus, trial, sentencing, and all other proceedings	20 years from the date of sentencing or other final order of the court, unless a transcript is prepared	N/A	Court reporter notes must be retained for 20 years from the date of sentencing or other order of the court, unless a transcript is prepared.
	b. Criminal capital cases, including grand jury, writs of habeas corpus, trial, sentencing and all other proceedings	50 years from the date of sentencing	N/A	
	c. Non-criminal	5 years from the date of the proceeding	N/A	
	d. Juvenile	10 years from the date of the proceeding	N/A	
39.	ADMINISTRATIVE REVIEW DOCUMENTS FOR ANY MATTER, such as a denial of access to records	Until reference value served	N/A	
40.	CONCILIATION COURT RECORDS	5 years or until reference value served, whichever is later	N/A	

Records Series #	Records Series Title	Retention Period with Court	LAPR Retention	Remarks
<b>RECORDS HELD BY COURT ADMINISTRATION</b>				
41.	COURT ADMINISTRATION FINANCIAL RECORDS			
	a. Bank account reconciliations, record of outstanding checks, record of deposits in transit, bank statements, canceled checks, canceled deposit slips, bank issued debit and credit memos, and any documentation that requests the adjustment or void of a court financial record	5 years after the fiscal year received or prepared	N/A	
	b. Expenditure records, including vouchers, invoices, purchase orders, authorizations, reimbursement requests, etc.	5 years after the fiscal year received or prepared	N/A	
	c. Periodic summary budget reports	5 years after the fiscal year prepared	N/A	
	d. Periodic financial reports to state and local agencies	5 years after the fiscal year prepared	N/A	
	e. Triennial, external review report required by the minimum accounting standards	Until subsequent audit received	N/A	
	f. Applications, records, and reports for grants received	5 years after submission of final grant report, unless otherwise required by the granting authority	N/A	
	g. Procurement records			
	i. Solicitation canceled before vendor responses are opened	1 year after cancelation	N/A	
	ii. Solicitation canceled after vendor responses are opened	3 years after cancelation	N/A	
	iii. Documents related to successful vendor where contract executed	6 years after end of contract	N/A	
	iv. Documents related to unsuccessful vendor where contract executed	3 years after contract or other agreement signed with competing vendor	N/A	
	v. Documents related to award made yet contract cannot be executed	3 years after contract negotiations end	N/A	

Records Series #	Records Series Title	Retention Period with Court	LAPR Retention	Remarks
	vi. Protests, protest records, and court response	3 years after contract or other agreement signed with competing vendor	N/A	
42.	CONTRACTS AND OTHER AGREEMENTS	6 years after performance under the contract is completed or the contract is terminated	N/A	
43.	COURT CALENDAR	Until reference value served	N/A	
44.	FORMER PRESIDING JUDGE BUSINESS PAPERS This records series consists of records generated by presiding judges to provide guidance, direction, or general information related to the administration or non-case related business operations of the court.	Until term is completed	Permanent	The court administrator, if any, shall work with the presiding judge to determine whether the presiding judge desires to send these papers to LAPR.
45.	STATISTICAL REPORTS REQUIRED BY THE AOC	5 years from the year prepared	N/A	

## RECORDS HELD BY THE JURY COMMISSIONER

46.	MASTER JURY LIST	Until new list created	N/A	
47.	MASTER JURY FILE	Until new list created	N/A	
48.	COMPLETED TRIAL JUROR QUESTIONNAIRES			
	a. When jury commissioners include the juror questionnaire with the summons	90 days from the date received, unless otherwise ordered by the court	N/A	
	b. When jury commissioners send the juror questionnaire separate from the summons	1 year from the date received, unless otherwise ordered by the court	N/A	
49.	COMPLETED GRAND JUROR QUESTIONNAIRES	Until reference value served or 1 year from date received, whichever occurs first	N/A	

Records Series #	Records Series Title	Retention Period with Court	LAPR Retention	Remarks
50.	JUROR DATA, being the electronic information about a juror maintained in the jury management software	3 years from the date entered	N/A	
51.	COMPLETED JUROR BIOGRAPHICAL FORMS	Until completion of trial or completion of jury service, whichever occurs later	N/A	
52.	OTHER NON-FINANCIAL JUROR RECORDS	Until reference value served	N/A	
53.	FINANCIAL JUROR RECORDS NOT HELD BY ANOTHER RECORDS CUSTODIAN	3 years after fiscal year prepared	N/A	

**RECORDS HELD BY THE COURT HUMAN RESOURCES DEPARTMENT**

54.	ALCOHOL and DRUG TESTING PROGRAM RECORDS			
	a. Canceled or negative results	5 years after results received or until reference value served, whichever occurs first	N/A	
	b. Positive results	5 years after action taken in response to results is resolved or until reference value served, whichever occurs first	N/A	
	c. Records related to specimen collection	5 years after test given or until reference value served, whichever occurs first	N/A	
	d. Records received from previous employers	3 years after received or until reference value served, whichever occurs first	N/A	

Records Series #	Records Series Title	Retention Period with Court	LAPR Retention	Remarks
55.	EMPLOYEE, PERSONNEL RECORDS FOR FULL-TIME, PART-TIME, CONTRACT, SEASONAL, INTERN, VOLUNTEER, APPOINTED, OR ELECTED POSITIONS, including applications, resumes, performance reviews, disciplinary records, records documenting employee pay decisions, loyalty oaths and oaths of office, conflict of interest and personal interest disclosure records, confidentiality agreements, policy acknowledgements, exit interviews, drivers' qualifications, and pre-employment background investigation records	5 years after employment terminated, term of office ended, or contract expired, canceled, or revoked	N/A	
56.	REQUEST FOR CLASSIFICATION OF NEW POSITION OR RECLASSIFICATION OF EXISTING POSITION, including records of salary advancement	1 year after request acted upon	N/A	
57.	EEO-4 Survey report of workforce composition	1 year after subsequent report submitted	N/A	
58.	EMPLOYEE MEDICAL AND EXPOSURE RECORDS, including exposure reports and waivers, pre-employment physicals, results of exams, medical opinions, diagnoses, employee medical complaints and other related records	30 years after employment terminated	N/A	These records must be filed separately from the employee personnel file. (20 CFR § 1910.20)
59.	EMPLOYMENT ELIGIBILITY VERIFICATION RECORDS, including I-9 proof of legal residency in U.S.A., and Social Security verification	1 year after employment terminated but not less than 3 years after date of hire	N/A	(8 C.F.R. § 274a.2)
60.	GRIEVANCE and COMPLAINT RECORDS	3 years after resolved	N/A	These records are for matters that do not require formal investigation.

Records Series #	Records Series Title	Retention Period with Court	LAPR Retention	Remarks
61.	INVESTIGATIONS OF PERSONNEL MATTERS	5 years after employment terminated or investigation resolved or closed, whichever is later	N/A	
62.	HIRING and SELECTION RECORDS, including job announcements, applications, selection, test scores, interview records, pre-employment background check records, affirmative action questionnaires and other related records for individuals <i>not</i> hired	3 years after position filled or abandoned	N/A	(29 C.F.R. § 1602.31)
63.	INDIVIDUAL EMPLOYEE TRAINING RECORDS	5 years after training received	N/A	(ACJA § 1-302(E) (1)(h))
64.	LAYOFF and REDUCTION IN FORCE RECORDS	5 years after reduction in force completed or abandoned	N/A	
65.	WORKERS COMPENSATION RECORDS			(29 C.F.R. § 1952.4)
	a. Denied claims	3 years after denied	N/A	
	b. Reports of industrial injury	5 years after created or received	N/A	
	c. Case records	75 years after case closed	N/A	
66.	BENEFIT ENROLLMENT RECORDS, including employee enrollment in medical, dental, life insurance, prepaid legal, beneficiary designation, and other benefit options	5 years after employment terminated	N/A	
67.	RECORDS DESCRIBING ESTABLISHED POSITIONS, including information on title, series, grade, duties, and responsibilities	3 years after superseded or position abolished, whichever is first	N/A	
68.	AMERICANS with DISABILITIES ACT (ADA) RECORDS, including requests for accommodation	3 years after completion of accommodation	N/A	

Records Series #	Records Series Title	Retention Period with Court	LAPR Retention	Remarks
69.	INDIVIDUAL DISABILITY CLAIM RECORDS, both short-term and long-term	6 years after claim closed	N/A	
70.	EMPLOYEE CONSOLIDATED OMNIBUS BUDGET RECONCILIATION ACT (COBRA) RECORDS			
	a. Decline Notice Records, including returned undeliverable notices	2 years after employment terminated	N/A	
	b. All others	3 years after benefits terminated or coverage rejected	N/A	
71.	FAMILY MEDICAL LEAVE ACT (FMLA) RECORDS, including employee leave request forms, supporting documentation, and other non-medical related records	3 years after created, received or leave expired, whichever is later	N/A	Employee certification and health records must be retained separately from the personnel file with the employee health and exposure records.
72.	FINGERPRINT CARDS	6 months after created or received	N/A	
73.	LEAVE RECORDS	3 years after fiscal year created or received	N/A	
74.	MERIT-BASED FUNDING RECORDS	2 years after created or received	N/A	
75.	UNEMPLOYMENT CLAIMS AND APPEALS RECORDS	2 years after action taken	N/A	
<b>CASE FILES HELD BY PRETRIAL SERVICES</b>				
76.	CASE SUPERVISION FILES	1 year after the retention period of the underlying case file held by the clerk	N/A	

**E. Purge Lists.** Pursuant to Rule 29(A), Rules of the Supreme Court, purge lists have been set forth in prior versions of this records retention and disposition schedule. Historically, purge lists identified documents to be removed from case files before storage or replication of the case file. The clerks now indicate that the process of purging case files is resource intensive and is no longer optimal practice. Additionally, LAPR indicates that it does not object to receiving permanent case files that are not purged of certain documents. Therefore, purge lists no longer appear in

this records retention and disposition schedule, and purging need no longer be carried out.

**F. Historically Significant and Landmark Cases.** Clerks shall comply with the following procedures for designating and transferring cases to be historically significant or landmark:

1. Designation of a case as historically significant

- a. Purpose. Certain cases filed in Arizona courts may be identified as historically significant because of the unique legal issue or controversy involved, the prominence of one or more of the parties to the action, or because of other high-profile or newsworthy reasons. When there is reason to believe that a case falls into this category, the following procedures shall be followed.
- b. Procedure for designating a case as historically significant. A motion to request that a case be designated historically significant shall be filed either by a member of the public or on the court's own motion. The motion shall identify one or more reasons the case should be designated historically significant. The presiding judge shall decide the motion. If the motion is denied, the presiding judge shall identify the reason for the denial. The clerk shall file the order granting or denying the motion for historically significant designation with the case.
- c. Processing and transferring. If the motion is granted, the clerk shall, within 90 days of final disposition, transfer the case, a print-out of the register of actions or docket from the case management system, any exhibits not previously retrieved or destroyed, and any microfilm to LAPR for permanent. LAPR will accept diagrams, maps, photographs, and any other paper-based materials. LAPR will not accept three dimensional objects, clothing, or security-sensitive exhibits such as weapons, drugs, money, and bio-hazardous materials. Identification of the case as historically significant shall be prominently noted on the print-out of the register of actions or docket from the case management system transferred with the case to LAPR.

2. Designation of a case as landmark

- a. The following factors shall be considered in deciding whether a case is a landmark case:
  - (1) The frequency with which the case has been cited;
  - (2) Whether the case has been designated as historically significant;
  - (3) Whether the case caused a change in policies or laws;
  - (4) Whether the case affected a large portion of the community or was controversial;

- (5) Whether the case is generally viewed by the community as important;
- (6) Whether the case involved a famous or notorious individual or was the subject of a well-known book or film; and
- (7) Any other relevant factor.
- (8) Any case that has been the subject of a published opinion of the United States Supreme Court and has statewide or national impact shall be designated as a landmark case.

b. Procedure for designating a case as landmark:

- (1) The Arizona Historical Records Advisory Board shall designate a case as landmark under section (F)(2)(a)(1)-(8), above, in consultation with a committee convened by the Board for this purpose. The committee shall consist of Board members, retired appellate court judges or justices, law professors, historians, or other like persons who have objective, informed views about the long-term significance and effect of eligible published appellate opinions. The committee shall meet periodically to review all published appellate opinions no less than five years and no more than nine years after issued, to determine whether any of these cases should be designated as landmark.
- (2) No more than ten years after an appellate opinion is issued, and with the Board's approval, the director of the Division of Arizona History and Archives shall provide written notice of landmark designation to the clerk of the superior court in the county of origin, the clerk of the appropriate division of the court of appeals, and the clerk of the supreme court who shall apply the process for transferring the case to LAPR pursuant to (F)(2)(c).

c. Processing and transferring. When a case has been designated as landmark, the clerk shall file notice of this designation in the case. The clerk shall immediately transfer the case, a print-out of the register of actions or docket from the case management system, any exhibits not previously retrieved or destroyed, and any microfilm to LAPR for permanent retention. LAPR will accept diagrams, maps, photographs, and any other paper-based materials. LAPR will not accept three dimensional objects, clothing, or security-sensitive exhibits such as weapons, drugs, money, and bio-hazardous materials. Identification of the case as landmark shall be prominently noted on the print-out of the register of actions or docket from the case management system transferred with the case to LAPR.

*Adopted by Administrative Order 2006-29, effective March 21, 2006. Amended by Administrative Order 2014-117, effective January 1, 2015. Amended by Administrative Order 2016-114, effective November 2, 2016.*

**ARIZONA CODE OF JUDICIAL ADMINISTRATION**  
**Part 4: Limited Jurisdiction Courts**  
**Chapter 3: Administration**  
**Section 4-302: Records Retention and Disposition Schedule**

**A. Definitions.** In this section, the following definitions apply:

“Case file” means all documents and other material filed with the clerk in an action or proceeding, either in paper or electronic format, including depositions, transcripts, and case financial records. *Case file* also includes case management system data but does not include exhibits submitted at a hearing or trial.

“Completion of Sentence” and “Satisfaction of Sanctions” mean payment of all fines, fees, and restitution along with compliance with all requirements of the court’s order or law.

“Records Manager” means the person or persons responsible for keeping and disposing of any records held by the court or any department of the court.

**B. General Provisions**

1. **Electronic Case Files and Case Data.** At the end of the retention period set forth in section E below, a records manager must destroy electronic case files and case data.
2. **Paper Case Files and Administrative Records.** At the end of the retention period set forth in section E below, a records manager may destroy case files that are primarily paper in format and all other records, regardless of format.
3. **The State Library, Archives, and Public Records (LAPR)** is the division of the Arizona Secretary of State that is the archives for Arizona state government. LAPR has decided not to collect limited jurisdiction court records except for case files that have been designated as historically significant or landmark and presiding judge business papers. A presiding judge, upon the completion of the presiding judge’s term may offer his or her business papers to LAPR. Other than with the exceptions set forth in this paragraph, a municipal or justice court need not notify LAPR prior to destruction of records.
4. **Conflicting Legal Authority.** To the extent that the retention periods specified in this schedule vary from any statutory provision, the longer period of retention, whether in the statute or in the schedule, applies.
5. **Destruction.** When a paper case file or other paper record is eligible for destruction, the records manager shall take proper precautions to protect the privacy of the individuals identified in the case file or other record and destroy the complete case file or other record by shredding, burning, or pulverizing the physical case file or other record. Electronic images of case file documents or other records and case or other records data shall be deleted from all places in which they or it reside(s), including servers and hard drives. The court may keep a list, containing minimal information, such as case number, case type, party name, and date of destruction, capturing any case files or other records

destroyed, so that the court will know that a case file or other record has been destroyed and has not been merely misplaced or never existed.

**C. Historically Significant and Landmark Cases.** Records managers shall comply with the following procedures for designating and transferring cases determined to be historically significant or landmark:

1. Designation of a case as historically significant

- a. Purpose. Certain cases filed in Arizona courts may be identified as historically significant because of the unique legal issue or controversy involved, the prominence of one or more of the parties to the action, or because of other high profile or newsworthy reasons. When there is reason to believe that a case falls into this category, the following procedures shall be followed.
- b. Procedure for designating a case as historically significant. A motion to request that a case be designated historically significant shall be filed either by a member of the public or on the court's own motion. The motion shall identify one or more reasons the case should be designated historically significant. The presiding judge shall decide the motion. If the motion is denied, the presiding judge shall identify the reason for the denial. The clerk shall file the order granting or denying the motion for historically significant designation with the case.
- c. Processing and transferring. If the motion is granted, the records manager shall, within 90 days of final disposition, transfer the case, a print-out of the register of actions or docket from the case management system, any exhibits not previously retrieved or destroyed, and any microfilm to LAPR for permanent retention. LAPR will accept diagrams, maps, photographs, and any other paper-based materials. LAPR will not accept three dimensional objects, clothing, or security-sensitive exhibits such as weapons, drugs, money, and bio-hazardous materials. Identification of the case as historically significant shall be prominently noted on the print-out of the register of actions or docket from the case management system transferred with the case to LAPR.

2. Designation of a case as landmark

- a. The following factors shall be considered in deciding whether a case is landmark:
  - (1) The frequency with which the case has been cited;
  - (2) Whether the case has been designated as historically significant;
  - (3) Whether the case caused a change in policies or laws;
  - (4) Whether the case affected a large portion of the community and was controversial;
  - (5) Whether the case is generally viewed by the community as important;
  - (6) Whether the case involved a famous or notorious individual or was the subject of a well-known book or film; and

- (7) Any other relevant factor.
- (8) Any case that has been the subject of a published opinion of the United States Supreme Court and has statewide or national impact shall be designated as a landmark case.

b. Procedure for designating a case as landmark

- (1) The Arizona Historical Records Advisory Board shall designate a case as landmark under section (C)(2)(a)(1) and (3)–(8), above, in consultation with a committee convened by the Board for this purpose. The committee shall consist of Board members, retired appellate court judges or justices, law professors, historians, or other like persons who have objective, informed views about the long-term significance and effect of eligible published appellate opinions. The committee shall meet periodically to review all published appellate opinions no less than five years and no more than nine years after issued to determine whether any of these cases should be designated as landmark.
- (2) No more than ten years after an appellate opinion is issued, and with the Board’s approval, the Director of the Division of Arizona History and Archives shall provide written notice of landmark designation to the records manager of the court of origin, the clerk of the appropriate division of the court of appeals, and the clerk of the supreme court who shall apply the process for transferring the case to LAPR pursuant to (C)(2)(c), below.
- (3) Landmark designation under subsection (C)(2)(a)(2) above shall be made by the presiding judge in the court of origin.

c. Processing and transferring. When a case has been designated as landmark, the clerk shall file the notice of this designation in the case. The records manager shall immediately transfer the case, a print-out of the register of actions or docket from the case management system, any exhibits not previously retrieved or destroyed, and any microfilm to LAPR for permanent retention. LAPR will accept diagrams, maps, photographs, and any other paper-based materials. LAPR will not accept three dimensional objects, clothing, or security-sensitive exhibits such as weapons, drugs, money, and bio-hazardous materials. Identification of the case as landmark shall be prominently noted on the print-out of the register of actions or docket from the case management system transferred with the case to LAPR.

**D. Authority.** Az. Const., Art. 6, §§ 3 and 23 authorize the supreme court to administer the courts of this state. Rule 29, Rules of the Supreme Court, requires the supreme court to adopt retention and disposition schedules for court records. A.R.S. §§ 22-124 and -428 authorize the municipal and justice courts to maintain and destroy records pursuant to rules established by the supreme court.

**E. Retention and Disposition Schedule.** Justice and municipal courts shall retain records according to the following schedule:

<b>Record Series No.</b>	<b>Record Series Title</b>	<b>Retention Period with Court</b>	<b>Retention Period on Arizona Supreme Court and Local Court Public Websites</b>	<b>Retention Period in Case and Document Management Systems</b>
<b>CASE FILES</b>				
	<b>A. Civil traffic</b>			
1.	i. Civil traffic, non-default	1 year after final adjudication and satisfaction of sanctions	1 year after final adjudication and satisfaction of sanctions	5 years after final adjudication and satisfaction of sanctions
2.	ii. Civil traffic default	1 year after satisfaction of sanctions	1 year after final adjudication and satisfaction of sanctions	5 years after final adjudication and satisfaction of sanctions
3.	iii. Parking violation, non-default, both statute and local ordinance	6 months after final adjudication and satisfaction of sanctions	6 months after final adjudication and satisfaction of sanctions	1 year after final adjudication and satisfaction of sanctions
4.	iv. Parking violation, default, both statute and local ordinance	6 months after satisfaction of sanctions	6 months after satisfaction of sanctions	1 year after satisfaction of sanctions
	<b>B. Civil, other than traffic</b>			

<b>Record Series No.</b>	<b>Record Series Title</b>	<b>Retention Period with Court</b>	<b>Retention Period on Arizona Supreme Court and Local Court Public Websites</b>	<b>Retention Period in Case and Document Management Systems</b>
5.	i. Order of protection, injunction against harassment, and injunction against workplace harassment – petitions granted	3 years after expiration of the order	3 years after expiration of the order. Only information regarding orders that have been served on the defendant can appear on court websites. See ARPOP 1(C)(6). No information about the plaintiff may appear. See 18 USC § 2265(d)(3).	3 years after expiration of the order
6.	ii. Order of protection, injunction against harassment, and injunction against workplace harassment – petitions not granted	1 year after denial or dismissal	N/A. Petitions not granted cannot appear on any court websites. See ARPOP 1(C)(6)	3 years after denial

<b>Record Series No.</b>	<b>Record Series Title</b>	<b>Retention Period with Court</b>	<b>Retention Period on Arizona Supreme Court and Local Court Public Websites</b>	<b>Retention Period in Case and Document Management Systems</b>
7.	iii. Orders dismissed	3 years after dismissal of the order	3 years after dismissal of the order. Only information regarding orders that have been served on the defendant can appear on court websites. See ARPOP 1(C)(6). No information about the plaintiff may appear. See 18 USC § 2265(d)(3).	3 years after dismissal of the order
8.	iv. Local ordinance violation, other than parking (See A. iii. and A. iv., above, for parking violations)	1 year after final adjudication and satisfaction of judgment	Not available on Arizona Judicial Branch Public Access to Case Information website. May be available on local court website for 1 year after final adjudication and satisfaction of judgment	5 years after final adjudication and satisfaction of judgment

Record Series No.	Record Series Title	Retention Period with Court	Retention Period on Arizona Supreme Court and Local Court Public Websites	Retention Period in Case and Document Management Systems
9.	v. Eviction	11 years after final judgment or the filing of an affidavit of renewal, whichever is later, or 1 year after voluntary dismissal	11 years after final judgment or the filing of an affidavit of renewal, whichever is later, or 1 year after voluntary dismissal	11 years after final judgment or the filing of an affidavit of renewal, whichever is later, or 1 year after voluntary dismissal
10.	vi. Small claims	11 years after final judgment or the filing of an affidavit of renewal, whichever is later, or 1 year after voluntary dismissal	11 years after final judgment or the filing of an affidavit of renewal, whichever is later, or 1 year after voluntary dismissal	11 years after final judgment or the filing of an affidavit of renewal, whichever is later, or 1 year after voluntary dismissal
11.	vii. General civil case, other than small claims	11 years after final judgment or the filing of an affidavit of renewal, whichever is later, or 1 year after voluntary dismissal or the filing of a satisfaction of judgment	11 years after final judgment or the filing of an affidavit of renewal, whichever is later, or 1 year after voluntary dismissal or the filing of a satisfaction of judgment	11 years after final judgment or the filing of an affidavit of renewal, whichever is later, or 1 year after voluntary dismissal or the filing of a satisfaction of judgment
<b>C. Criminal</b>				
12.	i. Felony	6 months after discharge or transmittal to superior court	6 months after discharge or transmittal to superior court	3 years after discharge or transmittal to superior court

<b>Record Series No.</b>	<b>Record Series Title</b>	<b>Retention Period with Court</b>	<b>Retention Period on Arizona Supreme Court and Local Court Public Websites</b>	<b>Retention Period in Case and Document Management Systems</b>
13.	ii. Misdemeanor and criminal traffic	5 years after final adjudication and completion of sentence	5 years after final adjudication and completion of sentence	10 years after final adjudication and completion of sentence
14.	iii. DUI and OUI	8 years after final adjudication and completion of sentence	8 years after final adjudication and completion of sentence	10 years after final adjudication and completion of sentence
15.	iv. Domestic violence offense	8 years after final adjudication and completion of sentence	8 years after final adjudication and completion of sentence	10 years after final adjudication and completion of sentence
16.	v. Petty offense	1 year after final adjudication and completion of sentence	1 year after final adjudication and completion of sentence	1 year after final adjudication and completion of sentence

**RECORD OF COURT PROCEEDING**

17.	A. The verbal record, including court reporter notes and electronic recordings of a court proceeding, hearing, or trial	No more than 3 years from completion of the case	N/A	N/A
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Record Series No.	Record Series Title	Retention Period with Court	Retention Period on Arizona Supreme Court and Local Court Public Websites	Retention Period in Case and Document Management Systems
<b>MISCELLANEOUS RECORDS</b>				
18.	A. Records created or received by the court, but not filed	6 months after created or received, whichever is later	N/A	N/A
19.	B. Exhibits submitted at trial or hearing in any case type	Upon dismissal, disposition, or final appellate ruling, whichever comes later, and then 60 days after mailing notice to responsible persons to claim all evidence, all unless otherwise ordered by the court	N/A	N/A
<b>ADMINISTRATIVE RECORDS</b>				
20.	A. Chief presiding judge business papers	Until term is completed. The presiding judge may then contact LAPR to determine whether they wish to receive these papers.	N/A	N/A

<b>Record Series No.</b>	<b>Record Series Title</b>	<b>Retention Period with Court</b>	<b>Retention Period on Arizona Supreme Court and Local Court Public Websites</b>	<b>Retention Period in Case and Document Management Systems</b>
21.	B. Records held by a court human resources department	As required by law or local policy, whichever is later	N/A	N/A
22.	C. COJET records	After reference value served	N/A	N/A
23.	D. Jury records, non-financial	90 days from the date received by the court	N/A	N/A
24.	E. Statistical reports required by the AOC	1 year after the fiscal year prepared	N/A	N/A
	F. Court administration financial records			
25.	i. Bank account reconciliations, record of outstanding checks, record of deposits in transit, bank statements, canceled checks, canceled deposit slips, bank issued debit and credit memos, and any documentation that requests the adjustment or void of a court financial record	3 years after the fiscal year created or received	N/A	N/A
26.	ii. Expenditure records, including vouchers	3 years after the fiscal year prepared	N/A	N/A
27.	iii. Periodic summary budget reports	3 years after the fiscal year prepared	N/A	N/A
28.	iv. Periodic financial reports to state and local agencies	3 years after the fiscal year prepared	N/A	N/A

<b>Record Series No.</b>	<b>Record Series Title</b>	<b>Retention Period with Court</b>	<b>Retention Period on Arizona Supreme Court and Local Court Public Websites</b>	<b>Retention Period in Case and Document Management Systems</b>
29.	v. Triennial external review report required by the minimum accounting standards	Until subsequent audit received	N/A	N/A
30.	vi. Applications, records, and reports for grants received	3 years after submission of final grant report, unless otherwise required by the granting authority	N/A	N/A
31.	G. Administrative records not otherwise specified above.	1 year from date prepared or received, or until reference value served, whichever is earlier	N/A	N/A
32.	H. Warrants that are not part of a case file	1 year from date of return; If not returned, destroy upon expiration	N/A	N/A
33.	I. Administrative orders and directives	Permanent	N/A	N/A

*Adopted by Administrative Order 2006-94, effective November 1, 2006. Amended by Administrative Order 2007-83, effective November 21, 2007. Amended by Administrative Order 2008-88, effective November 5, 2008. Amended by Administrative Order 2014-115, effective January 1, 2015. Amended by Administrative Order 2017-73, effective July 5, 2017. Technical amendment by Administrative Order 2018-53, effective June 5, 2018.*