

REFERENCE TITLE: *criminal justice; budget reconciliation; 2010-2011*

State of Arizona  
House of Representatives  
Forty-ninth Legislature  
Seventh Special Session  
2010

## **HB 2006**

Introduced by  
Representative Adams

### AN ACT

AMENDING SECTION 5-396, ARIZONA REVISED STATUTES; AMENDING TITLE 8, CHAPTER 3, ARTICLE 3, ARIZONA REVISED STATUTES, BY ADDING SECTION 8-350.02; AMENDING SECTIONS 8-363, 13-701, 13-3821 AND 13-3824, ARIZONA REVISED STATUTES; REPEALING SECTION 13-3828, ARIZONA REVISED STATUTES; PROVIDING FOR THE DELAYED REPEAL OF SECTIONS 15-1371 AND 15-1373, ARIZONA REVISED STATUTES; AMENDING SECTIONS 28-1383 AND 28-8288, ARIZONA REVISED STATUTES; AMENDING TITLE 31, CHAPTER 1, ARTICLE 2, ARIZONA REVISED STATUTES, BY ADDING SECTION 31-133; AMENDING SECTIONS 31-201.01, 31-284, 31-401, 41-191.03, 41-1723, 41-1772, 41-1825, 41-2401 AND 41-2402, ARIZONA REVISED STATUTES; REPEALING SECTION 41-3010.12, ARIZONA REVISED STATUTES; AMENDING TITLE 41, CHAPTER 27, ARTICLE 2, ARIZONA REVISED STATUTES, BY ADDING SECTION 41-3011.15; AMENDING SECTION 41-4301, ARIZONA REVISED STATUTES; AMENDING TITLE 41, CHAPTER 42, ARTICLE 1, ARIZONA REVISED STATUTES, BY ADDING SECTION 41-4303; AMENDING SECTION 44-1531.01, ARIZONA REVISED STATUTES; AMENDING LAWS 2007, CHAPTER 261, SECTION 16, AS AMENDED BY LAWS 2009, THIRD SPECIAL SESSION, CHAPTER 6, SECTION 21; REPEALING LAWS 2009, THIRD SPECIAL SESSION, CHAPTER 6, SECTION 33; MAKING APPROPRIATIONS; RELATING TO CRIMINAL JUSTICE BUDGET RECONCILIATION; PROVIDING FOR CONDITIONAL ENACTMENT.

(TEXT OF BILL BEGINS ON NEXT PAGE)

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

2 Section 1. Section 5-396, Arizona Revised Statutes, is amended to  
3 read:

4 5-396. Aggravated operating or actual physical control of  
5 motorized watercraft while under the influence of  
6 intoxicating liquor or drugs; classification

7 A. A person is guilty of aggravated operating or actual physical  
8 control of a motorized watercraft that is underway while under the influence  
9 of intoxicating liquor or drugs if the person does any of the following:

10 1. Within a period of eighty-four months commits a third or subsequent  
11 violation of section 5-395 or 5-397 or this section or is convicted of a  
12 violation of section 5-395 or 5-397 or this section and has previously been  
13 convicted of any combination of convictions of section 5-395 or 5-397 or this  
14 section or acts committed in another jurisdiction that if committed in this  
15 state would be a violation of section 5-395 or 5-397 or this section.

16 2. While a person under fifteen years of age is aboard the motorized  
17 watercraft, commits any of the following:

18 (a) A first violation of section 5-395, if the person recklessly  
19 endangers the person who is under fifteen years of age with a substantial  
20 risk of physical injury.

21 (b) A second violation of section 5-395 within a period of eighty-four  
22 months.

23 (c) A violation of section 5-397.

24 B. The dates of the commission of the offenses are the determining  
25 factor in applying the eighty-four month provision provided in subsection A,  
26 paragraph 1 or paragraph 2, subdivision (b) of this section regardless of the  
27 sequence in which the offenses were committed. For THE purposes of this  
28 section, a third or subsequent violation for which a conviction occurs does  
29 not include a conviction for an offense arising out of the same series of  
30 acts. The time that a probationer is found to be on absconder status or the  
31 time that a person is incarcerated in any state, federal, county or city jail  
32 or correctional facility is excluded when determining the eighty-four month  
33 period provided in subsection A, paragraph 1, subsection A, paragraph 2,  
34 subdivision (b) and subsection D of this section.

35 C. A person who is convicted under subsection A, paragraph 1 of this  
36 section and who within an eighty-four month period has been convicted of two  
37 prior violations of section 5-395 or 5-397 or this section, or acts committed  
38 in another jurisdiction that if committed in this state would be a violation  
39 of section 5-395 or 5-397 or this section, is not eligible for probation,  
40 pardon, commutation or suspension of sentence or release on any other basis  
41 until the person has served not less than four months in ~~prison~~ JAIL.

42 D. A person who is convicted under subsection A, paragraph 1 of this  
43 section and who within an eighty-four month period has been convicted of  
44 three or more prior violations of section 5-395 or 5-397 or this section, or  
45 acts committed in another jurisdiction that if committed in this state would

1 be a violation of section 5-395 or 5-397 or this section, is not eligible for  
2 probation, pardon, commutation or suspension of sentence or release on any  
3 other basis until the person has served not less than eight months in ~~prison~~  
4 JAIL.

5 E. A person who is convicted under subsection A, paragraph 2,  
6 subdivision (a) or (b) of this section shall serve at least the minimum term  
7 of incarceration required pursuant to section 5-395.01.

8 F. A person who is convicted under subsection A, paragraph 2,  
9 subdivision (c) of this section shall serve at least the minimum term of  
10 incarceration required pursuant to section 5-397.

11 G. A person who is convicted of a violation of this section and who is  
12 placed on probation shall attend and complete alcohol or drug screening,  
13 counseling and education from an approved facility and, if ordered by the  
14 court, treatment from an approved facility. If the person fails to comply  
15 with this subsection, in addition to section 13-901 the court may order that  
16 the person be incarcerated as a term of probation as follows:

17 1. For a person sentenced pursuant to subsection C of this section,  
18 for an individual period of not more than four months and a total period of  
19 not more than one year.

20 2. For a person sentenced pursuant to subsection D of this section,  
21 for an individual period of not more than eight months and a total period of  
22 not more than two years.

23 H. The time that a person spends in custody pursuant to subsection G  
24 of this section shall not be counted toward the sentence imposed if the  
25 person's probation is revoked and the person is ~~sentenced to prison~~  
26 INCARCERATED following revocation of probation.

27 I. On conviction for a violation of this section, the court:

28 1. Shall order the person to pay a fine of not less than seven hundred  
29 fifty dollars.

30 2. In addition to any other penalty prescribed by law, shall order the  
31 person to pay an additional assessment of two hundred fifty dollars. If the  
32 conviction occurred in the superior court or a justice court, the court shall  
33 transmit the assessed monies to the county treasurer. If the conviction  
34 occurred in a municipal court, the court shall transmit the assessed monies  
35 to the city treasurer. The city or county treasurer shall transmit the  
36 monies received to the state treasurer. The state treasurer shall deposit  
37 the monies received in the driving under the influence abatement fund  
38 established by section 28-1304. Any fine imposed for a violation of this  
39 section and any assessments, restitution and incarceration costs shall be  
40 paid before the assessment prescribed in this paragraph.

41 3. In addition to any other penalty prescribed by law, shall order the  
42 person to pay an additional assessment of one thousand five hundred dollars  
43 to be deposited by the state treasurer in the prison construction and  
44 operations fund established by section 41-1651. This assessment is not  
45 subject to any surcharge. If the conviction occurred in the superior court

1 or a justice court, the court shall transmit the assessed monies to the  
2 county treasurer. If the conviction occurred in a municipal court, the court  
3 shall transmit the assessed monies to the city treasurer. The city or county  
4 treasurer shall transmit the monies received to the state treasurer.

5 4. In addition to any other penalty prescribed by law, shall order the  
6 person to pay an additional assessment of one thousand five hundred dollars  
7 to be deposited by the state treasurer in the public safety equipment fund  
8 established by section 41-1723. This assessment is not subject to any  
9 surcharge. If the conviction occurred in the superior court or a justice  
10 court, the court shall transmit the assessed monies to the county treasurer.  
11 If the conviction occurred in a municipal court, the court shall transmit the  
12 assessed monies to the city treasurer. The city or county treasurer shall  
13 transmit the monies received to the state treasurer.

14 J. Aggravated operating or actual physical control of a motorized  
15 watercraft that is underway while under the influence of an intoxicating  
16 liquor or drugs committed under:

17 1. Subsection A, paragraph 1 of this section is a class 4 felony.

18 2. Subsection A, paragraph 2 of this section is a class 6 felony.

19 Sec. 2. Title 8, chapter 3, article 3, Arizona Revised Statutes, is  
20 amended to add section 8-350.02, to read:

21 8-350.02. Conditional liberty

22 A. IF THE JUVENILE COURT DETERMINES THAT A JUVENILE WHOSE SUPERVISION  
23 WAS TRANSFERRED FROM THE DEPARTMENT OF JUVENILE CORRECTIONS IS NOT LIKELY TO  
24 BE A THREAT TO THE PUBLIC SAFETY IF RELEASED FROM CONFINEMENT AND THAT THE  
25 JUVENILE'S CONTINUED TREATMENT, REHABILITATION AND EDUCATION IN A LESS  
26 RESTRICTIVE SETTING ARE CONSISTENT WITH THE PUBLIC'S SAFETY AND INTEREST, THE  
27 JUVENILE MAY BE GRANTED CONDITIONAL LIBERTY AND PLACED UNDER THE CARE OF THE  
28 JUVENILE'S PARENT OR LEGAL GUARDIAN OR A RESIDENT OF THIS STATE OF GOOD MORAL  
29 CHARACTER OR PLACED IN A COMMUNITY BASED TREATMENT CENTER.

30 B. EACH JUVENILE WHO IS PLACED ON CONDITIONAL LIBERTY IS SUBJECT TO  
31 THE CONDITIONS IMPOSED BY THE JUVENILE COURT AND IS UNDER THE SUPERVISION OF  
32 THE JUVENILE PROBATION DEPARTMENT. WHEN CONDITIONAL LIBERTY IS GRANTED, THE  
33 JUVENILE SHALL RECEIVE AND SIGN A COPY OF THE TERMS OF CONDITIONAL LIBERTY.

34 C. THE JUVENILE COURT SHALL CONSIDER THE RECOMMENDATION OF THE COURT,  
35 THE COUNTY ATTORNEY AND THE VICTIM, IF ANY, BEFORE GRANTING CONDITIONAL  
36 LIBERTY.

37 D. IF THE JUVENILE COURT GRANTS CONDITIONAL LIBERTY, THE COURT SHALL  
38 PROVIDE THE COUNTY ATTORNEY WITH A COPY OF THE JUVENILE'S TERMS OF  
39 CONDITIONAL LIBERTY. IF THE JUVENILE WAS ADJUDICATED FOR AN OFFENSE INVOLVING  
40 THE PURCHASE, POSSESSION OR CONSUMPTION OF SPIRITUOUS LIQUOR OR A VIOLATION  
41 OF TITLE 13, CHAPTER 34, THE JUVENILE MAY BE REQUIRED TO:

42 1. COMPLETE ALCOHOL OR OTHER DRUG SCREENING, EDUCATION OR TREATMENT  
43 THAT IS LICENSED THROUGH THE DEPARTMENT OF HEALTH SERVICES.

44 2. SUBMIT TO RANDOM DRUG AND ALCOHOL TESTING AT LEAST TWO TIMES PER  
45 WEEK AS A CONDITION OF THE JUVENILE'S CONDITIONAL LIBERTY.

1 E. AS A TERM OF CONDITIONAL LIBERTY, THE DIRECTOR OF JUVENILE COURT  
2 SERVICES MAY IMPOSE A PROGRAM OF WORK IN THE SAME MANNER AS SECTION 8-341,  
3 SUBSECTION J, PARAGRAPH 2.

4 Sec. 3. Section 8-363, Arizona Revised Statutes, is amended to read:

5 8-363. Juvenile compact administrator

6 Pursuant to the compact, the governor shall designate the  
7 ADMINISTRATIVE director of the ~~department of juvenile corrections~~ COURTS as  
8 the compact administrator. The compact administrator, acting jointly with  
9 like officers of other party states, shall adopt rules to carry out more  
10 effectively the terms of the compact. The compact administrator shall  
11 cooperate with all departments, agencies and officers of and in the  
12 government of this state and its subdivisions in facilitating the proper  
13 administration of the compact or of any supplementary agreement or agreements  
14 entered into by this state ~~thereunder~~ UNDER THE COMPACT.

15 Sec. 4. Section 13-701, Arizona Revised Statutes, is amended to read:

16 13-701. Sentence of imprisonment for felony; presentence  
17 report; aggravating and mitigating factors;  
18 consecutive terms of imprisonment; definition

19 A. A sentence of imprisonment for a felony shall be a definite term of  
20 years and the person sentenced, unless otherwise provided by law OR PURSUANT  
21 TO SUBSECTION J OF THIS SECTION, shall be committed to the custody of the  
22 state department of corrections.

23 B. No prisoner may be transferred to the custody of the state  
24 department of corrections without a certified copy of the judgment and  
25 sentence, signed by the sentencing judge, and a copy of a recent presentence  
26 investigation report unless the court has waived preparation of the report.

27 C. The minimum or maximum term imposed pursuant to section 13-702,  
28 13-703, 13-704, 13-705, 13-708, 13-710, 13-1406, 13-3212 or 13-3419 may be  
29 imposed only if one or more of the circumstances alleged to be in aggravation  
30 of the crime are found to be true by the trier of fact beyond a reasonable  
31 doubt or are admitted by the defendant, except that an alleged aggravating  
32 circumstance under subsection D, paragraph 11 of this section shall be found  
33 to be true by the court, or in mitigation of the crime are found to be true  
34 by the court, on any evidence or information introduced or submitted to the  
35 court or the trier of fact before sentencing or any evidence presented at  
36 trial, and factual findings and reasons in support of such findings are set  
37 forth on the record at the time of sentencing.

38 D. For the purpose of determining the sentence pursuant to subsection  
39 C of this section, the trier of fact shall determine and the court shall  
40 consider the following aggravating circumstances, except that the court shall  
41 determine an aggravating circumstance under paragraph 11 of this subsection:

42 1. Infliction or threatened infliction of serious physical injury,  
43 except if this circumstance is an essential element of the offense of  
44 conviction or has been utilized to enhance the range of punishment under  
45 section 13-704.

- 1           2. Use, threatened use or possession of a deadly weapon or dangerous  
2 instrument during the commission of the crime, except if this circumstance is  
3 an essential element of the offense of conviction or has been utilized to  
4 enhance the range of punishment under section 13-704.
- 5           3. If the offense involves the taking of or damage to property, the  
6 value of the property taken or damaged.
- 7           4. Presence of an accomplice.
- 8           5. Especially heinous, cruel or depraved manner in which the offense  
9 was committed.
- 10          6. The defendant committed the offense as consideration for the  
11 receipt, or in the expectation of the receipt, of anything of pecuniary  
12 value.
- 13          7. The defendant procured the commission of the offense by payment, or  
14 promise of payment, of anything of pecuniary value.
- 15          8. At the time of the commission of the offense, the defendant was a  
16 public servant and the offense involved conduct directly related to the  
17 defendant's office or employment.
- 18          9. The victim or, if the victim has died as a result of the conduct of  
19 the defendant, the victim's immediate family suffered physical, emotional or  
20 financial harm.
- 21          10. During the course of the commission of the offense, the death of an  
22 unborn child at any stage of its development occurred.
- 23          11. The defendant was previously convicted of a felony within the ten  
24 years immediately preceding the date of the offense. A conviction outside  
25 the jurisdiction of this state for an offense that if committed in this state  
26 would be punishable as a felony is a felony conviction for the purposes of  
27 this paragraph.
- 28          12. The defendant was wearing body armor as defined in section 13-3116.
- 29          13. The victim of the offense is at least sixty-five years of age or is  
30 a disabled person as defined in section 38-492, subsection B.
- 31          14. The defendant was appointed pursuant to title 14 as a fiduciary and  
32 the offense involved conduct directly related to the defendant's duties to  
33 the victim as fiduciary.
- 34          15. Evidence that the defendant committed the crime out of malice  
35 toward a victim because of the victim's identity in a group listed in section  
36 41-1750, subsection A, paragraph 3 or because of the defendant's perception  
37 of the victim's identity in a group listed in section 41-1750, subsection A,  
38 paragraph 3.
- 39          16. The defendant was convicted of a violation of section 13-1102,  
40 section 13-1103, section 13-1104, subsection A, paragraph 3 or section  
41 13-1204, subsection A, paragraph 1 or 2 arising from an act that was  
42 committed while driving a motor vehicle and the defendant's alcohol  
43 concentration at the time of committing the offense was 0.15 or more. For  
44 the purposes of this paragraph, "alcohol concentration" has the same meaning  
45 prescribed in section 28-101.

1           17. Lying in wait for the victim or ambushing the victim during the  
2 commission of any felony.

3           18. The offense was committed in the presence of a child and any of the  
4 circumstances exists that are set forth in section 13-3601, subsection A.

5           19. The offense was committed in retaliation for a victim either  
6 reporting criminal activity or being involved in an organization, other than  
7 a law enforcement agency, that is established for the purpose of reporting or  
8 preventing criminal activity.

9           20. The defendant was impersonating a peace officer as defined in  
10 section 1-215.

11           21. The defendant was in violation of 8 United States Code section  
12 1323, 1324, 1325, 1326 or 1328 at the time of the commission of the offense.

13           22. The defendant used a remote stun gun or an authorized remote stun  
14 gun in the commission of the offense. For the purposes of this paragraph:

15           (a) "Authorized remote stun gun" means a remote stun gun that has all  
16 of the following:

17           (i) An electrical discharge that is less than one hundred thousand  
18 volts and less than nine joules of energy per pulse.

19           (ii) A serial or identification number on all projectiles that are  
20 discharged from the remote stun gun.

21           (iii) An identification and tracking system that, on deployment of  
22 remote electrodes, disperses coded material that is traceable to the  
23 purchaser through records that are kept by the manufacturer on all remote  
24 stun guns and all individual cartridges sold.

25           (iv) A training program that is offered by the manufacturer.

26           (b) "Remote stun gun" means an electronic device that emits an  
27 electrical charge and that is designed and primarily employed to incapacitate  
28 a person or animal either through contact with electrodes on the device  
29 itself or remotely through wired probes that are attached to the device or  
30 through a spark, plasma, ionization or other conductive means emitting from  
31 the device.

32           23. During or immediately following the commission of the offense, the  
33 defendant committed a violation of section 28-661, 28-662 or 28-663.

34           24. Any other factor that the state alleges is relevant to the  
35 defendant's character or background or to the nature or circumstances of the  
36 crime.

37           E. For the purpose of determining the sentence pursuant to subsection  
38 C of this section, the court shall consider the following mitigating  
39 circumstances:

40           1. The age of the defendant.

41           2. The defendant's capacity to appreciate the wrongfulness of the  
42 defendant's conduct or to conform the defendant's conduct to the requirements  
43 of law was significantly impaired, but not so impaired as to constitute a  
44 defense to prosecution.

1           3. The defendant was under unusual or substantial duress, although not  
2 to a degree that would constitute a defense to prosecution.

3           4. The degree of the defendant's participation in the crime was minor,  
4 although not so minor as to constitute a defense to prosecution.

5           5. During or immediately following the commission of the offense, the  
6 defendant complied with all duties imposed under sections 28-661, 28-662 and  
7 28-663.

8           6. Any other factor that is relevant to the defendant's character or  
9 background or to the nature or circumstances of the crime and that the court  
10 finds to be mitigating.

11           F. If the trier of fact finds at least one aggravating circumstance,  
12 the trial court may find by a preponderance of the evidence additional  
13 aggravating circumstances. In determining what sentence to impose, the court  
14 shall take into account the amount of aggravating circumstances and whether  
15 the amount of mitigating circumstances is sufficiently substantial to justify  
16 the lesser term. If the trier of fact finds aggravating circumstances and  
17 the court does not find any mitigating circumstances, the court shall impose  
18 an aggravated sentence.

19           G. The court in imposing a sentence shall consider the evidence and  
20 opinions presented by the victim or the victim's immediate family at any  
21 aggravation or mitigation proceeding or in the presentence report.

22           H. This section does not affect any provision of law that imposes the  
23 death penalty, that expressly provides for imprisonment for life or that  
24 authorizes or restricts the granting of probation and suspending the  
25 execution of sentence.

26           I. The intentional failure by the court to impose the mandatory  
27 sentences or probation conditions provided in this title is malfeasance.

28           J. IF THE LENGTH OF INCARCERATION A PERSON WILL ACTUALLY SERVE IN THE  
29 STATE DEPARTMENT OF CORRECTIONS IS ONE YEAR OR LESS, THE PERSON SHALL BE  
30 COMMITTED TO THE CUSTODY OF THE COUNTY JAIL. THE ONE YEAR PERIOD IS  
31 DETERMINED AT THE TIME OF SENTENCING AFTER SUBTRACTING CREDIT FOR TIME  
32 SERVED. A PERSON WHO IS SENTENCED TO A CONCURRENT TERM OF INCARCERATION THAT  
33 REQUIRES THE PERSON TO BE ACTUALLY INCARCERATED FOR MORE THAN ONE YEAR SHALL  
34 BE INCARCERATED IN THE STATE DEPARTMENT OF CORRECTIONS.

35           ~~J.~~ K. For the purposes of this section, "trier of fact" means a jury,  
36 unless the defendant and the state waive a jury in which case the trier of  
37 fact means the court.

38           Sec. 5. Section 13-3821, Arizona Revised Statutes, is amended to read:

39           13-3821. Persons required to register; procedure;  
40                                   identification card; assessment; definitions

41           A. A person who has been convicted of a violation or attempted  
42 violation of any of the following offenses or who has been convicted of an  
43 offense committed in another jurisdiction that if committed in this state  
44 would be a violation or attempted violation of any of the following offenses  
45 or an offense that was in effect before September 1, 1978 and that, if



1 committed on or after September 1, 1978, has the same elements of an offense  
2 listed in this section or who is required to register by the convicting  
3 jurisdiction, within ten days after the conviction or within ten days after  
4 entering and remaining in any county of this state, shall register with the  
5 sheriff of that county:

6 1. Unlawful imprisonment pursuant to section 13-1303 if the victim is  
7 under eighteen years of age and the unlawful imprisonment was not committed  
8 by the child's parent.

9 2. Kidnapping pursuant to section 13-1304 if the victim is under  
10 eighteen years of age and the kidnapping was not committed by the child's  
11 parent.

12 3. Sexual abuse pursuant to section 13-1404 if the victim is under  
13 eighteen years of age.

14 4. Sexual conduct with a minor pursuant to section 13-1405.

15 5. Sexual assault pursuant to section 13-1406.

16 6. Sexual assault of a spouse if the offense was committed before  
17 August 12, 2005.

18 7. Molestation of a child pursuant to section 13-1410.

19 8. Continuous sexual abuse of a child pursuant to section 13-1417.

20 9. Taking a child for the purpose of prostitution pursuant to section  
21 13-3206.

22 10. Child prostitution pursuant to section 13-3212.

23 11. Commercial sexual exploitation of a minor pursuant to section  
24 13-3552.

25 12. Sexual exploitation of a minor pursuant to section 13-3553.

26 13. Luring a minor for sexual exploitation pursuant to section 13-3554.

27 14. Sex trafficking of a minor pursuant to section 13-1307.

28 15. A second or subsequent violation of indecent exposure to a person  
29 under fifteen years of age pursuant to section 13-1402.

30 16. A second or subsequent violation of public sexual indecency to a  
31 minor under the age of fifteen years pursuant to section 13-1403,  
32 subsection B.

33 17. A third or subsequent violation of indecent exposure pursuant to  
34 section 13-1402.

35 18. A third or subsequent violation of public sexual indecency pursuant  
36 to section 13-1403.

37 19. A violation of section 13-3822 or 13-3824.

38 20. Unlawful age misrepresentation.

39 21. Aggravated luring a minor for sexual exploitation pursuant to  
40 section 13-3560.

41 B. Before the person is released from confinement the state department  
42 of corrections in conjunction with the department of public safety and each  
43 county sheriff shall complete the registration of any person who was  
44 convicted of a violation of any offense listed under subsection A of this  
45 section. Within three days after the person's release from confinement, the

1 state department of corrections shall forward the registered person's records  
2 to the department of public safety and to the sheriff of the county in which  
3 the registered person intends to reside. Registration pursuant to this  
4 subsection shall be consistent with subsection E of this section.

5 C. Notwithstanding subsection A of this section, the judge who  
6 sentences a defendant for any violation of chapter 14 or 35.1 of this title  
7 or for an offense for which there was a finding of sexual motivation pursuant  
8 to section 13-118 may require the person who committed the offense to  
9 register pursuant to this section.

10 D. The court may require a person who has been adjudicated delinquent  
11 for an act that would constitute an offense specified in subsection A or C of  
12 this section to register pursuant to this section. Any duty to register  
13 under this subsection shall terminate when the person reaches twenty-five  
14 years of age.

15 E. A person who has been convicted of or adjudicated delinquent and  
16 who is required to register in the convicting state for an act that would  
17 constitute an offense specified in subsection A or C of this section and who  
18 is not a resident of this state shall be required to register pursuant to  
19 this section if the person is either:

20 1. Employed full-time or part-time in this state, with or without  
21 compensation, for more than fourteen consecutive days or for an aggregate  
22 period of more than thirty days in a calendar year.

23 2. Enrolled as a full-time or part-time student in any school in this  
24 state for more than fourteen consecutive days or for an aggregate period of  
25 more than thirty days in a calendar year. For the purposes of this  
26 paragraph, "school" means an educational institution of any description,  
27 public or private, wherever located in this state.

28 F. Any duty to register under subsection D or E of this section for a  
29 juvenile adjudication terminates when the person reaches twenty-five years of  
30 age.

31 G. The court may order the termination of any duty to register under  
32 this section on successful completion of probation if the person was under  
33 eighteen years of age when the offense for which the person was convicted was  
34 committed.

35 H. The court may order the suspension or termination of any duty to  
36 register under this section after a hearing held pursuant to section 13-923.

37 I. At the time of registering, the person shall sign or affix an  
38 electronic fingerprint to a statement giving such information as required by  
39 the director of the department of public safety, including all names by which  
40 the person is known, any required online identifier and the name of any  
41 website or internet communication service where the identifier is being used.  
42 The sheriff shall fingerprint and photograph the person and within three days  
43 thereafter shall send copies of the statement, fingerprints and photographs  
44 to the department of public safety and the chief of police, if any, of the  
45 place where the person resides. The information that is required by this

1 subsection shall include the physical location of the person's residence and  
2 the person's address. If the person has a place of residence that is  
3 different from the person's address, the person shall provide the person's  
4 address, the physical location of the person's residence and the name of the  
5 owner of the residence if the residence is privately owned and not offered  
6 for rent or lease. If the person receives mail at a post office box, the  
7 person shall provide the location and number of the post office box. If the  
8 person does not have an address or a permanent place of residence, the person  
9 shall provide a description and physical location of any temporary residence  
10 and shall register as a transient not less than every ninety days with the  
11 sheriff in whose jurisdiction the transient is physically present.

12 J. On the person's initial registration and every year after the  
13 person's initial registration, the person shall confirm any required online  
14 identifier and the name of any website or internet communication service  
15 where the identifier is being used and the person shall obtain a new  
16 nonoperating identification license or a driver license from the motor  
17 vehicle division in the department of transportation and shall carry a valid  
18 nonoperating identification license or a driver license. Notwithstanding  
19 sections 28-3165 and 28-3171, the license is valid for one year from the date  
20 of issuance, and the person shall submit to the department of transportation  
21 proof of the person's address and place of residence. The motor vehicle  
22 division shall annually update the person's address and photograph and shall  
23 make a copy of the photograph available to the department of public safety or  
24 to any law enforcement agency. The motor vehicle division shall provide to  
25 the department of public safety daily address updates for persons required to  
26 register pursuant to this section.

27 K. Except as provided in subsection E or L of this section, the clerk  
28 of the superior court in the county in which a person has been convicted of a  
29 violation of any offense listed under subsection A of this section or has  
30 been ordered to register pursuant to subsection C or D of this section shall  
31 notify the sheriff in that county of the conviction within ten days after  
32 entry of the judgment.

33 L. Within ten days after entry of judgment, a court not of record  
34 shall notify the arresting law enforcement agency of an offender's conviction  
35 of a violation of section 13-1402. Within ten days after receiving this  
36 information, the law enforcement agency shall determine if the offender is  
37 required to register pursuant to this section. If the law enforcement agency  
38 determines that the offender is required to register, the law enforcement  
39 agency shall provide the information required by section 13-3825 to the  
40 department of public safety and shall make community notification as required  
41 by law.

42 M. A person who is required to register pursuant to this section  
43 because of a conviction for the unlawful imprisonment of a minor or the  
44 kidnapping of a minor is required to register, absent additional or  
45 subsequent convictions, for a period of ten years from the date that the

1 person is released from prison, jail, probation, community supervision or  
2 parole and the person has fulfilled all restitution obligations.  
3 Notwithstanding this subsection, a person who has a prior conviction for an  
4 offense for which registration is required pursuant to this section is  
5 required to register for life.

6 N. A person who is required to register pursuant to this section and  
7 who is a student at a public or private institution of postsecondary  
8 education or who is employed, with or without compensation, at a public or  
9 private institution of postsecondary education or who carries on a vocation  
10 at a public or private institution of postsecondary education shall notify  
11 the county sheriff having jurisdiction of the institution of postsecondary  
12 education. The person who is required to register pursuant to this section  
13 shall also notify the sheriff of each change in enrollment or employment  
14 status at the institution.

15 O. At the time of registering, the sheriff shall secure a sufficient  
16 sample of blood or other bodily substances for deoxyribonucleic acid testing  
17 and extraction from a person who has been convicted of an offense committed  
18 in another jurisdiction that if committed in this state would be a violation  
19 or attempted violation of any of the offenses listed in subsection A of this  
20 section or an offense that was in effect before September 1, 1978 and that,  
21 if committed on or after September 1, 1978, has the same elements of an  
22 offense listed in subsection A of this section or who is required to register  
23 by the convicting jurisdiction. The sheriff shall transmit the sample to the  
24 department of public safety.

25 P. Any person who is required to register under subsection A of this  
26 section shall register the person's required online identifier and the name  
27 of any website or internet communication service where the identifier is  
28 being used or is intended to be used with the sheriff from and after December  
29 31, 2007, regardless of whether the person was required to register an  
30 identifier at the time of the person's initial registration under this  
31 section.

32 Q. On conviction of any offense for which a person is required to  
33 register pursuant to this section, in addition to any other penalty  
34 prescribed by law, the court shall order the person to pay an additional  
35 assessment of two hundred fifty dollars. This assessment is not subject to  
36 any surcharge. The court shall transmit the monies received pursuant to this  
37 section to the county treasurer. The county treasurer shall transmit the  
38 monies received to the state treasurer. The state treasurer shall deposit  
39 the monies received in the ~~sex offender monitoring~~ STATE GENERAL fund  
40 ~~established by section 13-3828~~. Notwithstanding any other law, the court  
41 shall not waive the assessment imposed pursuant to this section.

42 R. For the purposes of this section:

- 43 1. "Address" means the location at which the person receives mail.  
44 2. "Required online identifier" means any electronic e-mail address  
45 information or instant message, chat, social networking or other similar

1 internet communication name, but does not include a social security number,  
2 date of birth or pin number.

3 3. "Residence" means the person's dwelling place, whether permanent or  
4 temporary.

5 Sec. 6. Section 13-3824, Arizona Revised Statutes, is amended to read:  
6 13-3824. Violation; classification; assessment

7 A. A person who is subject to registration under this article and who  
8 fails to comply with the requirements of this article is guilty of a class 4  
9 felony.

10 B. Notwithstanding subsection A of this section, a person who fails to  
11 comply with section 13-3821, subsection J is guilty of a class 6 felony and,  
12 in addition to any other penalty prescribed by law, the court shall order the  
13 person to pay an additional assessment of two hundred fifty dollars. This  
14 assessment is not subject to any surcharge. The court shall transmit the  
15 monies received pursuant to this subsection to the county treasurer. The  
16 county treasurer shall transmit the monies received to the state treasurer.  
17 The state treasurer shall deposit the monies received in the ~~sex offender~~  
18 ~~monitoring~~ STATE GENERAL fund ~~established by section 13-3828~~.  
19 Notwithstanding any other law, the court shall not waive the assessment  
20 imposed pursuant to this subsection.

21 Sec. 7. Repeal

22 A. Section 13-3828, Arizona Revised Statutes, is repealed.

23 B. Sections 15-1371 and 15-1373, Arizona Revised Statutes, are  
24 repealed from and after February 28, 2011, except that if proposition 100 is  
25 not approved by the voters at the May 18, 2010 special election, the statutes  
26 are repealed from and after December 31, 2010.

27 Sec. 8. Section 28-1383, Arizona Revised Statutes, is amended to read:  
28 28-1383. Aggravated driving or actual physical control while

29 under the influence; violation; classification;  
30 definition

31 A. A person is guilty of aggravated driving or actual physical control  
32 while under the influence of intoxicating liquor or drugs if the person does  
33 any of the following:

34 1. Commits a violation of section 28-1381, section 28-1382 or this  
35 section while the person's driver license or privilege to drive is suspended,  
36 canceled, revoked or refused or while a restriction is placed on the person's  
37 driver license or privilege to drive as a result of violating section 28-1381  
38 or 28-1382 or under section 28-1385.

39 2. Within a period of eighty-four months commits a third or subsequent  
40 violation of section 28-1381, section 28-1382 or this section or is convicted  
41 of a violation of section 28-1381, section 28-1382 or this section and has  
42 previously been convicted of any combination of convictions of section  
43 28-1381, section 28-1382 or this section or acts in another jurisdiction that  
44 if committed in this state would be a violation of section 28-1381, section  
45 28-1382 or this section.

1           3. While a person under fifteen years of age is in the vehicle,  
2 commits a violation of either:  
3           (a) Section 28-1381.  
4           (b) Section 28-1382.  
5           4. While the person is ordered by the court or required pursuant to  
6 section 28-3319 by the department to equip any motor vehicle the person  
7 operates with a certified ignition interlock device, does either of the  
8 following:  
9           (a) While under arrest refuses to submit to any test chosen by a law  
10 enforcement officer pursuant to section 28-1321, subsection A.  
11           (b) Commits a violation of section 28-1381, section 28-1382 or this  
12 section.  
13           B. The dates of the commission of the offenses are the determining  
14 factor in applying the eighty-four month provision provided in subsection A,  
15 paragraph 2 of this section regardless of the sequence in which the offenses  
16 were committed. For the purposes of this section, a third or subsequent  
17 violation for which a conviction occurs does not include a conviction for an  
18 offense arising out of the same series of acts. The time that a probationer  
19 is found to be on absconder status or the time that a person is incarcerated  
20 in any state, federal, county or city jail or correctional facility is  
21 excluded when determining the eighty-four month period provided in subsection  
22 A, paragraph 2 and subsection E of this section.  
23           C. The notice to a person of the suspension, cancellation, revocation  
24 or refusal of a driver license or privilege to drive is effective as provided  
25 in section 28-3318 or pursuant to the laws of the state issuing the license.  
26           D. A person is not eligible for probation, pardon, commutation or  
27 suspension of sentence or release on any other basis until the person has  
28 served not less than four months in ~~prison~~ JAIL if the person is convicted  
29 under either of the following:  
30           1. Subsection A, paragraph 1 of this section.  
31           2. Subsection A, paragraph 2 of this section and within an eighty-four  
32 month period has been convicted of two prior violations of section 28-1381,  
33 section 28-1382 or this section, or any combination of those sections, or  
34 acts in another jurisdiction that if committed in this state would be a  
35 violation of section 28-1381, section 28-1382 or this section.  
36           E. A person who is convicted under subsection A, paragraph 2 of this  
37 section and who within an eighty-four month period has been convicted of  
38 three or more prior violations of section 28-1381, section 28-1382 or this  
39 section, or any combination of those sections, or acts in another  
40 jurisdiction that if committed in this state would be a violation of section  
41 28-1381, section 28-1382 or this section is not eligible for probation,  
42 pardon, commutation or suspension of sentence or release on any other basis  
43 until the person has served not less than eight months in ~~prison~~ JAIL.

1 F. A person who is convicted under subsection A, paragraph 3,  
2 subdivision (a) of this section shall serve at least the minimum term of  
3 incarceration required pursuant to section 28-1381.

4 G. A person who is convicted under subsection A, paragraph 3,  
5 subdivision (b) of this section shall serve at least the minimum term of  
6 incarceration required pursuant to section 28-1382.

7 H. A person who is convicted of a violation of this section shall  
8 attend and complete alcohol or other drug screening, education or treatment  
9 from an approved facility. If the person fails to comply with this  
10 subsection and is placed on probation, in addition to the provisions of  
11 section 13-901 the court may order that the person be incarcerated as a term  
12 of probation as follows:

13 1. For a person sentenced pursuant to subsection D of this section,  
14 for an individual period of not more than four months and a total period of  
15 not more than one year.

16 2. For a person sentenced pursuant to subsection E of this section,  
17 for an individual period of not more than eight months and a total period of  
18 not more than two years.

19 I. The time that a person spends in custody pursuant to subsection H  
20 of this section shall not be counted towards the sentence imposed if the  
21 person's probation is revoked and the person is ~~sentenced to prison after~~  
22 **INCARCERATED FOLLOWING** revocation of probation.

23 J. On a conviction for a violation of this section, the court:

24 1. Shall report the conviction to the department. On receipt of the  
25 report, the department shall revoke the driving privilege of the person. The  
26 department shall not issue the person a new driver license within three years  
27 of the date of the conviction and, for a conviction of a violation of  
28 subsection A, paragraph 1, 2 or 4 or paragraph 3, subdivision (b) of this  
29 section, shall require the person to equip any motor vehicle the person  
30 operates with a certified ignition interlock device pursuant to section  
31 28-3319. In addition, the court may order the person to equip any motor  
32 vehicle the person operates with a certified ignition interlock device for  
33 more than twelve months beginning on the date of reinstatement of the  
34 person's driving privilege following a suspension or revocation or on the  
35 date of the department's receipt of the report of conviction, whichever  
36 occurs later. The person who operates a motor vehicle with a certified  
37 ignition interlock device under this paragraph shall comply with article 5 of  
38 this chapter.

39 2. In addition to any other penalty prescribed by law, shall order the  
40 person to pay an additional assessment of two hundred fifty dollars. If the  
41 conviction occurred in the superior court or a justice court, the court shall  
42 transmit the monies received pursuant to this paragraph to the county  
43 treasurer. If the conviction occurred in a municipal court, the court shall  
44 transmit the monies received pursuant to this paragraph to the city  
45 treasurer. The city or county treasurer shall transmit the monies received

1 to the state treasurer. The state treasurer shall deposit the monies  
2 received in the driving under the influence abatement fund established by  
3 section 28-1304. Any fine imposed for a violation of this section and any  
4 assessments, restitution and incarceration costs shall be paid before the  
5 assessment prescribed in this paragraph.

6 3. Shall order the person to pay a fine of not less than seven hundred  
7 fifty dollars.

8 4. In addition to any other penalty prescribed by law, shall order the  
9 person to pay an additional assessment of one thousand five hundred dollars  
10 to be deposited by the state treasurer in the prison construction and  
11 operations fund established by section 41-1651. This assessment is not  
12 subject to any surcharge. If the conviction occurred in the superior court  
13 or a justice court, the court shall transmit the assessed monies to the  
14 county treasurer. If the conviction occurred in a municipal court, the court  
15 shall transmit the assessed monies to the city treasurer. The city or county  
16 treasurer shall transmit the monies received to the state treasurer.

17 5. In addition to any other penalty prescribed by law, shall order the  
18 person to pay an additional assessment of one thousand five hundred dollars  
19 to be deposited by the state treasurer in the public safety equipment fund  
20 established by section 41-1723. This assessment is not subject to any  
21 surcharge. If the conviction occurred in the superior court or a justice  
22 court, the court shall transmit the assessed monies to the county treasurer.  
23 If the conviction occurred in a municipal court, the court shall transmit the  
24 assessed monies to the city treasurer. The city or county treasurer shall  
25 transmit the monies received to the state treasurer.

26 K. After completing the period of suspension required by section  
27 28-1385, a person whose driving privilege is revoked for a violation of  
28 subsection A, paragraph 3 of this section may apply to the department for a  
29 special ignition interlock restricted driver license pursuant to section  
30 28-1401.

31 L. Aggravated driving or actual physical control while under the  
32 influence of intoxicating liquor or drugs committed under:

33 1. Subsection A, paragraph 1 or 2 or paragraph 4, subdivision (b) of  
34 this section is a class 4 felony.

35 2. Subsection A, paragraph 3 or paragraph 4, subdivision (a) of this  
36 section is a class 6 felony.

37 M. For the purposes of this section, "suspension, cancellation,  
38 revocation or refusal" means any suspension, cancellation, revocation or  
39 refusal.

40 Sec. 9. Section 28-8288, Arizona Revised Statutes, is amended to read:  
41 28-8288. Third or subsequent offense

42 A. If a person is convicted of a third or subsequent violation of  
43 section 28-8282 or is convicted of a violation of section 28-8282 and has  
44 previously been convicted of any combination of convictions of section



1 28-8282 or acts committed in another state that if committed in this state  
2 would be a violation of section 28-8282 within a period of sixty months:

3 1. The person is guilty of a class 5 felony.

4 2. The person is not eligible for probation, pardon, suspension of  
5 sentence or release on any basis except as specifically authorized by section  
6 31-233, subsection A or B until the person has served not less than six  
7 months in ~~prison~~ JAIL.

8 3. The court shall not suspend the imposition of a prison sentence.

9 4. If in the court's opinion the person has the problem of habitual  
10 abuse of alcohol or drugs, the court shall require the person to obtain  
11 treatment under its supervision.

12 5. In addition to any other penalty prescribed by law, the person  
13 shall pay an additional assessment of one thousand five hundred dollars to be  
14 deposited by the state treasurer in the prison construction and operations  
15 fund established by section 41-1651. This assessment is not subject to any  
16 surcharge. If the conviction occurred in the superior court or a justice  
17 court, the court shall transmit the assessed monies to the county treasurer.  
18 If the conviction occurred in a municipal court, the court shall transmit the  
19 assessed monies to the city treasurer. The city or county treasurer shall  
20 transmit the monies received to the state treasurer.

21 6. In addition to any other penalty prescribed by law, the person  
22 shall pay an additional assessment of one thousand five hundred dollars to be  
23 deposited by the state treasurer in the public safety equipment fund  
24 established by section 41-1723. This assessment is not subject to any  
25 surcharge. If the conviction occurred in the superior court or a justice  
26 court, the court shall transmit the assessed monies to the county treasurer.  
27 If the conviction occurred in a municipal court, the court shall transmit the  
28 assessed monies to the city treasurer. The city or county treasurer shall  
29 transmit the monies received to the state treasurer.

30 B. The dates of the commission of the offense are the determining  
31 factor in applying this section.

32 C. A third or subsequent violation for which a conviction occurs as  
33 provided in this section shall not include a conviction for an offense  
34 arising out of the same series of acts.

35 Sec. 10. Title 31, chapter 1, article 2, Arizona Revised Statutes, is  
36 amended by adding section 31-133, to read:

37 31-133. Receiving and keeping state prisoners

38 THE SHERIFF SHALL RECEIVE AND KEEP IN THE COUNTY JAIL ANY PRISONER WHO  
39 IS SENTENCED TO SERVE A TERM OF IMPRISONMENT IN THE STATE DEPARTMENT OF  
40 CORRECTIONS AND WHOSE ACTUAL LENGTH OF IMPRISONMENT IS ONE YEAR OR LESS.

1           Sec. 11. Section 31-201.01, Arizona Revised Statutes, is amended to  
2 read:

3           31-201.01. Duties of the director; tort actions; medical  
4           treatment costs; state immunity; definitions

5           A. The director shall hold in custody all persons sentenced to the  
6 department under the law and shall hold such persons for the term directed by  
7 the court, subject to law, EXCEPT THAT IF THE LENGTH OF THE PERSON'S ACTUAL  
8 INCARCERATION IS ONE YEAR OR LESS, THE PERSON SHALL BE PLACED IN THE CUSTODY  
9 OF A COUNTY JAIL.

10          B. In addition to the medical and health services to be provided  
11 pursuant to subsection D of this section, the director ~~may~~, in cooperation  
12 with the department of health services, MAY provide to prisoners WHO ARE  
13 INCARCERATED IN THE STATE DEPARTMENT OF CORRECTIONS psychiatric care and  
14 treatment pursuant to sections 31-226 and 31-226.01.

15          C. The director may institute and pursue programs ~~which~~ THAT promote  
16 the rehabilitation of the prisoners in the director's charge.

17          D. The director shall provide medical and health services for the  
18 prisoners WHO ARE INCARCERATED IN THE STATE DEPARTMENT OF CORRECTIONS. The  
19 director may contract for professional services to assist the director in  
20 carrying out this responsibility on behalf of the state, ~~provided~~ EXCEPT that  
21 all records made and retained in connection with the services provided by  
22 this subsection shall be made and retained only by duly authorized or  
23 qualified medical and professional personnel and not by any prisoner. Such  
24 records when not in use shall be retained in a safe and secure place.

25          E. If a victim of a person for whom a cost of incarceration has been  
26 calculated notifies the state that full restitution has not been made by the  
27 person for whom a cost of incarceration has been calculated, the state shall  
28 interplead with the superior court the disputed amount and set off the  
29 amounts owed the state from the remaining obligation.

30          F. Any and all causes of action ~~which~~ THAT may arise out of tort  
31 caused by the director, prison officers or employees of the department,  
32 within the scope of their legal duty, shall run only against the state.

33          G. The director shall establish by rule reasonable medical and health  
34 ~~service~~ SERVICES fees for the medical and health services that are provided  
35 pursuant to subsection D of this section. Except as provided in subsection I  
36 of this section, every inmate shall be charged a reasonable medical and  
37 health services fee for each medical visit an inmate makes pursuant to a  
38 health needs request form or for emergency treatment.

39          H. Except as provided in subsection I of this section, the director  
40 may charge each inmate a reasonable fee for prescriptions, ~~medication~~  
41 MEDICATIONS or prosthetic devices.

42          I. The director shall exempt the following inmates or medical visits  
43 by inmates from payment of medical and health services fees and fees for  
44 prescriptions, ~~medication~~ MEDICATIONS or prosthetic devices:

- 1           1. Medical visits initiated by the medical or mental health staff of  
2 the department.
- 3           2. Medical visits to a physician by inmates who are referred by a  
4 physician assistant or nurse practitioner.
- 5           3. Inmates at reception centers.
- 6           4. Juvenile inmates.
- 7           5. Pregnant inmates.
- 8           6. Seriously mentally ill inmates. For the purposes of this  
9 paragraph, "seriously mentally ill inmates" means inmates who as a result of  
10 a mental disorder as defined in section 36-501 exhibit emotional or  
11 behavioral functioning ~~which~~ THAT is so impaired as to interfere  
12 substantially with their capacity to remain in the general prison population  
13 without supportive treatment or services of a long-term or indefinite  
14 duration and whose mental disability is severe and persistent, resulting in a  
15 long-term limitation of their functional capacities for primary activities of  
16 daily living, including interpersonal relationships, self-care, employment  
17 and recreation.
- 18           7. Developmentally disabled inmates who are housed in a special  
19 programs unit.
- 20           8. Inmates who are housed in unit 8 at the Florence prison facility.
- 21           9. Inmates who are inpatients at the Alhambra prison facility special  
22 programs psychiatric hospital.
- 23           10. Inmates who are inpatients at the Flamenco prison facility mental  
24 health treatment unit.
- 25           11. Inmates who are undergoing administrative physical examinations for  
26 statewide driver status and fire fighting crews.
- 27           12. Inmates who are undergoing follow-up medical treatment for chronic  
28 diseases.
- 29           J. An inmate shall not be refused medical treatment for financial  
30 reasons.
- 31           K. All monies received by the department for medical and health  
32 ~~service~~ SERVICES fees shall be deposited in the general fund.
- 33           L. A person who is convicted of a felony offense and who is  
34 incarcerated while awaiting sentence or while serving a sentence imposed by a  
35 court of law may not bring a cause of action seeking damages or equitable  
36 relief from the state or its political subdivisions, agencies, officers or  
37 employees for injuries suffered while in the custody of the state or its  
38 political subdivisions or agencies unless the complaint alleges specific  
39 facts from which the court may conclude that the plaintiff suffered serious  
40 physical injury or the claim is authorized by a federal statute.
- 41           M. The director shall establish criteria for reasonable deductions  
42 from monies credited to the prisoner's spendable account to repay the cost  
43 of:
  - 44           1. State property that the inmate wilfully damages or destroys during  
45 the inmate's incarceration.

1           2. Medical treatment for injuries that the inmate inflicts on himself  
2 or others.

3           3. Searching for and apprehending an inmate who escapes or attempts to  
4 escape.

5           4. Quelling a riot or other disturbance in which the inmate is  
6 unlawfully involved.

7           N. For THE purposes of this section:

8           1. "Reasonable fee" means an amount not to exceed five dollars.

9           2. "Serious physical injury" means an impairment of physical condition  
10 that creates a substantial risk of death or that causes serious  
11 disfigurement, prolonged impairment of health or prolonged loss or impairment  
12 of the function of any bodily organ.

13           Sec. 12. Section 31-284, Arizona Revised Statutes, is amended to read:

14           31-284. Transition office fund

15           The transition office fund is established consisting of the monies  
16 collected pursuant to section 31-254, subsection D, paragraph 3. The  
17 department shall administer the fund to pay for ANY costs related to the  
18 transition ~~office~~ PROGRAM. Monies in the fund are subject to legislative  
19 appropriation and are exempt from the provisions of section 35-190 relating  
20 to lapsing of appropriations.

21           Sec. 13. Section 31-401, Arizona Revised Statutes, is amended to read:

22           31-401. Board of executive clemency; qualifications;  
23           appointment; officers; quorum; meeting

24           A. The board of executive clemency is established consisting of five  
25 members who are appointed by the governor pursuant to this subsection and  
26 section 38-211. The governor shall appoint a selection committee consisting  
27 of the director of the department of public safety, the director of the state  
28 department of corrections and three other persons who shall submit a list of  
29 three qualified candidates to the governor for each vacancy on the board.  
30 The governor shall fill the vacancy by appointing a member to the board of  
31 executive clemency from the list.

32           B. The members of the board shall serve on a full-time basis and the  
33 compensation of members shall be as determined pursuant to section 38-611.  
34 Each member shall be appointed on the basis of broad professional or  
35 educational qualifications and experience and shall have demonstrated an  
36 interest in the state's correctional program. No more than two members from  
37 the same professional discipline shall be members of the board at the same  
38 time.

39           C. Each member appointed to the board shall complete a four week  
40 course relating to the duties and activities of the board. The course shall  
41 be designed and administered by the chairman of the board and shall be  
42 conducted by the office of the board of executive clemency and the office of  
43 the attorney general. The course shall include training in all statutes  
44 ~~which~~ THAT pertain to the board and participation in a decision making  
45 workshop.

1 D. Members shall be appointed for a term of five years to expire on  
2 the third Monday in January of the appropriate year.

3 E. A member of the board may be removed by the governor for cause.

4 F. The governor shall select a member of the board as chairman. The  
5 chairman shall select other officers as are advisable. The term of the  
6 chairman is two years, except that the chairman may be removed as chairman at  
7 the pleasure of the governor. If a board member's term expires while the  
8 member is serving as chairman, the chair shall be deemed vacant and a new  
9 chairman shall be selected.

10 G. The board may adopt rules, not inconsistent with law, as it deems  
11 proper for the conduct of its business. The board may from time to time  
12 amend or change the rules and publish and distribute the rules as provided by  
13 the administrative procedures act.

14 H. The board shall meet at least once a month at the state prison and  
15 at other times or places as the board deems necessary.

16 I. The presence of three members of the board constitutes a quorum, ~~—~~  
17 EXCEPT THAT the chairman may designate that the presence of two members of  
18 the board constitutes a quorum.

19 J. If two members of the board constitute a quorum pursuant to  
20 subsection I, ~~paragraph 2~~ of this section and the two members do not concur  
21 on the action under consideration, the chairman of the board, if the chairman  
22 is not one of the members who constituted the quorum and after reviewing the  
23 information considered by the two members, shall cast the deciding vote. If  
24 the chairman of the board is one of the two members constituting a quorum at  
25 a hearing under subsection I, ~~paragraph 2~~ of this section, and there is not  
26 concurrence on the action under consideration, ~~no action shall be taken and~~  
27 ~~the matter shall be heard before the board at which a quorum under subsection~~  
28 ~~I, paragraph 1 of this section is present~~ THE ACTION FAILS.

29 K. The board shall employ an executive director whose compensation  
30 shall be determined pursuant to section 38-611. THE CHAIRMAN OF THE BOARD  
31 MAY ACT AS THE EXECUTIVE DIRECTOR.

32 Sec. 14. Section 41-191.03, Arizona Revised Statutes, is amended to  
33 read:

34 41-191.03. Collection enforcement revolving fund; disposition  
35 of monies

36 A. ~~A~~ THE collection enforcement revolving fund is established for the  
37 purpose of collecting debts owed to the state. Monies in the fund are  
38 subject to legislative appropriation. The attorney general shall administer  
39 the fund.

40 B. The attorney general may expend from the collection enforcement  
41 revolving fund such monies as are necessary for OPERATING EXPENSES INCURRED  
42 BY THE DEPARTMENT OF LAW AND the collection of debts owed to ~~the~~ THIS state,  
43 including reimbursing other accounts or departments within the office of the  
44 attorney general from which monies or services for collection were provided.

1 C. Thirty-five per cent of all monies recovered by the attorney  
2 general pursuant to section 41-191.04 shall be deposited, pursuant to  
3 sections 35-146 and 35-147, in the collection enforcement revolving fund.

4 D. Sixty-five per cent of all monies recovered by the attorney general  
5 pursuant to section 41-191.04 shall be distributed as follows:

6 1. Those monies ~~which~~ THAT are directly attributable to a fund  
7 containing monies ~~which~~ THAT do not revert to the state general fund at the  
8 end of the fiscal year shall be deposited, pursuant to sections 35-146 and  
9 35-147, in that fund.

10 2. All other monies shall be deposited, pursuant to sections 35-146  
11 and 35-147, in the state general fund.

12 E. Monies in the collection enforcement revolving fund are exempt from  
13 the lapsing provisions of section 35-190, except that monies remaining in the  
14 fund at the end of each fiscal year in excess of one hundred thousand dollars  
15 shall be distributed on a pro rata basis to the funds receiving monies  
16 pursuant to subsection D of this section. Such distribution shall be based  
17 on the percentage that the collections deposited in each fund bear to the  
18 total amount deposited into the funds during the fiscal year.

19 F. Notwithstanding anything in subsections B through E of this  
20 section, monies due and owing pursuant to section 12-116.01 and collected by  
21 the attorney general shall be distributed as follows:

22 1. Twenty per cent of all monies recovered by the attorney general  
23 pursuant to section 41-191.04 shall be deposited, pursuant to sections 35-146  
24 and 35-147, in the collection enforcement revolving fund.

25 2. Eighty per cent of all monies recovered by the attorney general  
26 pursuant to section 41-191.04 shall be deposited, pursuant to sections 35-146  
27 and 35-147, in the criminal justice enhancement fund, ~~—~~ established by section  
28 41-2401.

29 Sec. 15. Section 41-1723, Arizona Revised Statutes, is amended to  
30 read:

31 41-1723. Public safety equipment fund; distribution

32 The public safety equipment fund is established consisting of monies  
33 deposited in the fund pursuant to sections 5-395.01, 5-396, 5-397, 28-1381,  
34 28-1382, 28-1383, 28-8284, 28-8286, 28-8287 and 28-8288. The department  
35 shall administer the fund. Monies in the fund shall be distributed as  
36 follows:

37 1. The first ~~three~~ ONE million TWO HUNDRED THOUSAND dollars received  
38 each fiscal year as a continuing appropriation to the department for  
39 protective armor, electronic stun devices and other safety equipment. Monies  
40 appropriated pursuant to this paragraph are exempt from the provisions of  
41 section 35-190 relating to lapsing of appropriations.

42 2. All other monies each fiscal year shall be deposited in the state  
43 general fund.

1           Sec. 16. Section 41-1772, Arizona Revised Statutes, is amended to  
2 read:

3           41-1772. Crime laboratory operations fund

4           A. The crime laboratory operations fund is established consisting of  
5 surcharge monies deposited pursuant to section 28-3396 AND MONIES DEPOSITED  
6 PURSUANT TO SECTION 41-2401, SUBSECTION D, PARAGRAPH 11. The department  
7 shall administer the fund.

8           B. Subject to legislative appropriation, monies in the fund shall be  
9 used for crime laboratory operations.

10          Sec. 17. Section 41-1825, Arizona Revised Statutes, is amended to  
11 read:

12          41-1825. Peace officers' training fund

13          A. A special fund designated as the peace officers' training fund is  
14 established. All monies deposited in the fund are continuously appropriated  
15 to the department of public safety for the benefit of the board. The monies  
16 shall be used exclusively for the costs of training peace officers, including  
17 Indian tribe police officers who are training to be qualified pursuant to  
18 section 13-3874 and full authority peace officers who are appointed by the  
19 director of the state department of corrections and the director of the  
20 department of juvenile corrections, for grants to state agencies, counties,  
21 cities and towns of this state for peace officer training and for expenses  
22 for the operation of the board. No peace officers' training fund monies may  
23 be spent for training correctional officers of the state department of  
24 corrections.

25          B. All amounts to be paid or advanced from the fund shall be on  
26 warrants drawn by the department of administration on presentation of a  
27 proper claim or voucher that is approved and signed by the executive  
28 director.

29          C. The executive director shall lawfully disburse monies as approved  
30 by the board.

31          D. The board may use and the department of public safety shall provide  
32 to the board administrative support services. The board shall reimburse the  
33 department for expenses incurred for ADMINISTRATIVE SUPPORT services ~~that are~~  
34 ~~provided beyond those required for the normal operation of the department.~~  
35 This subsection does not require the department to provide administrative  
36 support services that are different in kind from those that were provided on  
37 January 1, 2000. For the purposes of this subsection, "administrative  
38 support services" includes all services relating to business office, finance  
39 and procurement, information management and technology, fleet, human  
40 resources, supply, telecommunications, facilities, security and clerical and  
41 administrative assistance personnel.

1           Sec. 18. Section 41-2401, Arizona Revised Statutes, is amended to  
2 read:

3           41-2401. Criminal justice enhancement fund

4           A. The criminal justice enhancement fund is established consisting of  
5 monies collected pursuant to section 12-116.01 and monies available from any  
6 other source. The state treasurer shall administer the fund.

7           B. On or before November 1 of each year, each department, agency or  
8 office that receives monies pursuant to this section shall provide to the  
9 Arizona criminal justice commission a report for the preceding fiscal year.  
10 The report shall be in a form prescribed by the Arizona criminal justice  
11 commission and shall be reviewed by the director of the joint legislative  
12 budget committee. The report shall set forth the sources of all monies and  
13 all expenditures. The report shall not include any identifying information  
14 about specific investigations.

15           C. On or before December 1 of each year, the Arizona criminal justice  
16 commission shall compile all reports into a single comprehensive report and  
17 shall submit a copy of the comprehensive report to the governor, the  
18 president of the senate, the speaker of the house of representatives and the  
19 director of the joint legislative budget committee.

20           D. On the first day of each month, the state treasurer shall  
21 distribute or deposit:

22           1. 6.46 per cent in the Arizona automated fingerprint identification  
23 system fund established by section 41-2414.

24           2. 1.61 per cent to the STATE department of ~~juvenile corrections for~~  
25 ~~the treatment and rehabilitation of youth who have committed drug related~~  
26 ~~offenses.~~

27           3. 16.64 per cent in the peace officers' training fund established by  
28 section 41-1825.

29           4. 3.03 per cent in the prosecuting attorneys' advisory council  
30 training fund established by section 41-1830.03.

31           5. 9.35 per cent to the supreme court for the purpose of reducing  
32 juvenile crime.

33           6. 8.56 per cent to the department of public safety. Fifteen per cent  
34 of the monies shall be allocated for deposit in the Arizona deoxyribonucleic  
35 acid identification system fund established by section 41-2419. Eighty-five  
36 per cent of the monies shall be allocated to state and local law enforcement  
37 authorities for the following purposes:

38           (a) To enhance projects that are designed to prevent residential and  
39 commercial burglaries, to control street crime, including the activities of  
40 criminal street gangs, and to locate missing children.

41           (b) To provide support to the Arizona automated fingerprint  
42 identification system.

43           (c) Operational costs of the criminal justice information system.

44           7. 9.35 per cent to the department of law for allocation to county  
45 attorneys for the purpose of enhancing prosecutorial efforts.



1           8. 6.02 per cent to the supreme court for the purpose of enhancing the  
2 ability of the courts to process criminal and delinquency cases, orders of  
3 protection, injunctions against harassment and any proceeding relating to  
4 domestic violence matters, for auditing and investigating persons or entities  
5 licensed or certified by the supreme court and for processing judicial  
6 discipline cases. Notwithstanding section 12-143, subsection A, the salary  
7 of superior court judges pro tempore who are appointed for the purposes  
8 provided in this paragraph shall, and the salary of other superior court  
9 judges pro tempore who are appointed pursuant to section 12-141 for the  
10 purposes provided in this paragraph may, be paid in full by the monies  
11 received pursuant to this paragraph.

12           9. 11.70 per cent to the county sheriffs for the purpose of enhancing  
13 county jail facilities and operations, including county jails under the  
14 jurisdiction of county jail districts.

15           10. 1.57 per cent to the Arizona criminal justice commission.

16           11. 9.00 per cent ~~to~~ IN the ~~state-general~~ CRIME LABORATORY OPERATIONS  
17 fund ESTABLISHED BY SECTION 41-1772.

18           12. 2.30 per cent in the crime laboratory assessment fund established  
19 by section 41-2415.

20           13. 7.68 per cent in the victims' rights fund established by section  
21 41-191.08.

22           14. 4.60 per cent in the victim compensation and assistance fund  
23 established by section 41-2407.

24           15. 2.13 per cent to the supreme court for the purpose of providing  
25 drug treatment services to adult probationers through the community  
26 punishment program established in title 12, chapter 2, article 11.

27           E. Monies distributed pursuant to subsection D, paragraphs 3, 4, 7, 9,  
28 11, 12, 13 and 14 of this section constitute a continuing appropriation.  
29 Monies distributed pursuant to subsection D, paragraphs 1, 2, 5, 8, 10 and 15  
30 of this section are subject to legislative appropriation.

31           F. The portion of the eighty-five per cent of the monies for direct  
32 operating expenses of the department of public safety in subsection D,  
33 paragraph 6 of this section is subject to legislative appropriation. The  
34 remainder of the monies in subsection D, paragraph 6 of this section  
35 including the portion of the eighty-five per cent for local law enforcement  
36 is continuously appropriated.

37           G. The allocation of monies pursuant to subsection D, paragraphs 6, 7,  
38 8 and 9 of this section shall be made in accordance with rules adopted by the  
39 Arizona criminal justice commission pursuant to section 41-2405.

40           Sec. 19. Section 41-2402, Arizona Revised Statutes, is amended to  
41 read:

42           41-2402. Drug and gang enforcement account; resource center  
43 fund

44           A. A drug and gang enforcement account is established within the  
45 criminal justice enhancement fund consisting of monies appropriated to the

1 account by the legislature and any other monies available from other sources,  
2 public or private, to be used for the purpose of enhancing efforts to deter,  
3 investigate, prosecute, adjudicate and punish drug offenders and members of  
4 criminal street gangs as defined in section 13-105.

5 B. The Arizona criminal justice commission shall distribute monies  
6 from the drug and gang enforcement account in the following manner:

7 1. Up to fifty per cent to fund law enforcement agencies approved by  
8 the commission to enhance both:

9 (a) The investigation of drug and gang offenses and related criminal  
10 activity.

11 (b) Drug and gang education and prevention programs.

12 2. Up to fifty per cent to fund programs and agencies approved by the  
13 commission to enhance the state, county, city or town prosecution of drug and  
14 gang offenses and related criminal activity.

15 3. Up to thirty per cent to fund programs and agencies approved by the  
16 commission for the purpose of enhancing the ability of the courts to process  
17 drug and gang offenses and related criminal cases, either through the  
18 appointment of judges pro tempore or the establishment of additional  
19 divisions of the courts only for the purposes of this section, enhancing  
20 defense and probation services, including treatment, and funding the drug  
21 testing program.

22 4. Up to thirty per cent to fund programs by county sheriffs and the  
23 state department of corrections, as approved by the commission, to enhance  
24 drug offender treatment programs and the jail operations and facilities  
25 available to detain and incarcerate drug offenders and members of criminal  
26 street gangs as defined in section 13-105.

27 5. Up to thirty per cent to fund programs and agencies, as approved by  
28 the commission, to enhance the integration of criminal justice records  
29 relating to drug and gang offenders and their related criminal activity.

30 C. Before any monies are expended from the account, the criminal  
31 justice commission shall submit to the joint legislative budget committee a  
32 plan of proposed expenditures from the account and the anticipated fiscal and  
33 operational impact of those expenditures on all state and local agencies.

34 D. Any state agency that receives monies allocated from this account  
35 shall not include such monies as part of its continuation budget base for the  
36 purpose of requesting appropriations for the following fiscal year.

37 E. All the monies allocated from this account shall be dedicated  
38 solely to the purpose of enhancing efforts to deter, investigate, prosecute,  
39 adjudicate and punish drug and gang and related criminal offenders, except  
40 those monies allocated pursuant to subsection H of this section.

41 F. Notwithstanding the limitations prescribed in subsection B of this  
42 section, any federal monies or matching state monies in the drug and gang  
43 enforcement account may only be allocated by the commission pursuant to a  
44 plan approved by the federal government.

1 G. The auditor general shall annually perform a full and complete  
2 audit of the fund or the commission shall annually contract with an  
3 accounting firm to perform the audit and deliver a report to the governor and  
4 the legislature. The audit shall be charged to the drug and gang enforcement  
5 account.

6 H. A resource center fund is established consisting of monies received  
7 pursuant to section 12-284.03, subsection A, paragraph 1, ~~AND~~ section 41-178  
8 and all monies received from public or private gifts, grants or other  
9 sources, excluding federal monies and monies to be passed through to other  
10 entities, to be used solely for the purpose of funding the Arizona ~~drug and~~  
11 ~~gang prevention resource center~~ YOUTH SURVEY. Monies in the fund are subject  
12 to legislative appropriation. Any monies unexpended or unencumbered on June  
13 30 of each year shall not be subsequently expended or encumbered unless  
14 reappropriated. No monies in the drug and gang enforcement account except  
15 those received pursuant to this subsection shall be used to fund the Arizona  
16 ~~drug and gang prevention resource center~~ YOUTH SURVEY. Monies that are  
17 ~~received by the center~~ EXPENDED pursuant to this subsection are subject to  
18 the reporting requirements prescribed in section 41-617.01.

19 Sec. 20. Repeal

20 Section 41-3010.12, Arizona Revised Statutes, is repealed.

21 Sec. 21. Title 41, chapter 27, article 2, Arizona Revised Statutes, is  
22 amended by adding section 41-3011.15, to read:

23 41-3011.15. Department of juvenile corrections; termination  
24 March 1, 2011

25 A. THE DEPARTMENT OF JUVENILE CORRECTIONS TERMINATES ON MARCH 1, 2011,  
26 EXCEPT THAT IF PROPOSITION 100 IS NOT APPROVED BY THE VOTERS AT THE MAY 18,  
27 2010 SPECIAL ELECTION, THE DEPARTMENT TERMINATES ON JANUARY 1, 2011.

28 B. TITLE 41, CHAPTER 26 IS REPEALED ON OCTOBER 1, 2011.

29 Sec. 22. Section 41-4301, Arizona Revised Statutes, is amended to  
30 read:

31 41-4301. State capital postconviction public defender; office;  
32 appointment; qualifications; powers and duties

33 A. The state capital postconviction public defender office is  
34 established.

35 B. The state is responsible for funding the state capital  
36 postconviction public defender office, including start-up costs.

37 C. The governor shall appoint the state capital postconviction public  
38 defender and fill any vacancy in the office on the basis of merit alone  
39 without regard to political affiliation from the list of names that are  
40 submitted pursuant to sections 41-4302 and 38-211. The state capital  
41 postconviction public defender serves a four year term and serves until the  
42 appointment and qualification of a successor in office. After appointment,  
43 the state capital postconviction public defender is subject to removal from  
44 office only for good cause as determined by a majority vote of the

1 nomination, retention and standards commission on indigent defense. A  
2 vacancy shall be filled for the balance of the unexpired term.

3 D. The state capital postconviction public defender shall meet all of  
4 the following criteria:

5 1. Be a member in good standing of the state bar of Arizona or become  
6 a member of the state bar of Arizona within one year after appointment.

7 2. Have been a member of the state bar of Arizona or admitted to  
8 practice in any other state for the five years immediately preceding the  
9 appointment.

10 3. Have had substantial experience in the representation of accused or  
11 convicted persons in criminal or juvenile proceedings.

12 4. Meet or exceed the standards for appointment of counsel in capital  
13 cases under rule 6.8, Arizona rules of criminal procedure, as determined by  
14 the nomination, retention and standards commission on indigent defense.

15 E. The salary of the state capital postconviction public defender  
16 shall equal the annual salary of the chief counsel of the capital litigation  
17 section in the office of the attorney general.

18 F. The state capital postconviction public defender shall:

19 1. Represent any person who is not financially able to employ counsel  
20 in postconviction relief proceedings in state court after a judgment of death  
21 has been rendered. Notwithstanding section 11-584, subsection A, paragraph  
22 1, subdivision (g), after a judgment of death has been rendered, a county  
23 employed indigent defense counsel shall not handle postconviction relief  
24 proceedings in state court unless a conflict exists with the state capital  
25 postconviction public defender and a county employed indigent defense counsel  
26 is appointed.

27 2. Supervise the operation, activities, policies and procedures of the  
28 state capital postconviction public defender office.

29 3. Beginning in fiscal year 2007-2008, submit an annual budget for the  
30 operation of the office to the legislature.

31 4. Not engage in the private practice of law or provide outside  
32 counsel to any other attorney outside of the state capital postconviction  
33 public defender office.

34 5. Not sponsor or fund training for any other attorney outside of the  
35 state capital postconviction public defender office.

36 6. Not provide trial or direct appeal assistance to attorneys outside  
37 of the state capital postconviction public defender office.

38 7. Not lobby, during working hours, the state legislature or the  
39 Congress of the United States, except as provided by paragraph 3 of this  
40 subsection.

41 8. Allocate personnel and resources to postconviction relief  
42 proceedings so long as there are no conflicts of interest in representation  
43 and all state capital postconviction public defender attorneys are appointed  
44 to postconviction relief cases that are eligible for appointment of counsel  
45 under section 13-4041.

1 G. The state capital postconviction public defender may:  
2 1. Accept and spend public and private gifts and grants for use in  
3 improving and enhancing the ability to perform the responsibilities of the  
4 state capital postconviction public defender office pursuant to this chapter.  
5 2. Employ not more than three deputies and not more than four other  
6 employees and establish and operate any offices as needed for the proper  
7 performance of the duties of the office.

8 H. For each person represented, the state capital postconviction  
9 public defender office shall request reimbursement from the county in which  
10 the person was convicted for fees it incurs pursuant to this section arising  
11 out of its representation of that person. The county shall pay fifty per  
12 cent of the fees incurred by the state capital postconviction public defender  
13 office ~~not to exceed thirty thousand dollars per case.~~ THE STATE TREASURER  
14 SHALL DEPOSIT THE REIMBURSEMENT FEES FROM THE COUNTY IN THE CAPITAL  
15 POSTCONVICTION PUBLIC DEFENDER OFFICE FUND ESTABLISHED BY SECTION 41-4303.

16 Sec. 23. Title 41, chapter 42, article 1, Arizona Revised Statutes, is  
17 amended by adding section 41-4303, to read:

18 41-4303. Capital postconviction public defender office fund  
19 THE CAPITAL POSTCONVICTION PUBLIC DEFENDER OFFICE FUND IS ESTABLISHED  
20 CONSISTING OF MONIES DEPOSITED PURSUANT TO SECTION 41-4301, SUBSECTION H.  
21 THE STATE CAPITAL POSTCONVICTION PUBLIC DEFENDER SHALL ADMINISTER THE FUND.  
22 MONIES IN THE FUND ARE SUBJECT TO LEGISLATIVE APPROPRIATION.

23 Sec. 24. Section 44-1531.01, Arizona Revised Statutes, is amended to  
24 read:

25 44-1531.01. Consumer protection-consumer fraud revolving fund;  
26 use of fund

27 A. ~~There is established a~~ THE consumer protection-consumer fraud  
28 revolving fund IS ESTABLISHED to be administered by the attorney general  
29 under the conditions and for the purposes provided by this section. Monies  
30 in the fund are subject to legislative appropriation. Monies in the fund are  
31 exempt from the lapsing provisions of section 35-190.

32 B. Any investigative or court costs, attorney fees or civil penalties  
33 recovered for the state by the attorney general as a result of enforcement of  
34 either state or federal statutes pertaining to consumer protection or  
35 consumer fraud, whether by final judgment, settlement or otherwise, shall be  
36 deposited in the fund established by this section, except that such costs,  
37 penalties or fees recovered by a county attorney shall be retained in such  
38 county and utilized for investigative operations for consumer protection in  
39 such county.

40 C. The monies in the fund shall be used by the attorney general for  
41 OPERATING EXPENSES, INCLUDING ANY COST OR EXPENSE ASSOCIATED WITH THE TOBACCO  
42 MASTER SETTLEMENT AGREEMENT ARBITRATION, consumer fraud education and  
43 investigative and enforcement operations of the consumer protection  
44 division, ~~except that no monies in the fund may be used to compensate or~~

1 ~~employ attorneys except where necessary to collect monies due under judgments~~  
2 ~~entered pursuant to this article.~~

3 D. On or before January 15, April 15, July 15 and October 15, the  
4 attorney general shall cause to be filed with the governor, with copies to  
5 the director of the department of administration, the president of the senate  
6 and the speaker of the house of representatives, a full and complete account  
7 of the receipts and disbursements from the fund in the previous calendar  
8 quarter.

9 E. On or before January 15, April 15, July 15 and October 15, each  
10 county attorney who retains monies pursuant to subsection B of this section  
11 shall provide the county board of supervisors with a full and complete  
12 account of the receipts and disbursements of such monies in the previous  
13 calendar quarter.

14 Sec. 25. Laws 2007, chapter 261, section 16, as amended by Laws 2009,  
15 third special session, chapter 6, section 21, is amended to read:

16 Sec. 16. Appropriations; deoxyribonucleic acid identification  
17 system fund; exemption

18 A. The sums of \$1,980,000 in fiscal year 2007-2008, \$2,980,000 in  
19 fiscal year 2008-2009, \$980,000 in fiscal year 2009-2010, ~~\$3,440,000~~ \$980,000  
20 in fiscal year 2010-2011 and \$3,520,000 in fiscal year 2011-2012 are  
21 appropriated from the monies that are collected pursuant to section  
22 12-116.01, subsection C, Arizona Revised Statutes, and that are distributed  
23 pursuant to section 12-116.01, subsection J, Arizona Revised Statutes, for  
24 deposit in the Arizona deoxyribonucleic acid identification system fund  
25 established by section 41-2419, Arizona Revised Statutes, to the department  
26 of public safety for equipment purchases, personal services, employee-related  
27 expenses, training, other operating expenses and capital improvements in  
28 order to implement, conduct and maintain deoxyribonucleic acid testing.

29 B. The appropriations made in subsection A of this section shall come  
30 from the additional four per cent penalty assessment that is collected and  
31 distributed pursuant to the penalty assessment increase from three per cent  
32 to seven per cent in section 12-116.01, subsections C and J, Arizona Revised  
33 Statutes, as amended by Laws 2007, chapter 261, section 1.

34 C. The appropriation made in subsection A of this section in fiscal  
35 year 2007-2008 is exempt from the provisions of section 35-190, Arizona  
36 Revised Statutes, relating to lapsing of appropriations.

37 Sec. 26. Repeal

38 Laws 2009, third special session, chapter 6, section 33 is repealed.

39 Sec. 27. State department of corrections; budget structure

40 Notwithstanding any other law, the state department of corrections  
41 shall report actual fiscal year 2009-2010, estimated fiscal year 2010-2011  
42 and requested fiscal year 2011-2012 expenditures in the same structure and  
43 detail as the prior fiscal year when the department submits the fiscal year  
44 2011-2012 budget request pursuant to section 35-113, Arizona Revised

1 Statutes. The information submitted for each line item shall contain as much  
2 detail as submitted in previous years for prior line items.

3 Sec. 28. Department of public safety; highway funds; limitation

4 Notwithstanding sections 28-6537 and 28-6993, Arizona Revised Statutes,  
5 the statutory caps limiting the level of highway user revenue fund monies and  
6 state highway fund monies available to fund department of public safety  
7 highway patrol costs are suspended for fiscal year 2010-2011.

8 Sec. 29. Suspension of reporting requirements

9 Notwithstanding any other law, the reporting requirements contained in  
10 the following sections are suspended for fiscal year 2010-2011:

11 1. Section 8-358, subsection B, Arizona Revised Statutes, relating to  
12 the annual juvenile intensive probation report.

13 2. Section 12-299.03, subsection A, paragraph 8, Arizona Revised  
14 Statutes, relating to the evaluation of the community punishment program.

15 3. Section 12-2456, Arizona Revised Statutes, relating to a report of  
16 information regarding the emancipation of minors.

17 4. Section 13-901.02, subsection D, Arizona Revised Statutes, relating  
18 to the annual drug treatment and education fund report card.

19 5. Section 21-222, subsection F, Arizona Revised Statutes, relating to  
20 the annual lengthy trial fund report.

21 6. Section 25-323.01, subsection B, Arizona Revised Statutes, relating  
22 to the annual child support committee report.

23 7. Section 25-323.02, subsection C, Arizona Revised Statutes, relating  
24 to the annual domestic relations committee report.

25 Sec. 30. Probation revocation and crime reduction performance  
26 funding; suspension

27 Notwithstanding section 12-270, Arizona Revised Statutes, for fiscal  
28 year 2010-2011, the calculating, appropriating and reporting requirements of  
29 section 12-270, Arizona Revised Statutes, do not apply.

30 Sec. 31. Nonsupplanting; suspension

31 Notwithstanding any other law, in fiscal year 2010-2011 the provisions  
32 relating to supplanting of state monies contained in section 12-102.02,  
33 subsection E, section 12-102.03, subsection D, section 12-135, subsection D,  
34 section 12-135.01, subsection D, section 12-267, subsection D, section  
35 12-268, subsection D and section 12-299.01, subsection C, Arizona Revised  
36 Statutes, are suspended. The supreme court shall submit a report to the  
37 joint legislative budget committee identifying any decrease in county funding  
38 related to these suspended provisions, including the reasons for the  
39 decrease.

40 Sec. 32. Judicial productivity credit; photo enforcement  
41 citations; retroactivity

42 A. In fiscal year 2010-2011, state photo enforcement citations issued  
43 pursuant to section 41-1722, Arizona Revised Statutes, shall not be included  
44 in judicial productivity credit calculations.

1 B. This section is effective retroactively to from and after June 30,  
2 2010.

3 Sec. 33. Justices of the peace; payment of compensation; fiscal  
4 year 2010-2011; retroactivity

5 A. If proposition 100 is approved by the voters at the May 18, 2010  
6 special election, notwithstanding section 22-117, subsection B, Arizona  
7 Revised Statutes, for fiscal year 2010-2011, the state shall pay 19.25 per  
8 cent of the compensation and employee related expenditures of a justice of  
9 the peace, and the county shall pay 80.75 per cent of the compensation and  
10 employee related expenditures of a justice of the peace, except that the  
11 county shall pay the full amount of the employer contribution of the state  
12 retirement system or plan or any county health plan.

13 B. If proposition 100 is not approved by the voters at the May 18,  
14 2010 special election, notwithstanding section 22-117, subsection B, Arizona  
15 Revised Statutes, for fiscal year 2010-2011, the state shall pay 18.2875 per  
16 cent of the compensation and employee related expenditures of a justice of  
17 the peace, and the county shall pay 81.7125 per cent of the compensation and  
18 employee related expenditures of a justice of the peace, except that the  
19 county shall pay the full amount of the employer contribution of the state  
20 retirement system or plan or any county health plan.

21 C. This section is effective retroactively to from and after June 30,  
22 2010.

23 Sec. 34. Board of executive clemency; part-time status

24 Notwithstanding any other law, in fiscal year 2010-2011, the members of  
25 the board of executive clemency, excluding the chairman, shall serve on a  
26 part-time basis. A part-time board member shall not work more than thirty  
27 hours each week and shall not be eligible for paid leave or any benefits  
28 provided to state employees pursuant to section 38-651, Arizona Revised  
29 Statutes.

30 Sec. 35. Juveniles; custody; juvenile detention centers;  
31 juvenile supervision; records transfer

32 A. Notwithstanding any other law, the juvenile court shall not  
33 sentence, award, detain, commit, transfer or assign a juvenile to the  
34 department of juvenile corrections.

35 B. Notwithstanding any other law, beginning on the effective date of  
36 this act through February 28, 2011, except that if proposition 100 is not  
37 approved by the voters at the May 18, 2010 special election, through December  
38 31, 2010, the department of juvenile corrections, in consultation with the  
39 juvenile court of the committing county, shall transfer all juveniles who are  
40 in the custody of the department of juvenile corrections and who are in a  
41 secure care facility to the custody of the juvenile court of the committing  
42 county for placement in a juvenile detention center. The cost of the  
43 juvenile's ongoing care shall be borne by the committing county.

44 C. Notwithstanding any other law, on or before March 1, 2011, except  
45 that if proposition 100 is not approved by the voters at the May 18, 2010



1 special election, on or before January 1, 2011, the department of juvenile  
2 corrections shall transfer all paper and electronic records maintained for  
3 any juveniles to the juvenile court of the committing county as directed by  
4 the administrative office of the courts.

5 D. Notwithstanding any other law, on or before March 1, 2011, except  
6 that if proposition 100 is not approved by the voters at the May 18, 2010  
7 special election, on or before January 1, 2011, the juvenile probation  
8 department of the county that committed the juvenile to the department of  
9 juvenile corrections shall assume all supervision authority and  
10 responsibility for juveniles on conditional release. The cost of the  
11 juvenile's ongoing care shall be borne by the committing county.

12 Sec. 36. Fund transfers

13 On March 1, 2011, except that if proposition 100 is not approved by the  
14 voters at the May 18, 2010 special election, on January 1, 2011, any monies  
15 remaining in the following funds shall be transferred to the state general  
16 fund:

17 1. The sex offender monitoring fund established by section 13-2828,  
18 Arizona Revised Statutes.

19 2. The state education fund for committed youth established by section  
20 15-1371, Arizona Revised Statutes.

21 3. The juvenile corrections fund established by section 41-2810,  
22 Arizona Revised Statutes.

23 4. The training institute fund established by section 41-2824, Arizona  
24 Revised Statutes.

25 5. The department of juvenile corrections restitution fund established  
26 by section 41-2826, Arizona Revised Statutes.

27 6. The department of juvenile corrections career technical education  
28 fund established by section 41-2828, Arizona Revised Statutes.

29 Sec. 37. Prisoners; incarceration in county jail

30 Beginning October 1, 2010, if proposition 100 is not approved by the  
31 voters at the May 18, 2010 special election, the state department of  
32 corrections shall transfer all inmates who have less than one year remaining  
33 on the inmates' terms of imprisonment to the county jail.

34 Sec. 38. Superior court judges; salary

35 If proposition 100 is not approved by the voters at the May 18, 2010  
36 special election, notwithstanding section 12-128, Arizona Revised Statutes,  
37 for fiscal year 2010-2011, the counties shall pay one-half of the annual  
38 salaries for judges of the superior court plus \$1,642,900 of the state's  
39 share.

40 Sec. 39. Effective date; conditional enactment

41 Sections 5-396, 13-701, 28-1383, 28-8288 and 31-201.01, Arizona Revised  
42 Statutes, as amended by this act, and section 31-133, Arizona Revised  
43 Statutes, as added by this act, are effective from and after September 30,  
44 2010 only if proposition 100 is not approved by the voters at the May 18,  
45 2010 special election.