

ARIZONA JUDICIAL COUNCIL

Request for Council Action

**Date Action
Requested:**

October 27, 2016

**Type of Action
Requested:**

Formal Action/Request
 Information Only
 Other

Subject:
Legislative Proposals

FROM:

Jerry Landau and Amy Love

DISCUSSION:

2017 Legislative Proposals

RECOMMENDED COUNCIL ACTION:

Council may vote to include or not include in the Legislature a Judicial Branch proposal or to support, oppose or take no action on proposals from other entities presented to the Council.

Below are the AOC Legal Services comments on legislation proposals 2017-01 through 2017-07. Our assessment of 2007-08 is not yet complete to be submitted for the AJC mailing. I am providing a separate email with grammatical edits.

For more information contact
David Withey, Chief Counsel
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2017-01 Sentencing; fines; fees; probation

Page 4, line 14, in order to be clear that the steps required may have been done sometime in the past rather than after 20 years has lapsed, change to read: “**THE DEBT AND THE COURT DOES HAS DONE ALL OF THE FOLLOWING:**” Change the first word of each numbered subsection to past tense to match this change.

Page 8, line 24: Clarification is needed that the state is not entitled to interest. Revise to read “Enforcement of a criminal restitution order by any person who is entitled to restitution ~~or by the state~~ OTHER THAN THE STATE includes the collection of interest . . .” Additional grammatical and spelling changes have been recommended separately.

2017-02 Traffic offenses; penalties

Inconsistent effective dates are provided: On page 2 of the Proposal Cover Sheet in subsection (I) (G), there is a delayed effective date of December 31, 2017, but on page 16, line 2, the draft bill makes all amendments effective March 31, 2018.

Page 1, lines 21 and 22: It appears inconsistent with the purpose to limit to driving to high schools and colleges. Recommend changing lines 21-22 to read, . . . THE PERSON’S RESIDENCE AND THE PERSON’S EMPLOYMENT, SCHOOL, OR MEDICAL APPOINTMENT to include driving to pre-school, kindergarten, or elementary school as well. Additional grammatical and spelling changes have been recommended separately.

2017-03 Bailable offenses

Page 2, line 7, strike the added language “...THE PERSON IS...” as unnecessary and because the apparent intent is to look at past not present violent conduct. If some clarification is needed due to the length of the sentence it could be changed to read “...THAT THE PERSON ENGAGED...”

2017-04 Competency examination; jurisdiction

The proposed amendment should be revised to read: “E. THE PRESIDING JUDGE OF THE SUPERIOR COURT IN EACH COUNTY MAY, WITH AGREEMENT OF THE JUSTICE OF THE PEACE OR MUNICIPAL COURT JUDGE AUTHORIZE A JUSTICE OF THE PEACE COURT OR A MUNICIPAL COURT TO EXERCISE JURISDICTION OVER COMPETENCY HEARINGS IN MISDEMEANOR CASES ARISING OUT OF THAT COURT. . . .” This clarifies that the expanded jurisdiction does not extend to felony cases filed initially in JP court.

Line 19, insert a comma after MUNICIPAL COURT JUDGE

2017-05 Criminal littering; classification

In addition to the reason for this proposal stated on the Request for Proposal cover sheet, based on its report, not only did the task force want to make it easier to process minor offenses, it also wanted to eliminate the potential for incarceration for minor offenses and reduce the stigma associated with a criminal record (Task Force Report at page 14).

2017-06 Court Security Fund

No additional comment required.

2017-07 IPS wages; distribution

No comment required.

2017-01: Sentencing; fines; fees; probation

Background:

While people of all income levels commit infractions of the law, the impact a court-imposed fee has is greater on indigent populations. Arizona law already permits judges in limited circumstances to mitigate fines using community restitution to avoid an economic hardship; however, community restitution may not always be the most appropriate response. Sanctions are necessary and intended to hold persons accountable and deter future illegal behavior; as such, courts should be able to adjust the amount ordered for low-income people to achieve a similar deterrent effect or order them to treatment and education classes if more appropriate. The cost of pursuing a case often exceeds the benefit that would be realized if collection efforts are successful but courts are unable to write off debt as is permitted for other government entities, such as the Department of Revenue.

Solution:

Proposal 2017-01 modifies the requirements of various court ordered financial obligations, increases judicial discretion with respect to sentencing of misdemeanants, permits debt removal from court accounting systems under specified limited circumstances, and provides for changes in the calculation of imprisonment terms due to pre-trial incarceration.

Provisions:

- Allows a defendant charged with a misdemeanor to perform community restitution without the necessity of placing the person on probation, this achieving the same result and at lower cost. In addition, virtually no limited jurisdiction courts have a probation department.
- Adds civil penalties and surcharges to the list of financial obligations for which a court may order community restitution in lieu of payment after a finding that the defendant is unable to pay all or part of the monetary obligation.
- Expands the community restitution program to superior court.
- Permits a judge to waive, or mitigate part of a civil penalty, fine, surcharge, fee, forfeiture, assessment or incarceration cost if the payment would cause a hardship on the person convicted or adjudicated or on the person's immediate family. If a portion of the civil penalty, fine, forfeiture, surcharge, fee, assessment or incarceration cost is waived, or mitigated, the amount assessed must be divided according to the proportion that the civil

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2017-01: Sentencing; fines; fees; probation

penalty, fine, surcharge, fee, forfeiture, assessment and incarceration cost represent to the total amount due. A judge may also waive all or part of mandatory community restitution due to the medical condition of the defendant.

- Permits a court to order a period of education or treatment for a person convicted of a misdemeanor not to exceed the period of probation permitted under law. Any treatment program selected will be determined by the court or the defendant's probation officer.
- Allows the court to adjust a period of supervised probation for earned time credit for each month that a probationer is current on court ordered restitution and community restitution (current law prohibits the credit from being awarded if any portion of restitution is not paid or completed).
- The court may credit time spent in custody against a term of imprisonment if the defendant is released from custody pending trial on one offense but remains in custody due to not being released on another case.
- Reduces the annual interest that accrues on a criminal restitution order from 10% to 4%.
- Authorizes limited and general jurisdiction courts to remove all or part of any debt due to the court as the result of a misdemeanor or felony conviction from the court's accounting system if 20 years has elapsed from the date the fine resulting in the debt and the court:
 - Notifies the prosecutor and the defendant and victim, if their whereabouts are known and waits thirty days for the either party or the victim to file an objection. The court must consider any objection in determining whether to remove the debt, and
 - Makes reasonable attempts to collect the debt, including billing the debtor at least four times, and
 - Submits the debt for collection to a collection agency licensed pursuant to Title 32, Chapter 9 and waits at least one year while the agency attempts collection, and
 - Notifies the Department of Revenue of the debt pursuant to section §42-1122, and
 - Notifies the appropriate city or county treasurer.
- Provides a delayed effective date of January 1, 2018

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Sentencing; fines; fees; probation

1 Section 1. Amend §12-116.01

2 12-116.01. Surcharges; fund deposits

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

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

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

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

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

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

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

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

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

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

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

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

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

1 Section 2. Amend §12-116.02

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

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

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

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

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

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

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

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

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

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

12 Section 3. Enact §28-137

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

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

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

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

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

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

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

30 Section 4. Amend §13-603

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

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

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

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

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

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

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

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

22 3. Both imprisonment and a fine.

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

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

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

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

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

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

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

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

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

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

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

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

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

3 Section 5. Amend §13-712

4 13-712. Calculation of terms of imprisonment

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

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

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

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

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

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

37 Section 6. Amend §13-805

38 13-805. Jurisdiction

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

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

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

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

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

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

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

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

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

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

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

33 2. Associated interest.

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

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

38 Section 7. Amend §13-824

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

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

12 Section 8. Enact §13-825

13 13-825. Misdemeanors; community restitution

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

16 Section 9. Enact §13-826

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

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

22 Section 10. Enact §13-827

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

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

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

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

35 Section 11. Amend §13-924

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

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

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

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

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

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

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

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

14 1. On lifetime probation.

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

16 3. On probation exclusively for a misdemeanor offense.

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

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

21 Section 12. Enact §22-126

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

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

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

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

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

38 5. NOTIFIES THE COUNTY TREASURER.

39 Section 13. Enact §22-430

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

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

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

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

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

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

16 5. NOTIFIES THE CITY TREASURER.

17 Section 14. Delayed effective date

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

9/13/16

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

Background:

Each year in Arizona, over 100,000 driver licenses are suspended for failure to appear in court for a civil traffic ticket or failure to make a payment on a payment plan for a civil penalty. Court notices are frequently returned because they are sent to an old address. A license suspension can result in other negative consequences, including inability to get to work, drive children to school, or criminal behavior if the person continues to drive. Alternatives to license suspension are needed and suspension should be used as a last result instead of a first step. Fines in for misdemeanor and civil traffic violations in Arizona, especially when combined with surcharges and assessments are extremely high, making it extremely difficult to satisfy a court debt.

Solution:

Proposal 2017-02 authorizes specified restrictions be placed on a person's driving privileges in lieu of suspension for certain traffic offenses, modifies sanctions and financial obligations for various violations of Title 28, and permits a judge to waive certain monetary obligations related to DUI, pursuant to law.

Provisions:

- Reclassifies Driving on a suspended license from a Class 1 misdemeanor to a civil traffic violation if the person's driver license is suspended for failure to pay a monetary obligation or for failure to appear.
- Repeals language prohibiting the court from waiving a fine, assessment, or surcharge imposed for a DUI conviction.
- Defines the scope of restrictions that may be placed on a person's driver license. Makes consistent the scope of restrictions placed on the person's driver license as required by law throughout the code.
- Reclassifies the violations for failure to have current registration on an out of state vehicle or failure to wear required corrective lenses from a Class 2 misdemeanors to civil traffic violation.
- Removes the requirement that law enforcement immobilize or impound a vehicle if it is determined that the person is driving on a suspended license. Immobilization or impound is maintained if the person's driver license has been revoked.
- Provides a delayed effective date of April 1, 2018

For additional information contact
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Arizona Supreme Court
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Driving violations; restricted license; penalties

1 Section 1. Enact §28-144

2 28-144. Driver license or permit; restrictions

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

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

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

12 3. BETWEEN THE PERSON'S PLACE OF RESIDENCE AND THE OFFICE OF A HEALTH
13 CARE PROFESSIONAL AS DEFINED IN SECTION 32-3201.

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

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

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

20 7. TRANSPORTING A DEPENDENT PERSON WHO IS LIVING WITH THE PERSON, BETWEEN
21 THE PERSON'S RESIDENCE AND THE DEPENDANT PERSON'S EMPLOYMENT, SECONDARY
22 OR POSTSECONDARY SCHOOL OR MEDICAL APPOINTMENT.

23 Section 2. Amend §28-662

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

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

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

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

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

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

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

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

7 Section 3. Amend §28-693

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

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

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

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

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

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

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

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

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

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

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

9 Section 4. Amend §28-695

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

12 Section 5. Amend §28-708

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

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

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

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

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

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

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

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

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

16 H. For the purposes of this section:

17 1. "Drag race" means either:

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

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

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

27 Section 6. Amend §28-857

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

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

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

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

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

1 C. A school bus operated on a highway shall cover or conceal all markings
2 indicating "school bus" unless the school bus is operated for the transportation
3 of children to or from any of the following:

- 4 1. School.
- 5 2. School sponsored academic activities.
- 6 3. School sponsored vocational and technical education.
- 7 4. School sponsored athletic trips.
- 8 5. School sponsored extracurricular activities.

9 D. A school bus shall have a signal with the word "stop" printed on both sides
10 in white letters not less than five inches high on a red background. The signal
11 shall be an eighteen inch reflectorized octagon. When transporting school
12 children to or from school or home, the operator of the school bus shall:

- 13 1. Manually operate the signal in a manner so that the signal is clearly visible
14 from both front and rear when extended from the left of the body of the school
15 bus.
- 16 2. Display the signal and alternately flashing lights if passengers are being
17 received or discharged while the school bus is stopped on the roadway or a
18 private road or driveway as defined in section 28-601.

19 E. The driver of a vehicle on a highway with separate roadways need not stop
20 on meeting or passing a school bus that is:

- 21 1. On a different roadway.
- 22 2. On a controlled access highway and the school bus is stopped in a loading
23 zone that is a part of or adjacent to the highway and where pedestrians are
24 not permitted to cross the roadway.

25 F. For the purposes of subsection E of this section, a lane or group of lanes
26 on either side of a two-way left turn lane is not considered a separate roadway.

27 G. A person who is responsible for a violation of subsection A of this section
28 is subject to a civil penalty as follows:

- 29 1. The court shall impose a minimum civil penalty of two hundred fifty dollars
30 for the first violation.
- 31 2. If a person violates this section a second time within a period of thirty-
32 six months, the court shall impose a minimum civil penalty of seven hundred
33 fifty dollars and shall direct the department to ~~suspend driver license~~
34 **RESTRICT THE DRIVING PRIVILEGES** of the person for not more than six months.
- 35 ~~3~~ 4. If a person violates this section three or more times within a
36 period of thirty-six months, the court shall impose a minimum civil
37 penalty of one thousand dollars and shall direct the department to
38 suspend the driver license of the person for at least six months but not
39 more than one year.

40 Section 7. Amend §28-1387

41 28-1387. Prior convictions; alcohol or other drug screening, education
42 and treatment; license suspension; supervised probation; civil
43 liability; procedures

1 A. The court shall allow the allegation of a prior conviction or any
2 other pending charge of a violation of section 28-1381, 28-1382 or 28-
3 1383 or an act in another jurisdiction that if committed in this state
4 would be a violation of section 28-1381, 28-1382 or 28-1383 filed twenty
5 or more days before the date the case is actually tried and may allow
6 the allegation of a prior conviction or any other pending charge of a
7 violation of section 28-1381, 28-1382 or 28-1383 or an act in another
8 jurisdiction that if committed in this state would be a violation of
9 section 28-1381, 28-1382 or 28-1383 filed at any time before the date
10 the case is actually tried if this state makes available to the defendant
11 when the allegation is filed a copy of any information obtained
12 concerning the prior conviction or other pending charge. Any conviction
13 may be used to enhance another conviction irrespective of the dates on
14 which the offenses occurred within the eighty-four month provision. For
15 the purposes of this article, an order of a juvenile court adjudicating
16 a person delinquent is equivalent to a conviction.

17 B. In addition to any other penalties prescribed by law, the judge shall
18 order a person who is convicted of a violation of section 28-1381, 28-
19 1382 or 28-1383 to complete alcohol or other drug screening that is
20 provided by a facility approved by the department of health services,
21 the United States department of veterans affairs or a probation
22 department. If a judge determines that the person requires further
23 alcohol or other drug education or treatment, the person may be required
24 pursuant to court order to obtain alcohol or other drug education or
25 treatment under the court's supervision from an approved facility. The
26 judge may review an education or treatment determination at the request
27 of the state, the defendant or the probation officer or on the judge's
28 initiative. The person shall pay the costs of the screening, education
29 or treatment unless, after considering the person's ability to pay all
30 or part of the costs, the court waives all or part of the costs. If a
31 person is referred to a screening, education or treatment facility, the
32 facility shall report to the court whether the person has successfully
33 completed the screening, education or treatment program. The court may
34 accept evidence of a person's completion of alcohol or other drug
35 screening pursuant to section 28-1445 as sufficient to meet the
36 requirements of this section or section 28-1381, 28-1382 or 28-1383 or
37 may order the person to complete additional alcohol or other drug
38 screening, education or treatment programs. If a person has previously
39 been ordered to complete an alcohol or other drug screening, education
40 or treatment program pursuant to this section, the judge shall order the
41 person to complete an alcohol or other drug screening, education or
42 treatment program unless the court determines that alternative sanctions
43 are more appropriate.

44 C. After a person who is sentenced pursuant to section 28-1381,
45 subsection I has served twenty-four consecutive hours in jail or after
46 a person who is sentenced pursuant to section 28-1381, subsection K or

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

12 D. Unless the license of a person convicted under section 28-1381 or 28-
13 1382 has been or is suspended pursuant to section 28-1321 or 28-1385,
14 the department on receipt of the abstract of conviction of a violation
15 of section 28-1381 or 28-1382 shall suspend the license of the affected
16 person for not less than ninety consecutive days.

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

23 ~~1. The person's place of employment and residence and during specified~~
24 ~~periods of time while at employment.~~

25 ~~2. The person's place of residence and the person's secondary or~~
26 ~~postsecondary school, according to the person's employment or~~
27 ~~educational schedule.~~

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

30 ~~4. The person's place of residence and the office of the person's~~
31 ~~probation officer for scheduled appointments.~~

32 F. If a person is placed on probation for violating section 28-1381 or
33 28-1382, the probation shall be supervised unless the court finds that
34 supervised probation is not necessary or the court does not have
35 supervisory probation services.

36 G. Any political subdivision processing or using the services of a person
37 ordered to perform community restitution pursuant to section 28-1381 or
38 28-1382 does not incur any civil liability to the person ordered to
39 perform community restitution as a result of these activities unless the
40 political subdivision or its agent or employee acts with gross
41 negligence.

42 ~~H. If a person fails to complete the community restitution ordered~~
43 ~~pursuant to section 28-1381, subsection K or section 28-1382, subsection~~
44 ~~E,~~ The court may order alternative sanctions **TO COMMUNITY RESTITUTION**
45 **ORDERED PURSUANT TO SECTION 28-1381, SUBSECTION K OR SECTION 1382,**

1 **SUBSECTION E** if the court determines that **EDUCATION OR TREATMENT OR OTHER**
2 alternative sanctions are more appropriate.

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

6 Section 8. Repeal §28-1389
7 Section 28-1389 is repealed

8 Section 9. Amend §28-2322
9 **28-2322. License plate requirement for nonresident's foreign vehicle**
10 A person shall not operate a foreign vehicle owned by a nonresident on
11 a highway and a nonresident owner shall not knowingly permit the
12 foreign vehicle to be operated on a highway unless there is displayed
13 on the vehicle the license plates assigned to the vehicle for the
14 current registration year by the state or country of which the owner
15 is a resident. **A PERSON WHO VIOLATES THIS SECTION IS SUBJECT TO A**
16 **CIVIL TRAFFIC VIOLATION.**

17 Section 10. Amend §13-2328.
18 **28-2328. Violation; classification**
19 **UNLESS OTHERWISE PROVIDED FOR IN THIS ARTICLE,** A person who violates
20 this article is guilty of a class 2 misdemeanor.

21 Section 11. Amend §28-2532
22 **28-2532. Registration; violation; civil penalties**
23 A. Except as provided in subsection B of this section, a person who is
24 the resident or nonresident owner or operator of a motor vehicle, trailer
25 or semitrailer that is required by law to be registered in this state
26 and that is not registered or does not display license plates assigned
27 by the department for the current registration year and who operates or
28 knowingly permits the vehicle to be operated on a highway is subject to
29 a civil penalty of three hundred dollars notwithstanding section 28-
30 1598.

31 B. On proper presentation of evidence of current registration, a person
32 who is charged with a violation of subsection A of this section is
33 subject to a civil penalty of fifty dollars.

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

40 Section 12. Amend §28-3308

1 28-3308. Mandatory suspension; failure to appear

2 On notification that a person failed to appear as directed for a
3 scheduled court appearance after service of the complaint alleging a
4 violation of a provision of this title, the department shall suspend the
5 person's driver license or nonresident operating privilege until the
6 person appears, the fine ~~or civil penalty~~ is paid or a bond is forfeited.

7 Section 13. Amend §28-3473

8 28-3473. Driving violations on a suspended, canceled, revoked or refused
9 license; classification; restricted privilege to drive; violation;
10 classification

11 ~~A. Except as otherwise provided in this subsection,~~ EXCEPT AS PROVIDED
12 IN SECTION 28-3473.01, A person ~~who drives~~ SHALL NOT DRIVE a motor
13 vehicle on a public highway when the person's privilege to drive a motor
14 vehicle is suspended, revoked, canceled or refused or when the person
15 is disqualified from driving ~~is guilty of a class 1 misdemeanor. If the~~
16 ~~suspension is pursuant to section 28-1601 and the person presents to the~~
17 ~~court evidence that the person's privilege to drive has been reinstated,~~
18 ~~the court may dismiss the charge of driving under a suspended driver~~
19 ~~license.~~

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

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

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

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

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

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

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

39 C. On application, the department shall issue a driver license that
40 restricts a person's privilege to drive pursuant to subsection B of this

1 section and that is valid for one year only if all of the following
2 apply:

3 1. The person has completed all requirements of the sentence imposed by
4 the court.

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

9 3. The person pays the applicable reinstatement fee prescribed by section
10 28-3002.

11 D. A PERSON WHO VIOLATES SUBSECTION A OF THIS SECTION IS GUILTY OF A
12 CLASS 1 MISDEMEANOR.

13 Section 14. Enact §28-3473.01

14 28-3473.01. Driving on a license suspended for failure to appear or pay
15 a civil traffic violation; restricted privilege to drive; civil penalty

16 A. A PERSON SHALL NOT DRIVE A MOTOR VEHICLE ON A PUBLIC HIGHWAY WHEN THE
17 PERSON'S PRIVILEGE TO DRIVE A MOTOR VEHICLE IS SUSPENDED PURSUANT TO
18 SECTION 28-1601 OR 28-3308.

19 B. ON RECEIPT OF A RECORD OF A FINDING OF RESPONSIBNLITY OF A PERSON
20 UNDER THIS SECTION, THE DEPARTMENT SHALL NOTIFY A PERSON WHO IS ELIGIBLE
21 FOR A RESTRICTED PRIVILEGE TO DRIVE PURSUANT TO THIS SECTION THAT THE
22 PERSON IS ELIGIBLE. THE DEPARTMENT SHALL ISSUE A LICENSE THAT RESTRICTS
23 THE PERSON'S PRIVILEGE TO DRIVE.

24 C. ON APPLICATION, THE DEPARTMENT SHALL ISSUE A DRIVER LICENSE THAT
25 RESTRICTS A PERSON'S PRIVILEGE TO DRIVE PURSUANT TO SUBSECTION B OF THIS
26 SECTION UNTIL ALL OF THE FOLLOWING APPLY:

27 1. THE PERSON HAS COMPLETED ALL REQUIREMENTS OF THE SENTENCE IMPOSED BY
28 THE COURT.

29 2. THE PERSON HAS SATISFIED ALL SUSPENSION PERIODS IMPOSED ON THE
30 PERSON'S DRIVER LICENSE AS A RESULT OF THE CONVICTION OF OR A FINDING
31 OF RESPONSIBILITY FOR A VIOLATION OF ANY PROVISION OF THIS TITLE EXCEPT
32 THIS SECTION.

33 3. THE PERSON PAYS THE APPLICABLE REINSTATEMENT FEE PRESCRIBED BY SECTION
34 28-3002.

35 D. IF THE PERSON PRESENTS TO THE COURT EVIDENCE THAT THE PERSON'S
36 UNRESTRICTED PRIVILEGE TO DRIVE HAS BEEN REINSTATED, THE COURT MAY
37 DISMISS THE COMPLAINT CHARGING A VIOLATION OF THIS SECTION.

38 E. A PERSON WHO VIOLATES SUBSECTION A OF THIS SECTION IS SUBJECT TO A
39 CIVIL PENALTY PURSUANT TO SECTION 28-1598.

40 Section 15. Amend §28-3480

1 28-3480. Operation in violation of restriction; classification

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

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

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

9 Section 16. Amend §28-3511

10 28-3511. Removal and immobilization or impoundment of vehicle; Arizona
11 crime information center database

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

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

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

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

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

29 (d) In furtherance of the illegal presence of an alien in the United
30 States and in violation of a criminal offense, the person is transporting
31 or moving or attempting to transport or move an alien in this state in
32 a vehicle if the person knows or recklessly disregards the fact that the
33 alien has come to, has entered or remains in the United States in
34 violation of law.

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

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

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

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

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

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

16 C. Except as provided in subsection D of this section, while a peace
17 officer has control of the vehicle the peace officer shall cause the
18 removal and either immobilization or impoundment of the vehicle if the
19 peace officer has probable cause to arrest the driver of the vehicle for
20 a violation of section 4-244, paragraph 34 or section 28-1382 or 28-
21 1383.

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

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

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

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

31 (a) Has a valid driver license.

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

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

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

1 5. The spouse drives the vehicle as prescribed by paragraph 4 of this
2 subsection.

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

8 F. The owner of a vehicle that is removed and either immobilized or
9 impounded pursuant to subsection A, B or C of this section, the spouse
10 of the owner and each person identified on the department's record with
11 an interest in the vehicle immediately before the immobilization or
12 impoundment shall be provided with an opportunity for an immobilization
13 or poststorage hearing pursuant to section 28-3514.

14 G. A law enforcement agency that employs the peace officer who removes
15 and either immobilizes or impounds a vehicle pursuant to this section
16 shall enter information about the removal and either immobilization or
17 impoundment of the vehicle in the Arizona crime information center
18 database within three business days after the removal and either
19 immobilization or impoundment.

20 Section 17. Amend §28-4135

21 28-4135. Motor vehicle financial responsibility requirement; civil
22 penalties; evidence at hearing

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

- 25 1. A motor vehicle or automobile liability policy that provides limits
26 not less than those prescribed in section 28-4009.
- 27 2. An alternate method of coverage as provided in section 28-4076.
- 28 3. A certificate of self-insurance as prescribed in section 28-4007.
- 29 4. A policy that satisfies the financial responsibility requirements
30 prescribed in article 2 of this chapter.

31 B. A person operating a motor vehicle on a highway in this state shall
32 have evidence within the motor vehicle of current financial
33 responsibility applicable to the motor vehicle. The evidence may be
34 displayed on a wireless communication device that is in the motor
35 vehicle. If a person displays the evidence on a wireless communication
36 device pursuant to this subsection, the person is not consenting for law
37 enforcement to access other contents of the wireless communication
38 device.

39 C. Failure to produce evidence of financial responsibility on the request
40 of a law enforcement officer investigating a motor vehicle accident or

1 an alleged violation of a motor vehicle law of this state or a traffic
2 ordinance of a city or town is a civil traffic violation that is
3 punishable as prescribed in this section.

4 D. A citation issued for violating subsection B or C of this section
5 shall be dismissed if the person to whom the citation was issued produces
6 evidence to the appropriate court officer on or before the date and time
7 specified on the citation for court appearance and in a manner specified
8 by the court, including the certification of evidence by mail, of either
9 of the following:

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

13 2. A motor vehicle or automobile liability policy that meets the
14 financial responsibility requirements of this state and that insured the
15 person and the motor vehicle the person was operating at the time the
16 person received the citation regardless of whether or not the motor
17 vehicle was named in the policy.

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

20 1. The court shall impose a minimum civil penalty of five hundred dollars
21 for the first violation. On receipt of the abstract of the record of
22 judgment, the department shall ~~suspend the driver license~~ RESTRICT THE
23 DRIVING PRIVILEGES of the person ~~and the registration and license plates~~
24 ~~of the motor vehicle involved~~ for three months.

25 2. If a person violates this section a second time within a period of
26 thirty-six months, the court shall impose a minimum civil penalty of
27 seven hundred fifty dollars. On receipt of the abstract of the record
28 of judgment, the department shall suspend the driver license of the
29 person and the registration and license plates of the motor vehicle
30 involved for six months.

31 3. If a person violates this section three or more times within a period
32 of thirty-six months, the court shall impose a minimum civil penalty of
33 one thousand dollars. On receipt of the abstract of the record of
34 judgment, the department shall suspend the driver license of the person
35 and the registration and license plates of the motor vehicle involved
36 for one year. The department shall require on reinstatement of the driver
37 license, the registration and the license plates that the person file
38 with the department proof of financial responsibility in accordance with
39 article 3 of this chapter.

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

- 1 **Section 18. Delayed effective date**
- 2 **This act is effective from and after March 31, 2018.**

9/28/16

7:25am

2017-03: Bailable offenses; hearing; schedule

Background:

Current law requires Justice of the Peace and Municipal Courts to establish bond schedules for various criminal traffic offenses. There is a growing trend throughout the country to declare “bond schedules” for criminal offenses unconstitutional.

In felony cases, currently only the state may request a hearing to determine if a person should be held without bond for reasons of public safety and in many parts of the state, prosecutors are not present at the initial appearance to make such a motion.

Solution:

Proposal 2017-03 eliminates criminal traffic bond schedules in limited jurisdiction courts. Modifies the process related to bond hearings in superior court where a person is initially held without bond. Will require amendments to court rule.

Provisions:

- Eliminates the bond schedule for criminal traffic cases that limited jurisdiction courts are required to prepare (retains the requirement that a penalty schedule be maintained of civil violations listing a specific deposit for each).
- Requires a hearing to determine if a person should be held without bond based upon being a danger to the community if a person is held without bond at the initial appearance.
- Removes the statutory time frames for holding a hearing on the motion (to be addressed by court rule) as well as the requirement the case be placed on an expedited calendar and any trial be given a priority. The filing of a complaint does not add to the strength of the proof or the presumption required to be drawn.

For additional information contact
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1 Section 1. Amend §13-3961

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

10 Section 2. Amend §22-314

11 22-314. Release; civil deposit; collection

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

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

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

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

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

26 Section 3. Amend §22-424

27 22-424. Release; civil deposit; collection

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

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

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

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

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

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

2017-04: Competency examination; jurisdiction

Background

The handling of cases involving individuals with mental health issues is a challenge for the criminal justice system. The process for determining competency can be cumbersome if the case is in a municipal or justice of the Peace Court. Current law requires the Superior Court to hear the competency portion of the case, and when completed return the case to the municipal or justice court. A recent pilot between Mesa Municipal Court and Maricopa County Superior Court where through an agreement the Mesa court hears the competency portion of the case reduced the processing time from six months to 60 days.

Solution:

Proposal 2017-04 provides for increased jurisdiction of limited jurisdiction courts with respect to competency hearings if approved by the superior court presiding judge.

Provisions:

Allows the presiding judge of the superior court to authorize a justice of the peace or municipal court to exercise jurisdiction over competency hearings in that court upon the agreement of the justice of the peace or municipal court judge. Further, allows the presiding judge to authorize a justice of the peace court or municipal court to hear a competency case from another limited jurisdiction court with the approval of both limited jurisdiction court judges.

Competency examination; jurisdiction

1 Section 1. Amend §13-4503

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

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

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

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

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

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

22 **F. WITH THE APPROVAL OF THE PRESIDING JUDGE OF THE SUPERIOR COURT AND**
23 **THE JUDGE OF THE RECEIVING COURT, A JUSTICE OF THE PEACE OR MUNICIPAL**
24 **COURT JUDGE MAY REFER A COMPETENCY HEARING TO ANOTHER JUSTICE OF THE**
25 **PEACE OR MUNICIPAL COURT IN THE COUNTY.**

9/15/15

9:15am

2017-05: Criminal littering; classification

Background:

Misdemeanor offenses are more costly to process and carry the possibility of jail time, utilizing the criminal justice systems most expensive sanction, a jail bed, to address first time offenders. Some offenses are better resolved as a civil violation.

Solution:

Proposal 2017-05 modifies the classification for one section of the littering statute.

Provisions:

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

For additional information contact
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Criminal littering; classification

1 Section 1. Amend §13-1603

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

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

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

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

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

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

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

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

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

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

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

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

2017-06: Court Security Fund

Background:

Court security is of nationwide concern. Here in Arizona several fatal shootings and other incidents have occurred inside or on courthouse property in recent years, including some here in Arizona. As a result, the Arizona Supreme Court is recommending system-wide improvements including security system screening equipment, panic alarms, bullet proof material, bullet resistant courtroom benches, electronic door locks or similar locking mechanisms, video cameras and communication systems.

Solution:

Proposal 2017-06 creates a new Statewide Court Security Fund consisting of monies appropriated by the legislature, with monies used to fund courthouse security at the local and state levels.

Provisions:

- Creates a new Statewide Court Security Fund consisting of monies appropriated by the legislature.
- Requires the Administrative Office of the Courts to administer the fund.
- Requires monies in the fund to be used to provide assistance and training to courts to enable them to meet minimum standards of courthouse security adopted by the Supreme Court.

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Courthouse security; funding

1 Section 1. Add §12-114.02

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

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

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

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

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

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

12 Section 2. Amend §12-305

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

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

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

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

31 Section 2: Add §12-307

32 Section 3: Amend §28-3396

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

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

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

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

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

2017-07: IPS wages; distribution

Modernizes the process for collection of court ordered financial obligations from probationers.

Section 1. 13-918: Employment; distribution of wages

Modifies conditions of intensive probation with respect to the distribution of a person's wages. Removes the requirement that a person's entire paycheck be paid into an account established by the chief adult probation officer; rather, the person's probation officer will monitor the person's payments to insure restitution, probation fees, fines and other court ordered obligations are secured. Repeals language allowing for the distribution of any balance of the monies in the person's account.

Intensive probation; wages; distribution

1 Section 1. 13-918. Employment; distribution of wages

2 The person's wages shall be ~~paid directly to an account established by~~
3 ~~MONITORED BY~~ the ~~chief adult~~ PERSON'S probation officer ~~TO INSURE THE~~
4 ~~COLLECTION OF~~ ~~from which the chief adult probation officer shall make~~
5 ~~payments for~~ restitution, probation fees, fines and other payments. ~~The~~
6 ~~balance of the monies shall be placed in an account to be used for or~~
7 ~~paid to the person or his immediate family in a manner and in such~~
8 ~~amounts as determined by the chief adult probation officer or the court.~~
9 ~~Any monies remaining in the account at the time the person successfully~~
10 ~~completes probation shall be paid to the person.~~

2017-08: Permanent Guardianship; procedure

Background:

Over the past several years Arizona has seen a high volume of children become the subject of dependency petitions following their removal from home by the Department of Child Safety. The path to permanency may involve reunification with family or severance followed possibly by adoption or permanent guardianship. Currently in Maricopa County, 47% of the juvenile court's work involves guardianships granted under Title 14. 40% of the cases are dependencies which may be resolved by a Title 8 guardianship only after an adjudication of dependency.

A Title 14 guardianship does not require a dependency adjudication and is considered "reversible" since the parent who consents to the guardianship may revoke it at any time; as such, DCS is often hesitant to agree to Title 14 guardianships due to the lack of court oversight of the case. The Title 8 guardianship requires court action to terminate and return the child but parents are often hesitant to stipulate to a dependency out of fear of being placed on the central registry.

Solution:

2017-08 expands the ability of the court to grant a permanent guardianship under Title 8 prior to an adjudication of dependency and increases safeguards for children who are subject to permanent guardianships.

Provisions:

- Permits the court to establish a permanent guardianship under Title 8 prior to an adjudication of dependency for a child who is the subject of a dependency petition.
- Requires both parents stipulate to the guardianship if there has not been an adjudication of dependency.
- Requires applicants for permanent guardianship submit a valid fingerprint clearance card or full set of fingerprints to the court for purposes of obtaining a criminal background check.
- Allows, instead of requires, the court to appoint a permanent guardian nominated by a child who is at least twelve years of age.

1 **Section 1. 8-871. Permanent guardianship of a child**

2 A. The court may establish a permanent guardianship between a child and
3 the guardian if the prospective guardianship is in the child's best
4 interests and all of the following apply:

5 1. The child has been adjudicated a dependent child **OR IS THE SUBJECT**
6 **OF A PENDING DEPENDENCY PETITION AND BOTH PARENTS STIPULATE TO THE**
7 **GUARDIANSHIP.**

8 2. The child has been in the custody of the prospective permanent
9 guardian for at least nine months. The court may waive this requirement
10 for good cause.

11 3. If the child is in the custody of the ~~division~~**DEPARTMENT** or agency,
12 the ~~division~~**DEPARTMENT** or agency has made reasonable efforts to reunite
13 the parent and child and further efforts would be unproductive. The court
14 may waive this requirement if it finds that reunification efforts are
15 not required by law or if reunification of the parent and child is not
16 in the child's best interests because the parent is unwilling or unable
17 to properly care for the child **OR IF THERE HAS BEEN NO ADJUDICATION OF**
18 **DEPENDENCY.**

19 4. The likelihood that the child would be adopted is remote or
20 termination of parental rights would not be in the child's best
21 interests.

22 B. The court may consider any adult, including a relative or foster
23 parent, as a permanent guardian. An agency or institution may not be a
24 permanent guardian. The court ~~shall~~ **MAY** appoint a person nominated by
25 the child if the child is at least twelve years of age, unless the court
26 finds that the appointment would not be in the child's best interests.
27 The court shall consider the child's objection to the appointment of the
28 person nominated as permanent guardian.

29 C. In proceedings for permanent guardianship, the court shall give
30 primary consideration to the physical, mental and emotional needs of the
31 child.

32 D. Unless otherwise set forth in the final order of permanent
33 guardianship, a permanent guardian is vested with all of the rights and
34 responsibilities set forth in section 14-5209 relating to the powers and
35 duties of a guardian of a minor, other than those rights and
36 responsibilities of the birth or adoptive parent, if any, that are set
37 forth in the decree of permanent guardianship.

38 E. At the guardianship hearing, or by notice filed after the appointment
39 of a permanent guardian or a successor permanent guardian pursuant to

1 section 8-874, the guardian may advise the court as to the identity and
2 contact information of potential successor permanent guardians.

3 F. The ~~division~~ DEPARTMENT or agency shall not be responsible for the
4 requirements pursuant to subsection A, paragraph 3 of this section for
5 a petition concerning a child not in the care, custody and control of
6 the ~~division~~ DEPARTMENT or agency.

7 Section 2. 8-872. Permanent guardianship; procedure

8 A. Any party to a dependency proceeding may file a motion for permanent
9 guardianship. The motion shall be verified by the person who files the
10 motion and shall include the following:

- 11 1. The name, sex, residence and date and place of birth of the child.
- 12 2. The facts and circumstances supporting the grounds for permanent
13 guardianship.
- 14 3. The name and address of the prospective guardian and a statement that
15 the prospective guardian agrees to accept the duties and responsibilities
16 of guardianship.
- 17 4. The basis for the court's jurisdiction.
- 18 5. The relationship of the child to the prospective guardian.
- 19 6. Whether the child is subject to the federal Indian child welfare act
20 of 1978 (P.L. 95-608; 92 Stat. 3069; 25 United States Code sections 1901
21 through 1963) and if so:
 - 22 (a) The tribal affiliations of the child's parents.
 - 23 (b) The specific actions the person who files the motion has taken to
24 notify the parents' tribes and the results of those contacts, including
25 the names, addresses, titles and telephone numbers of the persons
26 contacted. The person shall attach to the motion as exhibits any
27 correspondence with the tribes.
 - 28 (c) The specific efforts that were made to comply with the placement
29 preferences under the federal Indian child welfare act of 1978 or the
30 placement preferences of the appropriate Indian tribes.
- 31 7. The name, address, marital status and date of birth of the birth
32 parents, if known.

33 B. The person who files the motion shall serve notice of the hearing and
34 a copy of the motion on all parties as prescribed in rule 5(c) of the
35 Arizona rules of civil procedure, including any person who has filed a
36 petition to adopt or who has physical custody pursuant to a court order
37 in a foster-adoptive placement. In addition to the requirements of rule
38 5(c) of the Arizona rules of civil procedure, the notice shall be sent
39 by registered mail, return receipt requested, to any parent, Indian

1 custodian and tribe of an Indian child as defined by the federal Indian
2 child welfare act of 1978 (25 United States Code section 1903).

3 C. The person who files the motion shall provide a copy of the notice
4 of hearing to the following persons if the person has not been served
5 pursuant to subsection B of this section:

6 1. The child's current physical custodian.

7 2. Any foster parent with whom the child has resided within six months
8 before the date of the hearing.

9 3. The prospective guardian if the guardian is not the current physical
10 custodian.

11 4. Any other person the court orders to be provided notice.

12 D. In a proceeding for permanent guardianship, on the request of a
13 parent, the court shall appoint counsel for any parent found to be
14 indigent if the parent is not already represented by counsel. The court
15 may also appoint one for the child if a guardian ad litem has not already
16 been appointed.

17 E. Before a final hearing, the ~~division~~ DEPARTMENT, the agency or a person
18 designated as an officer of the court shall conduct an investigation
19 addressing the factors set forth in section 8-871, whether the
20 prospective permanent guardian or guardians are fit and proper persons
21 to become permanent guardians and whether the best interests of the child
22 would be served by granting the permanent guardianship. The findings of
23 this investigation shall be set forth in a written report provided to
24 the court and all parties before the hearing. The court may require
25 additional investigation if it finds that the welfare of the child will
26 be served or if additional information is necessary to make an
27 appropriate decision regarding the permanent guardianship. The court may
28 charge a reasonable fee for this investigation pursuant to section 8-
29 133, if performed by an officer of the court. THE COURT MAY WAIVE THIS
30 REQUIREMENT FOR GOOD CAUSE.

31 F. BEFORE THE COURT MAY APPOINT AS GUARDIAN A PERSON UNRELATED TO THE
32 MINOR WHEN THERE IS NO ADJUDICATION OF DEPENDENCY, THE COURT SHALL, IN
33 ORDER TO DETERMINE THE APPLICANT'S SUITABILITY AS GUARDIAN, REQUIRE THE
34 PROSPECTIVE GUARDIAN TO FURNISH EITHER A VALID FINGERPRINT CLEARANCE
35 CARD OR A FULL SET OF FINGERPRINTS TO ENABLE THE COURT TO CONDUCT A
36 CRIMINAL BACKGROUND INVESTIGATION. THE COURT SHALL SUBMIT THE PERSON'S
37 COMPLETED FINGERPRINT CARD WITH THE FEE PRESCRIBED IN SECTION 41-1750 TO
38 THE DEPARTMENT OF PUBLIC SAFETY. THE PERSON SHALL BEAR THE COST OF
39 OBTAINING THE PERSON'S CRIMINAL HISTORY RECORD INFORMATION. THE COST
40 SHALL NOT EXCEED THE ACTUAL COST OF OBTAINING THE PERSONS CRIMINAL

1 HISTORY RECORD INFORMATION. THE DEPARTMENT OF PUBLIC SAFETY SHALL CONDUCT
2 CRIMINAL HISTORY RECORDS CHECKS PURSUANT TO SECTION 41-1750 AND PUBLIC
3 LAW 92-544. THE DEPARTMENT OF PUBLIC SAFETY IS AUTHORIZED TO SUBMIT
4 FINGERPRINTS CARD INFORMATION TO THE FEDERAL BUREAU OF INVESTIGATION FOR
5 A NATIONAL CRIMINAL HISTORY RECORDS CHECK.

6 **F G.** The person who files the motion has the burden of proof by clear
7 and convincing evidence. In any proceeding involving a child who is
8 subject to the federal Indian child welfare act of 1978, the person who
9 files the motion has the burden of proof by beyond a reasonable doubt.

10 **G H.** A court order vesting permanent guardianship with an individual
11 divests the birth or adoptive parent of legal custody of or guardianship
12 for the child but does not terminate the parent's rights. A court order
13 for permanent guardianship does not affect the child's inheritance rights
14 from and through the child's birth or adoptive parents.

15 **H I.** On finding that grounds exist for a permanent guardianship, the
16 court may incorporate into the final order provisions for visitation
17 with the natural parents, siblings or other relatives of the child if
18 this order would be in the child's best interests and any other provision
19 that is necessary to rehabilitate the child or to provide for the child's
20 continuing safety and well-being. The court may order a parent to
21 contribute to the support of the child to the extent it finds the parent
22 is able.

23 **I J.** On the entry of the order establishing a permanent guardianship,
24 the dependency action shall be dismissed. If the child was in the legal
25 custody of the ~~division~~ DEPARTMENT during the dependency, the court may
26 order the ~~division~~ DEPARTMENT to conduct the investigation and prepare
27 the report for the first report and review hearing. **IF THE CHILD WAS NOT**
28 **IN THE LEGAL CUSTODY OF THE DEPARTMENT, THE COURT MAY ORDER THE CHILD'S**
29 **ATTORNEY OR GUARDIAN AD LITEM TO FILE A REPORT FOR THE REVIEW.** The court
30 shall retain jurisdiction to enforce its final order of permanent
31 guardianship. The court ~~shall cause a report and review~~ **MAY ORDER A**
32 **REPORT AND SET A REVIEW** to be held within one year following the entry
33 of the final order and **THE PERMANENT GUARDIAN AND CHILD'S ATTORNEY OR**
34 **GUARDIAN AD LITEM SHALL APPEAR. THE COURT** may set such other and further
35 proceedings as may be in the best interests of the child. Before a report
36 and review hearing, the court may cause an investigation to be conducted
37 of the facts and circumstances surrounding the welfare and best interests
38 of the child and a written report to be filed with the court. The court
39 may charge a reasonable fee for this investigation pursuant to section
40 8-133, if performed by an officer of the court.

1 ~~J~~ K. The ~~division~~ DEPARTMENT or agency shall not be responsible for the
2 requirements pursuant to subsections E, H and I of this section for a
3 motion concerning a child not in the care, custody and control of
4 the ~~division~~ DEPARTMENT or agency.

5 ~~K~~ L. The court shall provide the guardian with written notice of the
6 sibling information exchange program established pursuant to section 8-
7 543.

9/15/16

9:41am