

State of Arizona  
Senate  
Fiftieth Legislature  
First Regular Session  
2011

# SENATE BILL 1621

## AN ACT

AMENDING SECTION 5-396, ARIZONA REVISED STATUTES; AMENDING TITLE 11, CHAPTER 3, ARTICLE 2, ARIZONA REVISED STATUTES, BY ADDING SECTION 11-453; AMENDING SECTIONS 11-539 AND 11-588, ARIZONA REVISED STATUTES; AMENDING TITLE 12, CHAPTER 1, ARTICLE 1, ARIZONA REVISED STATUTES, BY ADDING SECTION 12-119.05; AMENDING SECTION 12-267, ARIZONA REVISED STATUTES; REPEALING SECTION 12-270, ARIZONA REVISED STATUTES; AMENDING SECTIONS 13-701, 22-117, 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, 31-230 AND 41-191.09, ARIZONA REVISED STATUTES; AMENDING TITLE 41, CHAPTER 4, ARTICLE 7, ARIZONA REVISED STATUTES, BY ADDING SECTION 41-797; AMENDING SECTIONS 41-1604, 41-1604.02 AND 41-1604.03, ARIZONA REVISED STATUTES; AMENDING TITLE 41, CHAPTER 11, ARTICLE 1, ARIZONA REVISED STATUTES, BY ADDING SECTION 41-1610.02; AMENDING SECTIONS 41-1624, 41-1723, 41-1724, 41-2401 AND 41-2421, ARIZONA REVISED STATUTES; PROVIDING FOR THE DELAYED REPEAL OF SECTIONS 11-539, 11-588 AND 41-2409, ARIZONA REVISED STATUTES; AMENDING LAWS 2007, CHAPTER 261, SECTION 16, AS AMENDED BY LAWS 2009, THIRD SPECIAL SESSION, CHAPTER 6, SECTION 21 AND LAWS 2010, SEVENTH SPECIAL SESSION, CHAPTER 6, SECTION 24; MAKING APPROPRIATIONS; RELATING TO CRIMINAL JUSTICE BUDGET RECONCILIATION.

(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, UNLESS  
42 THE SHERIFF OF THE SENTENCING COUNTY HAS ENTERED INTO AN AGREEMENT TO  
43 REIMBURSE THE STATE DEPARTMENT OF CORRECTIONS FOR THE INCARCERATION COSTS  
44 PURSUANT TO SECTION 41-1610.02, IN WHICH CASE THE PERSON SHALL BE COMMITTED  
45 TO THE CUSTODY OF THE STATE DEPARTMENT OF CORRECTIONS.

1 D. A person who is convicted under subsection A, paragraph 1 of this  
2 section and who within an eighty-four month period has been convicted of  
3 three or more prior violations of section 5-395 or 5-397 or this section, or  
4 acts committed in another jurisdiction that if committed in this state would  
5 be a violation of section 5-395 or 5-397 or this section, is not eligible for  
6 probation, pardon, commutation or suspension of sentence or release on any  
7 other basis until the person has served not less than eight months in ~~prison~~  
8 **JAIL, UNLESS THE SHERIFF OF THE SENTENCING COUNTY HAS ENTERED INTO AN**  
9 **AGREEMENT TO REIMBURSE THE STATE DEPARTMENT OF CORRECTIONS FOR THE**  
10 **INCARCERATION COSTS PURSUANT TO SECTION 41-1610.02, IN WHICH CASE THE PERSON**  
11 **SHALL BE COMMITTED TO THE CUSTODY OF THE STATE DEPARTMENT OF CORRECTIONS.**

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

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

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

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

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

30 H. The time that a person spends in custody pursuant to subsection G  
31 of this section shall not be counted toward the sentence imposed if the  
32 person's probation is revoked and the person is sentenced to prison following  
33 revocation of probation.

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

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

37 2. In addition to any other penalty prescribed by law, shall order the  
38 person to pay an additional assessment of two hundred fifty dollars. If the  
39 conviction occurred in the superior court or a justice court, the court shall  
40 transmit the assessed monies to the county treasurer. If the conviction  
41 occurred in a municipal court, the court shall transmit the assessed monies  
42 to the city treasurer. The city or county treasurer shall transmit the  
43 monies received to the state treasurer. The state treasurer shall deposit  
44 the monies received in the driving under the influence abatement fund  
45 established by section 28-1304. Any fine imposed for a violation of this

1 section and any assessments, restitution and incarceration costs shall be  
2 paid before the assessment prescribed in this paragraph.

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

12 4. In addition to any other penalty prescribed by law, shall order the  
13 person to pay an additional assessment of one thousand five hundred dollars  
14 to be deposited by the state treasurer in the public safety equipment fund  
15 established by section 41-1723. 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 J. Aggravated operating or actual physical control of a motorized  
22 watercraft that is underway while under the influence of an intoxicating  
23 liquor or drugs committed under:

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

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

26 Sec. 2. Title 11, chapter 3, article 2, Arizona Revised Statutes, is  
27 amended by adding section 11-453, to read:

28 11-453. Jail enhancement monies; transportation vehicles;  
29 procurement exemption

30 A. THE SHERIFF MAY SPEND JAIL ENHANCEMENT MONIES DISTRIBUTED PURSUANT  
31 TO SECTION 41-2401, SUBSECTION D, PARAGRAPH 9 FOR ANY PURPOSE THAT THE  
32 SHERIFF DETERMINES ENHANCES JAIL FACILITIES AND OPERATIONS, INCLUDING COUNTY  
33 JAILS UNDER THE JURISDICTION OF COUNTY JAIL DISTRICTS.

34 B. THE SHERIFF IS EXEMPT FROM ANY COUNTY PROCUREMENT RULES, POLICIES  
35 AND PROCEDURES FOR THE PURCHASE OF TRANSPORTATION VEHICLES WITH JAIL  
36 ENHANCEMENT MONIES DISTRIBUTED PURSUANT TO SECTION 41-2401, SUBSECTION D,  
37 PARAGRAPH 9. THE SHERIFF MAY ADOPT RULES SUBSTANTIALLY EQUIVALENT TO THE  
38 RULES, POLICIES AND PROCEDURES OF THE COUNTY FOR THE PROCUREMENT OF  
39 TRANSPORTATION VEHICLES WITH JAIL ENHANCEMENT MONIES.

40 Sec. 3. Section 11-539, Arizona Revised Statutes, is amended to read:

41 11-539. State aid to county attorneys fund

42 A. The state aid to county attorneys fund is established consisting of  
43 monies appropriated to the fund ~~and monies allocated pursuant to section~~  
44 ~~41-2421, subsections B and J~~. The purpose of the fund is to provide state  
45 aid to county attorneys for the processing of criminal cases.

1 B. The Arizona criminal justice commission shall administer the fund.  
2 The commission shall allocate fund monies to each county pursuant to section  
3 41-2409, subsection A.

4 C. All monies distributed or spent from the fund shall be used to  
5 supplement, not supplant, funding at the level provided in fiscal year  
6 1997-1998 by the counties for the processing of criminal cases by county  
7 attorneys.

8 D. Monies in the state aid to county attorneys fund are exempt from  
9 the provisions of section 35-190 relating to lapsing of appropriations ~~and~~  
10 ~~monies allocated pursuant to section 41-2421, subsections B and J are subject~~  
11 ~~to legislative appropriation.~~ Any state general fund monies appropriated to  
12 the fund may be spent without further legislative appropriation.

13 E. On notice from the commission, the state treasurer shall invest and  
14 divest monies in the fund as provided by section 35-313, and monies earned  
15 from investment shall be credited to the fund.

16 Sec. 4. Section 11-588, Arizona Revised Statutes, is amended to read:  
17 11-588. State aid to indigent defense fund

18 A. The state aid to indigent defense fund is established consisting of  
19 monies appropriated to the fund ~~and monies allocated to the fund pursuant to~~  
20 ~~section 41-2421, subsections B and J.~~ The purpose of the fund is to provide  
21 state aid to the county public defender, legal defender and contract indigent  
22 defense counsel for the processing of criminal cases.

23 B. The Arizona criminal justice commission shall administer the fund.  
24 The commission shall allocate monies in the fund to each county pursuant to  
25 section 41-2409, subsection C.

26 C. All monies distributed or spent from the fund shall be used to  
27 supplement, not supplant, funding at the level provided in fiscal year  
28 1997-1998 by counties for the processing of criminal cases by the county  
29 public defender, legal defender and contract indigent defense counsel in each  
30 county.

31 D. Monies in the state aid to indigent defense fund are exempt from  
32 the provisions of section 35-190 relating to lapsing of appropriations ~~and~~  
33 ~~monies allocated pursuant to section 41-2421, subsections B and J are subject~~  
34 ~~to legislative appropriation.~~ Any state general fund monies appropriated to  
35 the fund may be spent without further legislative appropriation.

36 E. On notice from the commission, the state treasurer shall invest and  
37 divest monies in the fund as provided by section 35-313, and monies earned  
38 from investment shall be credited to the fund.

39 Sec. 5. Title 12, chapter 1, article 1, Arizona Revised Statutes, is  
40 amended by adding section 12-119.05, to read:

41 12-119.05. Post of duty; supreme court justice

42 THE DESIGNATED POST OF DUTY OF A JUSTICE OF THE SUPREME COURT WHO  
43 RESIDES OUTSIDE OF MARICOPA COUNTY SHALL BE DEEMED TO BE THE JUSTICE'S PLACE  
44 OF PHYSICAL RESIDENCE AT THE TIME OF THE JUSTICE'S APPOINTMENT.

1           Sec. 6. Section 12-267, Arizona Revised Statutes, is amended to read:  
2           12-267. Adult probation services fund; accounts; expenditure  
3                                   plan; use

4           A. The board of supervisors shall designate a chief fiscal officer who  
5 shall establish and administer an adult probation services fund consisting  
6 of:

7           1. County general fund appropriations for adult probation.

8           2. State appropriations for adult probation including:

9           (a) Monies for adult probation officers authorized by article 6 of  
10 this chapter.

11           (b) Monies for state aid for adult probation services authorized by  
12 this article.

13           (c) Monies for adult community punishment programs established  
14 pursuant to article 11 of this chapter.

15           (d) Monies for adult intensive probation pursuant to title 13,  
16 chapter 9.

17           ~~(e) Monies received pursuant to section 12-270 that each county shall~~  
18 ~~use for the following:~~

19           ~~(i) Increasing the availability of substance abuse treatment programs~~  
20 ~~for probationers.~~

21           ~~(ii) Increasing the availability of risk reduction programs and~~  
22 ~~interventions for probationers.~~

23           ~~(iii) Grants to nonprofit victim services organizations to partner~~  
24 ~~with the probation department and the court to assist victims and increase~~  
25 ~~the amount of restitution collected from probationers.~~

26           3. Probation fees collected pursuant to section 13-901 and section  
27 13-902, subsection G.

28           4. Federal monies provided for adult probation.

29           5. Adult probation monies from any other source.

30           B. The chief fiscal officer shall establish and maintain separate  
31 accounts in the fund showing receipts and expenditures of monies from each  
32 source listed in subsection A of this section. The presiding judge of the  
33 superior court shall annually present to the board of supervisors for  
34 approval a detailed expenditure plan for the adult probation services fund  
35 accounts. Any modifications to the expenditure plan affecting state  
36 appropriations shall be made in accordance with the rules and procedures  
37 established by the supreme court. Any modifications to the expenditure plan  
38 affecting county appropriated funds shall be made in accordance with the  
39 policies established by the county. The chief fiscal officer shall disburse  
40 monies from the fund accounts only at the direction of the presiding judge of  
41 the superior court. The chief fiscal officer of each county, on or before  
42 August 31 of each year for the preceding fiscal year, shall submit an annual  
43 report to the supreme court showing the total amount of receipts and  
44 expenditures in each account of the adult probation services fund.

1 C. The state monies in the adult probation services fund, and  
2 probation fees collected pursuant to section 13-901 and section 13-902,  
3 subsection G, shall be used in accordance with guidelines established by the  
4 supreme court or the granting authority.

5 D. State monies expended from the adult probation services fund shall  
6 be used to supplement, not supplant, county appropriations for the superior  
7 court adult probation department.

8 E. Monies in the adult probation services fund shall be used to pay  
9 the annual assessment on member states of the interstate compact for the  
10 supervision of adult offenders established in section 31-467, article X,  
11 subsection B.

12 F. County monies in the adult probation services fund shall be used in  
13 accordance with the fiscal policies and procedures established by the board  
14 of supervisors.

15 G. The administrative office of the courts shall periodically charge  
16 each local probation fees account an amount established annually by the  
17 supreme court to cover a proportional share of the cost of monitoring devices  
18 required pursuant to section 13-902, subsection G consistent with guidelines  
19 established to implement section 13-902, subsection G.

20 H. The administrative office of the courts shall charge annually the  
21 local probation fees account of each county an amount that is established  
22 annually by the administrative office of the courts to reflect each county's  
23 portion of the superior court risk management premium that is allocated to  
24 the judiciary.

25 Sec. 7. Repeal

26 Section 12-270, Arizona Revised Statutes, is repealed.

27 Sec. 8. Section 13-701, Arizona Revised Statutes, is amended to read:

28 13-701. Sentence of imprisonment for felony; presentence  
29 report; aggravating and mitigating factors;  
30 consecutive terms of imprisonment; definition

31 A. A sentence of imprisonment for a felony shall be a definite term of  
32 years and the person sentenced, unless otherwise provided by law OR  
33 SUBSECTION J OF THIS SECTION APPLIES, shall be committed to the custody of  
34 the state department of corrections.

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

39 C. The minimum or maximum term imposed pursuant to section 13-702,  
40 13-703, 13-704, 13-705, 13-708, 13-710, 13-1406, 13-3212 or 13-3419 may be  
41 imposed only if one or more of the circumstances alleged to be in aggravation  
42 of the crime are found to be true by the trier of fact beyond a reasonable  
43 doubt or are admitted by the defendant, except that an alleged aggravating  
44 circumstance under subsection D, paragraph 11 of this section shall be found  
45 to be true by the court, or in mitigation of the crime are found to be true

1 by the court, on any evidence or information introduced or submitted to the  
2 court or the trier of fact before sentencing or any evidence presented at  
3 trial, and factual findings and reasons in support of such findings are set  
4 forth on the record at the time of sentencing.

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

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

13 2. Use, threatened use or possession of a deadly weapon or dangerous  
14 instrument during the commission of the crime, except if this circumstance is  
15 an essential element of the offense of conviction or has been utilized to  
16 enhance the range of punishment under section 13-704.

17 3. If the offense involves the taking of or damage to property, the  
18 value of the property taken or damaged.

19 4. Presence of an accomplice.

20 5. Especially heinous, cruel or depraved manner in which the offense  
21 was committed.

22 6. The defendant committed the offense as consideration for the  
23 receipt, or in the expectation of the receipt, of anything of pecuniary  
24 value.

25 7. The defendant procured the commission of the offense by payment, or  
26 promise of payment, of anything of pecuniary value.

27 8. At the time of the commission of the offense, the defendant was a  
28 public servant and the offense involved conduct directly related to the  
29 defendant's office or employment.

30 9. The victim or, if the victim has died as a result of the conduct of  
31 the defendant, the victim's immediate family suffered physical, emotional or  
32 financial harm.

33 10. During the course of the commission of the offense, the death of an  
34 unborn child at any stage of its development occurred.

35 11. The defendant was previously convicted of a felony within the ten  
36 years immediately preceding the date of the offense. A conviction outside  
37 the jurisdiction of this state for an offense that if committed in this state  
38 would be punishable as a felony is a felony conviction for the purposes of  
39 this paragraph.

40 12. The defendant was wearing body armor as defined in section 13-3116.

41 13. The victim of the offense is at least sixty-five years of age or is  
42 a disabled person as defined in section 38-492, subsection B.



1           14. The defendant was appointed pursuant to title 14 as a fiduciary and  
2 the offense involved conduct directly related to the defendant's duties to  
3 the victim as fiduciary.

4           15. Evidence that the defendant committed the crime out of malice  
5 toward a victim because of the victim's identity in a group listed in section  
6 41-1750, subsection A, paragraph 3 or because of the defendant's perception  
7 of the victim's identity in a group listed in section 41-1750, subsection A,  
8 paragraph 3.

9           16. The defendant was convicted of a violation of section 13-1102,  
10 section 13-1103, section 13-1104, subsection A, paragraph 3 or section  
11 13-1204, subsection A, paragraph 1 or 2 arising from an act that was  
12 committed while driving a motor vehicle and the defendant's alcohol  
13 concentration at the time of committing the offense was 0.15 or more. For  
14 the purposes of this paragraph, "alcohol concentration" has the same meaning  
15 prescribed in section 28-101.

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

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

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

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

26           21. The defendant was in violation of 8 United States Code section  
27 1323, 1324, 1325, 1326 or 1328 at the time of the commission of the offense.

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

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

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

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

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

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

41           (b) "Remote stun gun" means an electronic device that emits an  
42 electrical charge and that is designed and primarily employed to incapacitate  
43 a person or animal either through contact with electrodes on the device  
44 itself or remotely through wired probes that are attached to the device or

1 through a spark, plasma, ionization or other conductive means emitting from  
2 the device.

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

5 24. Any other factor that the state alleges is relevant to the  
6 defendant's character or background or to the nature or circumstances of the  
7 crime.

8 E. For the purpose of determining the sentence pursuant to subsection  
9 C of this section, the court shall consider the following mitigating  
10 circumstances:

11 1. The age of the defendant.

12 2. The defendant's capacity to appreciate the wrongfulness of the  
13 defendant's conduct or to conform the defendant's conduct to the requirements  
14 of law was significantly impaired, but not so impaired as to constitute a  
15 defense to prosecution.

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

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

20 5. During or immediately following the commission of the offense, the  
21 defendant complied with all duties imposed under sections 28-661, 28-662 and  
22 28-663.

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

26 F. If the trier of fact finds at least one aggravating circumstance,  
27 the trial court may find by a preponderance of the evidence additional  
28 aggravating circumstances. In determining what sentence to impose, the court  
29 shall take into account the amount of aggravating circumstances and whether  
30 the amount of mitigating circumstances is sufficiently substantial to justify  
31 the lesser term. If the trier of fact finds aggravating circumstances and  
32 the court does not find any mitigating circumstances, the court shall impose  
33 an aggravated sentence.

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

37 H. This section does not affect any provision of law that imposes the  
38 death penalty, that expressly provides for imprisonment for life or that  
39 authorizes or restricts the granting of probation and suspending the  
40 execution of sentence.

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

43 J. IF A PERSON IS SENTENCED TO SERVE ONE YEAR OR LESS IN THE STATE  
44 DEPARTMENT OF CORRECTIONS, THE PERSON SHALL BE COMMITTED TO THE CUSTODY OF  
45 THE COUNTY JAIL, UNLESS THE SHERIFF OF THE SENTENCING COUNTY HAS ENTERED INTO

1 AN AGREEMENT TO REIMBURSE THE STATE DEPARTMENT OF CORRECTIONS FOR THE  
2 INCARCERATION COSTS PURSUANT TO SECTION 41-1610.02, IN WHICH CASE THE PERSON  
3 SHALL BE COMMITTED TO THE CUSTODY OF THE STATE DEPARTMENT OF CORRECTIONS. A  
4 PERSON WHO IS SENTENCED TO A CONCURRENT TERM OF INCARCERATION FOR MORE THAN  
5 ONE YEAR SHALL BE INCARCERATED IN THE STATE DEPARTMENT OF CORRECTIONS.

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

9 Sec. 9. Section 22-117, Arizona Revised Statutes, is amended to read:

10 22-117. Payment of compensation and expenses

11 A. Justices of the peace shall be allowed by the board of supervisors,  
12 as a county charge, office rent, stationery, telephone and lights.

13 B. In a county with a population of less than one million five hundred  
14 thousand persons, the state shall pay ~~forty~~ 19.25 per cent of the  
15 compensation and employee related expenditures of a justice of the peace, and  
16 the county shall pay ~~sixty~~ 80.75 per cent of the compensation and employee  
17 related expenditures of a justice of the peace, except that the county shall  
18 pay the full amount of the employer contribution of the state retirement  
19 system or plan or any county health plan.

20 C. If a county is subject to subsection B of this section, the state  
21 treasurer shall remit the compensation and employee related expenditures  
22 payable by the state to the county treasurer, and the county shall disburse  
23 the funds to the justice of the peace.

24 D. In a county with a population of one million five hundred thousand  
25 persons or more, the county shall pay one hundred per cent of the  
26 compensation and employee related expenditures of a justice of the peace.

27 E. If a county is subject to subsection D of this section, the  
28 following apply:

29 1. Beginning in fiscal year 2007-2008, the county's contribution to  
30 the hospitalization and medical care of the indigent sick and for the  
31 administrative costs of implementing sections 36-2901.01 and 36-2901.04 shall  
32 be reduced pursuant to section 11-292, subsection R, in an amount that is  
33 equal to the difference between the total costs that the county paid pursuant  
34 to subsection D of this section and the amount that the county would have  
35 paid if the county were subject to subsection B of this section.

36 2. Pursuant to section 41-563, subsection D and beginning in fiscal  
37 year 2007-2008, the economic estimates commission shall increase the county's  
38 base expenditure limit in an amount that is equal to the difference between  
39 the total costs that the county paid pursuant TO subsection D of this section  
40 and the amount that the county would have paid if the county were subject to  
41 subsection B of this section.

1           Sec. 10. Section 28-1383, Arizona Revised Statutes, is amended to  
2 read:

3           28-1383. Aggravated driving or actual physical control while  
4                                   under the influence; violation; classification;  
5                                   definition

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

9           1. Commits a violation of section 28-1381, section 28-1382 or this  
10 section while the person's driver license or privilege to drive is suspended,  
11 canceled, revoked or refused or while a restriction is placed on the person's  
12 driver license or privilege to drive as a result of violating section 28-1381  
13 or 28-1382 or under section 28-1385.

14           2. Within a period of eighty-four months commits a third or subsequent  
15 violation of section 28-1381, section 28-1382 or this section or is convicted  
16 of a violation of section 28-1381, section 28-1382 or this section and has  
17 previously been convicted of any combination of convictions of section  
18 28-1381, section 28-1382 or this section or acts in another jurisdiction that  
19 if committed in this state would be a violation of section 28-1381, section  
20 28-1382 or this section.

21           3. While a person under fifteen years of age is in the vehicle,  
22 commits a violation of either:

23                   (a) Section 28-1381.

24                   (b) Section 28-1382.

25           4. While the person is ordered by the court or required pursuant to  
26 section 28-3319 by the department to equip any motor vehicle the person  
27 operates with a certified ignition interlock device, does either of the  
28 following:

29                   (a) While under arrest refuses to submit to any test chosen by a law  
30 enforcement officer pursuant to section 28-1321, subsection A.

31                   (b) Commits a violation of section 28-1381, section 28-1382 or this  
32 section.

33           B. The dates of the commission of the offenses are the determining  
34 factor in applying the eighty-four month provision provided in subsection A,  
35 paragraph 2 of this section regardless of the sequence in which the offenses  
36 were committed. For the purposes of this section, a third or subsequent  
37 violation for which a conviction occurs does not include a conviction for an  
38 offense arising out of the same series of acts. The time that a probationer  
39 is found to be on absconder status or the time that a person is incarcerated  
40 in any state, federal, county or city jail or correctional facility is  
41 excluded when determining the eighty-four month period provided in subsection  
42 A, paragraph 2 and subsection E of this section.

43           C. The notice to a person of the suspension, cancellation, revocation  
44 or refusal of a driver license or privilege to drive is effective as provided  
45 in section 28-3318 or pursuant to the laws of the state issuing the license.

1 D. A person is not eligible for probation, pardon, commutation or  
2 suspension of sentence or release on any other basis until the person has  
3 served not less than four months in ~~prison~~ JAIL, UNLESS THE SHERIFF OF THE  
4 SENTENCING COUNTY HAS ENTERED INTO AN AGREEMENT TO REIMBURSE THE STATE  
5 DEPARTMENT OF CORRECTIONS FOR THE INCARCERATION COSTS PURSUANT TO SECTION  
6 41-1610.02, IN WHICH CASE THE PERSON SHALL BE COMMITTED TO THE CUSTODY OF THE  
7 STATE DEPARTMENT OF CORRECTIONS if the person is convicted under either of  
8 the following:

9 1. Subsection A, paragraph 1 of this section.

10 2. Subsection A, paragraph 2 of this section and within an eighty-four  
11 month period has been convicted of two prior violations of section 28-1381,  
12 section 28-1382 or this section, or any combination of those sections, or  
13 acts in another jurisdiction that if committed in this state would be a  
14 violation of section 28-1381, section 28-1382 or this section.

15 E. A person who is convicted under subsection A, paragraph 2 of this  
16 section and who within an eighty-four month period has been convicted of  
17 three or more prior violations of section 28-1381, section 28-1382 or this  
18 section, or any combination of those sections, or acts in another  
19 jurisdiction that if committed in this state would be a violation of section  
20 28-1381, section 28-1382 or this section is not eligible for probation,  
21 pardon, commutation or suspension of sentence or release on any other basis  
22 until the person has served not less than eight months in ~~prison~~ JAIL, UNLESS  
23 THE SHERIFF OF THE SENTENCING COUNTY HAS ENTERED INTO AN AGREEMENT TO  
24 REIMBURSE THE STATE DEPARTMENT OF CORRECTIONS FOR THE INCARCERATION COSTS  
25 PURSUANT TO SECTION 41-1610.02, IN WHICH CASE THE PERSON SHALL BE COMMITTED  
26 TO THE CUSTODY OF THE STATE DEPARTMENT OF CORRECTIONS.

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

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

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

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

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

1 I. The time that a person spends in custody pursuant to subsection H  
2 of this section shall not be counted towards the sentence imposed if the  
3 person's probation is revoked and the person is sentenced to prison after  
4 revocation of probation.

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

6 1. Shall report the conviction to the department. On receipt of the  
7 report, the department shall revoke the driving privilege of the person. The  
8 department shall not issue the person a new driver license within three years  
9 of the date of the conviction and, for a conviction of a violation of  
10 subsection A, paragraph 1, 2 or 4 or paragraph 3, subdivision (b) of this  
11 section, shall require the person to equip any motor vehicle the person  
12 operates with a certified ignition interlock device pursuant to section  
13 28-3319. In addition, the court may order the person to equip any motor  
14 vehicle the person operates with a certified ignition interlock device for  
15 more than twelve months beginning on the date of reinstatement of the  
16 person's driving privilege following a suspension or revocation or on the  
17 date of the department's receipt of the report of conviction, whichever  
18 occurs later. The person who operates a motor vehicle with a certified  
19 ignition interlock device under this paragraph shall comply with article 5 of  
20 this chapter.

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

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

35 4. In addition to any other penalty prescribed by law, shall order the  
36 person to pay an additional assessment of one thousand five hundred dollars  
37 to be deposited by the state treasurer in the prison construction and  
38 operations fund established by section 41-1651. This assessment is not  
39 subject to any surcharge. If the conviction occurred in the superior court  
40 or a justice court, the court shall transmit the assessed monies to the  
41 county treasurer. If the conviction occurred in a municipal court, the court  
42 shall transmit the assessed monies to the city treasurer. The city or county  
43 treasurer shall transmit the monies received to the state treasurer.

44 5. In addition to any other penalty prescribed by law, shall order the  
45 person to pay an additional assessment of one thousand five hundred dollars

1 to be deposited by the state treasurer in the public safety equipment fund  
2 established by section 41-1723. This assessment is not subject to any  
3 surcharge. If the conviction occurred in the superior court or a justice  
4 court, the court shall transmit the assessed monies to the county treasurer.  
5 If the conviction occurred in a municipal court, the court shall transmit the  
6 assessed monies to the city treasurer. The city or county treasurer shall  
7 transmit the monies received to the state treasurer.

8 K. After completing the period of suspension required by section  
9 28-1385, a person whose driving privilege is revoked for a violation of  
10 subsection A, paragraph 3 of this section may apply to the department for a  
11 special ignition interlock restricted driver license pursuant to section  
12 28-1401.

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

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

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

19 M. For the purposes of this section, "suspension, cancellation,  
20 revocation or refusal" means any suspension, cancellation, revocation or  
21 refusal.

22 Sec. 11. Section 28-8288, Arizona Revised Statutes, is amended to  
23 read:

24 28-8288. Third or subsequent offense

25 A. If a person is convicted of a third or subsequent violation of  
26 section 28-8282 or is convicted of a violation of section 28-8282 and has  
27 previously been convicted of any combination of convictions of section  
28 28-8282 or acts committed in another state that if committed in this state  
29 would be a violation of section 28-8282 within a period of sixty months:

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

31 2. The person is not eligible for probation, pardon, suspension of  
32 sentence or release on any basis except as specifically authorized by section  
33 31-233, subsection A or B until the person has served not less than six  
34 months in ~~prison~~ JAIL, UNLESS THE SHERIFF OF THE SENTENCING COUNTY HAS  
35 ENTERED INTO AN AGREEMENT TO REIMBURSE THE STATE DEPARTMENT OF CORRECTIONS  
36 FOR THE INCARCERATION COSTS PURSUANT TO SECTION 41-1610.02, IN WHICH CASE THE  
37 PERSON SHALL BE COMMITTED TO THE CUSTODY OF THE STATE DEPARTMENT OF  
38 CORRECTIONS.

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

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

43 5. In addition to any other penalty prescribed by law, the person  
44 shall pay an additional assessment of one thousand five hundred dollars to be  
45 deposited by the state treasurer in the prison construction and operations

1 fund established by section 41-1651. This assessment is not subject to any  
2 surcharge. If the conviction occurred in the superior court or a justice  
3 court, the court shall transmit the assessed monies to the county treasurer.  
4 If the conviction occurred in a municipal court, the court shall transmit the  
5 assessed monies to the city treasurer. The city or county treasurer shall  
6 transmit the monies received to the state treasurer.

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

16 B. The dates of the commission of the offense are the determining  
17 factor in applying this section.

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

21 Sec. 12. Title 31, chapter 1, article 2, Arizona Revised Statutes, is  
22 amended by adding section 31-133, to read:

23 31-133. Receiving and keeping state prisoners

24 THE SHERIFF SHALL RECEIVE AND KEEP IN THE COUNTY JAIL ANY PRISONER WHO  
25 IS SENTENCED ON OR AFTER THE EFFECTIVE DATE OF THIS SECTION TO SERVE A TERM  
26 OF IMPRISONMENT IN THE STATE DEPARTMENT OF CORRECTIONS FOR ONE YEAR OR LESS,  
27 UNLESS THE SHERIFF HAS ENTERED INTO AN AGREEMENT TO REIMBURSE THE STATE  
28 DEPARTMENT OF CORRECTIONS FOR THE INCARCERATION COSTS PURSUANT TO SECTION  
29 41-1610.02, IN WHICH CASE THE PERSON SHALL BE COMMITTED TO THE CUSTODY OF THE  
30 STATE DEPARTMENT OF CORRECTIONS.

31 Sec. 13. Section 31-201.01, Arizona Revised Statutes, is amended to  
32 read:

33 31-201.01. Duties of the director; tort actions; medical  
34 treatment costs; state immunity; definitions

35 A. The director shall hold in custody all persons sentenced to the  
36 department under the law and shall hold such persons for the term directed by  
37 the court, subject to law, EXCEPT THAT BEGINNING ON THE EFFECTIVE DATE OF  
38 THIS AMENDMENT TO THIS SECTION OR JULY 1, 2011, WHICHEVER IS LATER, IF THE  
39 PERSON IS SENTENCED TO ONE YEAR OR LESS IN THE STATE DEPARTMENT OF  
40 CORRECTIONS, THE PERSON SHALL BE PLACED IN THE CUSTODY OF A COUNTY JAIL,  
41 UNLESS THE SHERIFF OF THE SENTENCING COUNTY HAS ENTERED INTO AN AGREEMENT TO  
42 REIMBURSE THE STATE DEPARTMENT OF CORRECTIONS FOR THE INCARCERATION COSTS  
43 PURSUANT TO SECTION 41-1610.02, IN WHICH CASE THE PERSON SHALL BE COMMITTED  
44 TO THE CUSTODY OF THE STATE DEPARTMENT OF CORRECTIONS.



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

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

8 D. The director shall provide medical and health services for the  
9 prisoners **WHO ARE INCARCERATED IN THE STATE DEPARTMENT OF CORRECTIONS**. The  
10 director may contract for professional services to assist the director in  
11 carrying out this responsibility on behalf of the state, ~~provided~~ **EXCEPT** that  
12 all records made and retained in connection with the services provided by  
13 this subsection shall be made and retained only by duly authorized or  
14 qualified medical and professional personnel and not by any prisoner. Such  
15 records when not in use shall be retained in a safe and secure place.

16 E. If a victim of a person for whom a cost of incarceration has been  
17 calculated notifies the state that full restitution has not been made by the  
18 person for whom a cost of incarceration has been calculated, the state shall  
19 interplead with the superior court the disputed amount and set off the  
20 amounts owed the state from the remaining obligation.

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

24 G. The director shall establish by rule reasonable medical and health  
25 ~~service~~ **SERVICES** fees for the medical and health services that are provided  
26 pursuant to subsection D of this section. Except as provided in subsection I  
27 of this section, every inmate shall be charged a reasonable medical and  
28 health services fee for each medical visit an inmate makes pursuant to a  
29 health needs request form or for emergency treatment.

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

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

36 1. Medical visits initiated by the medical or mental health staff of  
37 the department.

38 2. Medical visits to a physician by inmates who are referred by a  
39 physician assistant or nurse practitioner.

40 3. Inmates at reception centers.

41 4. Juvenile inmates.

42 5. Pregnant inmates.

43 6. Seriously mentally ill inmates. For the purposes of this  
44 paragraph, "seriously mentally ill inmates" means inmates who as a result of  
45 a mental disorder as defined in section 36-501 exhibit emotional or

1 behavioral functioning ~~which~~ THAT is so impaired as to interfere  
2 substantially with their capacity to remain in the general prison population  
3 without supportive treatment or services of a long-term or indefinite  
4 duration and whose mental disability is severe and persistent, resulting in a  
5 long-term limitation of their functional capacities for primary activities of  
6 daily living, including interpersonal relationships, self-care, employment  
7 and recreation.

8 7. Developmentally disabled inmates who are housed in a special  
9 programs unit.

10 8. Inmates who are housed in unit 8 at the Florence prison facility.

11 9. Inmates who are inpatients at the Alhambra prison facility special  
12 programs psychiatric hospital.

13 10. Inmates who are inpatients at the Flamenco prison facility mental  
14 health treatment unit.

15 11. Inmates who are undergoing administrative physical examinations for  
16 statewide driver status and fire fighting crews.

17 12. Inmates who are undergoing follow-up medical treatment for chronic  
18 diseases.

19 J. An inmate shall not be refused medical treatment for financial  
20 reasons.

21 K. All monies received by the department for medical and health  
22 ~~service~~ SERVICES fees shall be deposited in the STATE general fund.

23 L. A person who is convicted of a felony offense and who is  
24 incarcerated while awaiting sentence or while serving a sentence imposed by a  
25 court of law may not bring a cause of action seeking damages or equitable  
26 relief from the state or its political subdivisions, agencies, officers or  
27 employees for injuries suffered while in the custody of the state or its  
28 political subdivisions or agencies unless the complaint alleges specific  
29 facts from which the court may conclude that the plaintiff suffered serious  
30 physical injury or the claim is authorized by a federal statute.

31 M. The director shall establish criteria for reasonable deductions  
32 from monies credited to the prisoner's spendable account to repay the cost  
33 of:

34 1. State property that the inmate wilfully damages or destroys during  
35 the inmate's incarceration.

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

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

40 4. Quelling a riot or other disturbance in which the inmate is  
41 unlawfully involved.

42 N. For THE purposes of this section:

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

44 2. "Serious physical injury" means an impairment of physical condition  
45 that creates a substantial risk of death or that causes serious

1 disfigurement, prolonged impairment of health or prolonged loss or impairment  
2 of the function of any bodily organ.

3 Sec. 14. Section 31-230, Arizona Revised Statutes, is amended to read:

4 31-230. Prisoner spendable accounts; fees

5 A. The director shall establish a prisoner spendable account for each  
6 prisoner. All monies that are received by a prisoner and that are not  
7 required to be deposited in another account shall be deposited in the  
8 prisoner's spendable account.

9 B. The director shall adopt rules for the disbursement of monies from  
10 prisoner spendable accounts.

11 C. If the court has ordered the prisoner to pay restitution pursuant  
12 to section 13-603, the director shall withdraw a minimum of twenty per cent,  
13 or the balance owing on the restitution amount, up to a maximum of fifty per  
14 cent of the monies available in the prisoner's spendable account each month  
15 to pay the court ordered restitution.

16 D. THE DIRECTOR MAY ESTABLISH BY RULE A FEE FOR ANY DEPOSITS MADE TO A  
17 PRISONER SPENDABLE ACCOUNT. THE DIRECTOR SHALL DEPOSIT, PURSUANT TO SECTIONS  
18 35-146 AND 35-147, ANY MONIES COLLECTED PURSUANT TO THIS SUBSECTION IN THE  
19 DEPARTMENT OF CORRECTIONS BUILDING RENEWAL FUND ESTABLISHED BY SECTION  
20 41-797.

21 Sec. 15. Section 41-191.09, Arizona Revised Statutes, is amended to  
22 read:

23 41-191.09. Attorney general legal services cost allocation  
24 fund; contributions; exemptions

25 A. The attorney general legal services cost allocation fund is  
26 established for the purpose of reimbursing the department of law for general  
27 agency counsel. Monies in the fund are subject to legislative appropriation.  
28 The attorney general shall administer the fund.

29 B. ~~Beginning July 1, 2006,~~ All state agency appropriated and  
30 nonappropriated funds shall contribute a pro rata share of general agency  
31 counsel services provided by the department of law. The pro rata share is  
32 payable by payroll fund source, and the resultant amount shall be deposited  
33 in the attorney general legal services cost allocation fund. ~~Beginning~~  
34 ~~July 1, 2007,~~ The pro rata share for each fund shall be 0.675 per cent of the  
35 total payroll. For the purposes of this subsection, "total payroll" includes  
36 federal monies, state general fund monies, special revenue funds,  
37 intergovernmental revenue monies, trust funds and other payroll fund sources.

38 C. A claim for the pro rata share percentage payment shall be  
39 submitted according to the fund source, with the accompanying payroll, to the  
40 department of administration for deposit in the attorney general legal  
41 services cost allocation fund.

42 D. The following agencies are exempt from this section:

- 43 1. The department of water resources.
- 44 2. The residential utility consumer office.
- 45 3. The industrial commission.

- 1           4. The universities and the Arizona board of regents.
- 2           5. The auditor general.
- 3           6. The corporation commission.
- 4           7. The office of the governor.
- 5           8. The department of law.
- 6           9. The house of representatives.
- 7           10. The senate.
- 8           11. The joint legislative budget committee.
- 9           12. The Arizona state library, archives and public records.
- 10          13. The legislative council.
- 11          14. The department of administration risk management fund.
- 12          15. The department of transportation.
- 13          16. The Arizona game and fish department.
- 14          17. The department of economic security.
- 15          18. The Arizona health care cost containment system.
- 16          19. The superior court.
- 17          20. The court of appeals.
- 18          21. The supreme court.
- 19          22. The Arizona department of agriculture and councils that receive
- 20 administrative and budgetary services from the Arizona department of
- 21 agriculture.
- 22          23. All self-supporting regulatory agencies as determined pursuant to
- 23 section 35-143.01.
- 24          24. **THE STATE CAPITAL POSTCONVICTION PUBLIC DEFENDER OFFICE.**
- 25           E. Monies in the attorney general legal services cost allocation fund
- 26 are exempt from lapsing to the state general fund at the end of each fiscal
- 27 year.
- 28           Sec. 16. Title 41, chapter 4, article 7, Arizona Revised Statutes, is
- 29 amended by adding section 41-797, to read:
- 30           41-797. Department of corrections building renewal fund
- 31           A. **THE DEPARTMENT OF CORRECTIONS BUILDING RENEWAL FUND IS ESTABLISHED**
- 32 **CONSISTING OF MONIES DEPOSITED PURSUANT TO SECTION 31-230, SECTION 41-1604,**
- 33 **SUBSECTION B, PARAGRAPH 3 AND SECTIONS 41-1604.02, 41-1604.03 AND 41-1624.**
- 34 **THE DIRECTOR SHALL ADMINISTER THE FUND. MONIES IN THE FUND ARE SUBJECT TO**
- 35 **LEGISLATIVE APPROPRIATION AND ARE EXEMPT FROM THE PROVISIONS OF SECTION**
- 36 **35-190 RELATING TO LAPSING OF APPROPRIATIONS.**
- 37           B. **THE DIRECTOR SHALL USE THE MONIES IN THE FUND FOR BUILDING RENEWAL**
- 38 **PROJECTS THAT REPAIR OR REWORK BUILDINGS AND SUPPORTING INFRASTRUCTURE THAT**
- 39 **ARE UNDER THE CONTROL OF THE STATE DEPARTMENT OF CORRECTIONS AND THAT RESULT**
- 40 **IN MAINTAINING A BUILDING'S EXPECTED USEFUL LIFE. MONIES IN THE FUND MAY NOT**
- 41 **BE USED FOR NEW BUILDING ADDITIONS, NEW INFRASTRUCTURE ADDITIONS, LANDSCAPING**
- 42 **AND AREA BEAUTIFICATION, DEMOLITION AND REMOVAL OF A BUILDING AND, EXCEPT AS**
- 43 **PROVIDED IN SUBSECTION C OF THIS SECTION, ROUTINE PREVENTIVE MAINTENANCE.**
- 44           C. **THE DIRECTOR MAY USE UP TO EIGHT PER CENT OF THE ANNUAL**
- 45 **EXPENDITURES FROM THE FUND FOR ROUTINE PREVENTIVE MAINTENANCE.**

1           Sec. 17. Section 41-1604, Arizona Revised Statutes, is amended to  
2 read:

3           41-1604. Duties and powers of director

4           A. The director shall:

5           1. Be responsible for the overall operations and policies of the  
6 department.

7           2. Maintain and administer all institutions and programs within the  
8 department, including prisons, reception and diagnostic centers, conservation  
9 camps, community correctional centers and such other facilities and programs  
10 as may be required and established for the custody, control, correction,  
11 treatment and rehabilitation of all adult offenders who are committed to the  
12 department.

13           3. Be responsible for the administration and execution of all  
14 community supervision services, including those for adult offenders who are  
15 released in accordance with law.

16           4. Develop a program to provide uniform statewide community  
17 supervision field services in this state and employ parole or community  
18 supervision officers based on qualifications prescribed by the director,  
19 including physical, psychological and educational qualifications and  
20 practical experience.

21           5. Be responsible for the development of policies and programs that  
22 shall be recommended to the governor and the legislature for the purpose of  
23 improving the various adult correctional programs of this state.

24           6. Develop and establish a uniform statewide method of reporting  
25 statistics as related to this chapter.

26           7. Employ deputy directors and other key personnel based on  
27 qualifications prescribed by the director that require education and  
28 practical experience.

29           8. Adopt rules pursuant to chapter 6 of this title for the development  
30 of incentives to encourage good behavior and the faithful performance of work  
31 by prisoners.

32           9. Adopt rules pursuant to chapter 6 of this title to limit inmate  
33 access to the internet through the use of a computer, computer system,  
34 network, computer service provider or remote computing service.

35           10. Cooperate with the Arizona-Mexico commission in the governor's  
36 office and with researchers at universities in this state to collect data and  
37 conduct projects in the United States and Mexico on issues that are within  
38 the scope of the department's duties and that relate to quality of life,  
39 trade and economic development in this state in a manner that will help the  
40 Arizona-Mexico commission to assess and enhance the economic competitiveness  
41 of this state and of the Arizona-Mexico region.

42           B. The director may:

43           1. Adopt rules to implement the purposes of the department and the  
44 duties and powers of the director.

1           2. Take any administrative action to improve the efficiency of the  
2 department, including the following:

3           (a) Create new divisions or units or consolidate divisions or units.

4           (b) Transfer employees between the various divisions and units of the  
5 department.

6           (c) Shift duties between divisions or units.

7           (d) Delegate to appropriate personnel the administrative functions,  
8 powers or duties that the director believes can be competently, efficiently  
9 and properly performed. The director shall not delegate the responsibilities  
10 in subsection A, paragraphs 1 and 5 of this section.

11           (e) Transfer adult inmates between adult institutions or adult  
12 facilities.

13           (f) Authorize work crews to perform acceptable tasks in any part of  
14 the state.

15           (g) Accept unconvicted persons pursuant to a court order for purposes  
16 of examination and treatment regarding competency to understand any stage of  
17 a criminal proceeding after indictment or information or their ability to  
18 assist in their own defense.

19           (h) Accept convicted yet unsentenced persons pursuant to a court order  
20 for purposes of conducting a mental health examination or a diagnostic  
21 evaluation.

22           (i) Appoint certain employees of the department to peace officer  
23 status for purposes of guarding, transporting or pursuing persons who are  
24 under the jurisdiction of the department and appoint certain employees of the  
25 department to peace officer status for purposes of investigating or arresting  
26 persons who commit or attempt to commit offenses directly relating to the  
27 operations of the department. Peace officers of the department shall not  
28 preempt the authority and jurisdiction of established agencies of this state  
29 and political subdivisions of this state. Such officers shall notify  
30 agencies of this state and political subdivisions of this state before  
31 conducting an investigation within the jurisdiction of the agency and before  
32 making an arrest within the jurisdiction of the agency and shall ask, except  
33 in an emergency, if the agency wishes to participate, perform the  
34 investigation or arrest the person to be arrested before proceeding.  
35 Personnel who are appointed as peace officers by the director shall have the  
36 minimum qualifications established for peace officers pursuant to section  
37 41-1822. Personnel who are appointed by the director pursuant to this  
38 subdivision are not eligible to participate in the public safety personnel  
39 retirement system except as otherwise provided in title 38, chapter 5,  
40 article 4.

41           (j) Operate travel reduction programs that are subsidized by the  
42 department for employees who commute between work and home by vanpools,  
43 carpools and buses or in vehicles that are purchased or leased by the  
44 department.



1 C. On or before August 1 of each year, the department shall submit to  
2 the president of the senate and the speaker of the house of representatives a  
3 report that contains a full and complete account of special services fund  
4 transactions relating to the inmate telephone system and the telephonic  
5 victim notification system for the preceding fiscal year.

6 Sec. 20. Title 41, chapter 11, article 1, Arizona Revised Statutes, is  
7 amended by adding section 41-1610.02, to read:

8 41-1610.02. Correctional reimbursement fund; county  
9 reimbursement option

10 A. THE CORRECTIONAL REIMBURSEMENT FUND IS ESTABLISHED CONSISTING OF  
11 MONIES RECEIVED FROM A COUNTY FOR THE COSTS OF INCARCERATING A PERSON IN THE  
12 STATE DEPARTMENT OF CORRECTIONS WHO OTHERWISE WOULD BE INCARCERATED IN JAIL  
13 PURSUANT TO SECTION 5-396, SUBSECTION C OR D, SECTION 13-701, SUBSECTION J,  
14 SECTION 28-1383, SUBSECTION D OR E OR SECTION 28-8288. THE DIRECTOR SHALL  
15 ADMINISTER THE FUND. MONIES IN THE FUND ARE SUBJECT TO LEGISLATIVE  
16 APPROPRIATION.

17 B. THE SHERIFF OF THE SENTENCING COUNTY SHALL ENTER INTO A  
18 REIMBURSEMENT AGREEMENT WITH THE DEPARTMENT BEFORE A PERSON IS TRANSFERRED  
19 INTO THE CUSTODY OF THE DEPARTMENT TO SERVE THE PERSON'S INCARCERATION.

20 C. EACH COUNTY SHALL MAKE REIMBURSEMENTS PERMITTED BY THIS SECTION  
21 WITHIN THIRTY DAYS AFTER A REQUEST BY THE STATE DEPARTMENT OF CORRECTIONS.  
22 IF THE COUNTY DOES NOT MAKE THE REIMBURSEMENT, THE DIRECTOR OF THE STATE  
23 DEPARTMENT OF CORRECTIONS SHALL NOTIFY THE STATE TREASURER OF THE AMOUNT OWED  
24 AND THE STATE TREASURER SHALL WITHHOLD THE AMOUNT, INCLUDING ANY ADDITIONAL  
25 INTEREST AS PROVIDED IN SECTION 42-1123, FROM ANY TRANSACTION PRIVILEGE TAX  
26 DISTRIBUTIONS TO THE COUNTY. THE STATE TREASURER SHALL DEPOSIT THE  
27 WITHHOLDINGS, PURSUANT TO SECTIONS 35-146 AND 35-147 IN THE CORRECTIONAL  
28 REIMBURSEMENT FUND.

29 Sec. 21. Section 41-1624, Arizona Revised Statutes, is amended to  
30 read:

31 41-1624. Arizona correctional industries revolving fund;  
32 definitions

33 A. The director may establish a revolving fund to be used to pay the  
34 expenses required:

35 1. For the purchase of raw materials, components and supplies to be  
36 used for the production of food and other items to be sold by the  
37 department's Arizona correctional industries.

38 2. For the compensation of prisoners and Arizona correctional  
39 industries professional and outside services.

40 3. For the purchase or rental of equipment to be used by the  
41 department's Arizona correctional industries.

42 4. For the construction or reconstruction of facilities.

43 5. For other operating expenses and in-state travel.



1           6. For the purchase of workers' compensation insurance for inmates who  
2 are employed in a federally certified prison industry enhancement program  
3 pursuant to section 41-1674.

4           7. For prisoner instruction related to vocational education, job  
5 training, parenting and alcohol and other drug use treatment classes.

6           B. Monies received for or derived from the operation of Arizona  
7 correctional industries, including monies from the sale of obsolete or  
8 unneeded material, supplies, equipment or property, shall be deposited,  
9 pursuant to sections 35-146 and 35-147, in a specially designated revolving  
10 fund and expended without need of previous encumbrance upon warrants drawn  
11 upon order of the director or the director's designee. The fund is a  
12 continuing fund and is exempt from the provisions of section 35-190. **THE**  
13 **DIRECTOR SHALL TRANSFER ONE MILLION DOLLARS FROM THE REVOLVING FUND ANNUALLY**  
14 **TO THE DEPARTMENT OF CORRECTIONS BUILDING RENEWAL FUND ESTABLISHED BY SECTION**  
15 **41-797.**

16           C. On notice from the director, the state treasurer shall invest and  
17 divest monies in the fund as provided by section 35-313, and monies earned  
18 from investment shall be credited to the fund.

19           D. For the purposes of this section:

20           1. "Components" means the parts, subassemblies and packaging materials  
21 that will become part of a final product or service.

22           2. "Raw materials" means the materials that are converted or combined  
23 during the manufacturing process.

24           Sec. 22. Section 41-1723, Arizona Revised Statutes, is amended to  
25 read:

26           **41-1723. Public safety equipment fund; distribution**

27           The public safety equipment fund is established consisting of monies  
28 deposited in the fund pursuant to sections 5-395.01, 5-396, 5-397, 28-1381,  
29 28-1382, 28-1383, 28-8284, 28-8286, 28-8287, ~~and~~ 28-8288 **AND 41-2421**. The  
30 department shall administer the fund. Monies in the fund shall be  
31 distributed as follows:

32           1. The first one million two hundred thousand dollars received each  
33 fiscal year **PURSUANT TO SECTIONS 5-395.01, 5-396, 5-397, 28-1381, 28-1382,**  
34 **28-1383, 28-8284, 28-8286, 28-8287 AND 28-8288** as a continuing appropriation  
35 to the department for protective armor, electronic stun devices and other  
36 safety equipment. Monies appropriated pursuant to this paragraph are exempt  
37 from the provisions of section 35-190 relating to lapsing of appropriations.

38           **2. MONIES RECEIVED PURSUANT TO SECTION 41-2421 ARE SUBJECT TO**  
39 **LEGISLATIVE APPROPRIATION.**

40           ~~2-~~ **3.** All other monies each fiscal year shall be deposited in the  
41 state general fund.

1           Sec. 23. Section 41-1724, Arizona Revised Statutes, is amended to  
2 read:

3           41-1724. Gang and immigration intelligence team enforcement  
4                                   mission fund; use of monies; reporting requirement

5           A. The gang and immigration intelligence team enforcement mission fund  
6 is established consisting of monies deposited pursuant to section 11-1051 and  
7 monies appropriated by the legislature. The department shall administer the  
8 fund. ANY MONIES DISTRIBUTED FROM THE FUND TO A COUNTY SHERIFF SHALL GO  
9 DIRECTLY TO THE COUNTY SHERIFF AND ARE NOT SUBJECT TO ANY FORM OF APPROVAL BY  
10 THE BOARD OF SUPERVISORS. Monies in the fund are subject to legislative  
11 appropriation. ~~and~~

12           B. MONIES IN THE FUND shall be used for EMPLOYER SANCTIONS  
13 ENFORCEMENT, ENFORCING HUMAN SMUGGLING AND DRUG SMUGGLING LAWS, gang and  
14 STRICT immigration enforcement ~~and for~~, INCLUDING BORDER SECURITY AND BORDER  
15 PERSONNEL, county jail reimbursement costs relating to illegal immigration  
16 AND ANY OTHER USE PREVIOUSLY AUTHORIZED IN AN ALLOCATION MADE BY LAW FOR THE  
17 GANG AND IMMIGRATION INTELLIGENCE TEAM ENFORCEMENT MISSION.

18           C. EACH YEAR THAT MONIES ARE AVAILABLE IN THE FUND THE FIRST ONE  
19 MILLION SIX HUNDRED THOUSAND DOLLARS SHALL BE ALLOCATED TO A COUNTY SHERIFF  
20 OF A COUNTY WITH A POPULATION OF MORE THAN THREE MILLION PERSONS, THEN FIVE  
21 HUNDRED THOUSAND DOLLARS SHALL BE ALLOCATED TO A COUNTY SHERIFF OF A COUNTY  
22 WITH A POPULATION OF LESS THAN FIVE HUNDRED THOUSAND PERSONS BUT MORE THAN  
23 THREE HUNDRED THOUSAND PERSONS AND ANY REMAINING MONIES SHALL BE USED FOR  
24 AGREEMENTS OR CONTRACTS IN ACCORDANCE WITH SUBSECTION D OF THIS SECTION.

25           D. IF THE DEPARTMENT USES MONIES FROM THE FUND FOR AN AGREEMENT OR  
26 CONTRACT WITH A CITY, TOWN, COUNTY OR OTHER ENTITY TO PROVIDE SERVICES FOR  
27 THE GANG AND IMMIGRATION INTELLIGENCE TEAM ENFORCEMENT MISSION, THE CITY,  
28 TOWN, COUNTY OR OTHER ENTITY SHALL PROVIDE NOT LESS THAN TWENTY-FIVE PER CENT  
29 OF THE COST OF THE SERVICES AND THE DEPARTMENT SHALL PROVIDE NOT MORE THAN  
30 SEVENTY-FIVE PER CENT OF PERSONAL SERVICES AND EMPLOYEE RELATED EXPENDITURES  
31 FOR EACH AGREEMENT OR CONTRACT BUT MAY FUND ALL CAPITAL RELATED EQUIPMENT.  
32 THIS SUBSECTION DOES NOT APPLY TO A COUNTY WITH A POPULATION OF MORE THAN  
33 THREE MILLION PERSONS OR A COUNTY WITH A POPULATION OF LESS THAN FIVE HUNDRED  
34 THOUSAND PERSONS BUT MORE THAN THREE HUNDRED THOUSAND PERSONS.

35           E. A COUNTY OFFICIAL IN A COUNTY WITH A POPULATION OF MORE THAN FIVE  
36 HUNDRED THOUSAND PERSONS BUT LESS THAN TWO MILLION PERSONS SHALL NOT RECEIVE  
37 ANY MONIES FROM THE GANG AND IMMIGRATION INTELLIGENCE TEAM ENFORCEMENT  
38 MISSION FUND.

39           F. THE USE OF THE MONIES FROM THE FUND IS CONTINGENT ON A LAW  
40 ENFORCEMENT AGENCY MAKING EVERY REASONABLE EFFORT TO DETERMINE THE LEGAL  
41 STATUS OF ANY PERSON WHO A LAW ENFORCEMENT OFFICER COMES INTO LAWFUL CONTACT  
42 WITH AND WHO IS SUSPECTED OF BEING AN ILLEGAL ALIEN OR IN A GANG.

43           G. THE DEPARTMENT SHALL SUBMIT AN EXPENDITURE PLAN TO THE JOINT  
44 LEGISLATIVE BUDGET COMMITTEE FOR REVIEW BEFORE EXPENDING ANY MONIES NOT  
45 IDENTIFIED IN THE DEPARTMENT'S PREVIOUS EXPENDITURE PLANS. WITHIN THIRTY

1 DAYS AFTER THE LAST DAY OF EACH CALENDAR QUARTER, THE DEPARTMENT SHALL  
2 PROVIDE A SUMMARY OF QUARTERLY AND YEAR-TO-DATE EXPENDITURES AND PROGRESS TO  
3 THE JOINT LEGISLATIVE BUDGET COMMITTEE, INCLUDING ANY PRIOR YEAR  
4 APPROPRIATIONS THAT WERE NONLAPSING.

5 Sec. 24. Section 41-2401, Arizona Revised Statutes, is amended to  
6 read:

7 41-2401. Criminal justice enhancement fund

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

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

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

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

26 1. 6.46 per cent in the Arizona automated fingerprint identification  
27 system fund established by section 41-2414.

28 2. 1.61 per cent to the department of juvenile corrections for the  
29 treatment and rehabilitation of youth who have committed drug-related  
30 offenses.

31 3. 16.64 per cent in the peace officers' training fund established by  
32 section 41-1825.

33 4. 3.03 per cent in the prosecuting attorneys' advisory council  
34 training fund established by section 41-1830.03.

35 5. 9.35 per cent to the supreme court for the purpose of reducing  
36 juvenile crime.

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

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

1 (b) To provide support to the Arizona automated fingerprint  
2 identification system.

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

4 7. 9.35 per cent to the department of law for allocation to county  
5 attorneys for the purpose of enhancing prosecutorial efforts.

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

17 9. 11.70 per cent to the county sheriffs for the purpose of enhancing  
18 county jail facilities and operations, including county jails under the  
19 jurisdiction of county jail districts.

20 10. 1.57 per cent to the Arizona criminal justice commission.

21 11. 9.00 per cent in the crime laboratory operations fund established  
22 by section 41-1772.

23 12. 2.30 per cent in the crime laboratory assessment fund established  
24 by section 41-2415.

25 13. 7.68 per cent in the victims' rights fund established by section  
26 41-191.08.

27 14. 4.60 per cent in the victim compensation and assistance fund  
28 established by section 41-2407.

29 15. 2.13 per cent to the supreme court for the purpose of providing  
30 drug treatment services to adult probationers through the community  
31 punishment program established in title 12, chapter 2, article 11.

32 E. Monies distributed pursuant to subsection D, paragraphs 3, 4, 7, 9,  
33 11, 12, 13 and 14 of this section constitute a continuing appropriation.  
34 Monies distributed pursuant to subsection D, paragraphs 1, 2, 5, 8, 10 and 15  
35 of this section are subject to legislative appropriation.

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

42 G. The allocation of monies pursuant to subsection D, paragraphs 6, 7,  
43 8 and 9 of this section shall be made in accordance with rules adopted by the  
44 Arizona criminal justice commission pursuant to section 41-2405.

1 H. THE STATE TREASURER SHALL DISTRIBUTE THE MONIES DESCRIBED IN  
2 SUBSECTION D, PARAGRAPH 9 OF THIS SECTION DIRECTLY TO THE COUNTY SHERIFF.

3 Sec. 25. Section 41-2421, Arizona Revised Statutes, is amended to  
4 read:

5 41-2421. Enhanced collections; allocation of monies; criminal  
6 justice entities

7 A. Notwithstanding any other law and except as provided in subsection  
8 J of this section, five per cent of any monies collected by the supreme court  
9 and the court of appeals for the payment of filing fees, including clerk  
10 fees, diversion fees, fines, penalties, surcharges, sanctions and  
11 forfeitures, shall be deposited, pursuant to sections 35-146 and 35-147, and  
12 allocated pursuant to the formula in subsection B of this section. This  
13 subsection does not apply to monies collected by the courts pursuant to  
14 section 16-954, subsection C, or for child support, restitution or exonerated  
15 bonds.

16 B. The monies deposited pursuant to subsection A of this section shall  
17 be allocated according to the following formula:

18 ~~1. 21.61 per cent to the state aid to county attorneys fund~~  
19 ~~established by section 11-539.~~

20 ~~2. 20.53 per cent to the state aid to indigent defense fund~~  
21 ~~established by section 11-588.~~

22 1. 42.14 PER CENT TO THE PUBLIC SAFETY EQUIPMENT FUND ESTABLISHED BY  
23 SECTION 41-1723.

24 ~~3.~~ 2. 57.37 per cent to the state aid to the courts fund established  
25 by section 12-102.02.

26 ~~4.~~ 3. 0.49 per cent to the department of law for the processing of  
27 criminal cases.

28 C. Notwithstanding any other law and except as provided in subsection  
29 J of this section, five per cent of any monies collected by the superior  
30 court, including the clerk of the court and the justice courts in each county  
31 for the payment of filing fees, including clerk fees, diversion fees, adult  
32 and juvenile probation fees, juvenile monetary assessments, fines, penalties,  
33 surcharges, sanctions and forfeitures, shall be transmitted to the county  
34 treasurer for allocation pursuant to subsections E, F, G and H of this  
35 section. This subsection does not apply to monies collected by the courts  
36 pursuant to section 16-954, subsection C or for child support, restitution or  
37 exonerated bonds.

38 D. The supreme court shall adopt guidelines regarding the collection  
39 of revenues pursuant to subsections A and C OF THIS SECTION.

40 E. The county treasurer shall allocate the monies deposited pursuant  
41 to subsection C of this section according to the following formula:

42 ~~1. 21.61 per cent for the purposes specified in section 11-539.~~

43 ~~2. 20.53 per cent for the purposes specified in section 11-588.~~

44 1. 42.14 PER CENT TO THE STATE TREASURER FOR DEPOSIT IN THE PUBLIC  
45 SAFETY EQUIPMENT FUND ESTABLISHED BY SECTION 41-1723.

1           ~~3.~~ 2. 57.37 per cent to the local courts assistance fund established  
2 by section 12-102.03.

3           ~~4.~~ 3. 0.49 per cent to the state treasurer for transmittal to the  
4 department of law for the processing of criminal cases.

5           F. The board of supervisors in each county shall separately account  
6 for all monies received pursuant to subsections C and E of this section and  
7 expenditures of these monies may be made only after the requirements of  
8 subsections G and H of this section have been met.

9           G. By December 1 of each year, each county board of supervisors shall  
10 certify if the total revenues received by the justice courts and the superior  
11 court, including the clerk of the superior court, exceed the amount received  
12 in fiscal year 1997-1998. If the board so certifies, then the board shall  
13 distribute the lesser of either:

14           1. The total amount deposited pursuant to subsection C of this  
15 section.

16           2. The amount collected and deposited pursuant to subsection C of this  
17 section that exceeds the base year collections of fiscal year 1997-1998.  
18 These monies shall be distributed according to the formula specified in  
19 subsection E of this section. Any monies remaining after this allocation  
20 shall be transmitted as otherwise provided by law.

21           H. If a county board of supervisors determines that the total revenues  
22 transmitted by the superior court, including the clerk of the superior court  
23 and the justice courts in the county, do not equal the base year collections  
24 transmitted in fiscal year 1997-1998 the monies specified in subsection C of  
25 this section shall be transmitted by the county treasurer as otherwise  
26 provided by law.

27           I. For the purposes of this section, base year collections shall be  
28 those collections specified in subsection C of this section.

29           J. Monies collected pursuant to section 12-116.01, subsection B shall  
30 be allocated as follows:

31           ~~1. 15.44 per cent to the state aid to county attorneys fund~~  
32 ~~established by section 11-539.~~

33           ~~2. 14.66 per cent to the state aid to indigent defense fund~~  
34 ~~established by section 11-588.~~

35           1. 30.10 PER CENT TO THE PUBLIC SAFETY EQUIPMENT FUND ESTABLISHED BY  
36 SECTION 41-1723.

37           ~~3.~~ 2. 40.97 per cent to the state aid to the courts fund established  
38 by section 12-102.02.

39           ~~4.~~ 3. 0.35 per cent to the department of law for the processing of  
40 criminal cases.

41           ~~5.~~ 4. 14.29 per cent to the Arizona criminal justice commission for  
42 distribution to state, county and municipal law enforcement full service  
43 forensic crime laboratories pursuant to rules adopted by the Arizona criminal  
44 justice commission.



1           Sec. 28. State department of corrections; budget structure

2           Notwithstanding any other law, the state department of corrections  
3 shall report actual fiscal year 2010-2011, estimated fiscal year 2011-2012  
4 and requested fiscal year 2012-2013 expenditures in the same structure and  
5 detail as the prior fiscal year when the department submits the fiscal year  
6 2012-2013 budget request pursuant to section 35-113, Arizona Revised  
7 Statutes. The information submitted for each line item shall contain as much  
8 detail as submitted in previous years for prior line items.

9           Sec. 29. Department of public safety; highway funds; limitation

10           Notwithstanding sections 28-6537 and 28-6993, Arizona Revised Statutes,  
11 the statutory caps and transfers of highway user revenue fund monies and  
12 state highway fund monies available to fund department of public safety  
13 highway patrol costs are suspended for fiscal year 2011-2012.

14           Sec. 30. Suspension of reporting requirements

15           Notwithstanding any other law, the reporting requirements contained in  
16 the following sections are suspended for fiscal year 2011-2012:

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

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

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

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

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

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

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

31           Sec. 31. Nonsupplanting; suspension

32           Notwithstanding any other law, in fiscal year 2011-2012 the provisions  
33 relating to supplanting of state monies contained in section 12-102.02,  
34 subsection E, section 12-102.03, subsection D, section 12-135, subsection D,  
35 section 12-135.01, subsection D, section 12-267, subsection D, section  
36 12-268, subsection D and section 12-299.01, subsection C, Arizona Revised  
37 Statutes, are suspended. The supreme court shall submit a report to the  
38 joint legislative budget committee identifying any decrease in county funding  
39 related to these suspended provisions, including the reasons for the  
40 decrease.

41           Sec. 32. Board of executive clemency; part-time status

42           Notwithstanding any other law, in fiscal year 2011-2012, the members of  
43 the board of executive clemency, excluding the chairman, shall serve on a  
44 part-time basis. A part-time board member shall not work more than thirty  
45 hours each week and shall not be eligible for paid leave or any benefits



1 provided to state employees pursuant to section 38-651, Arizona Revised  
2 Statutes.

3 Sec. 33. Arizona supreme court; county reimbursement

4 Notwithstanding section 13-4041, subsection H, Arizona Revised  
5 Statutes, and section 21-428, subsection B, Arizona Revised Statutes, the  
6 Arizona supreme court shall not reimburse the counties more than the amount  
7 appropriated for that purpose in the fiscal year 2011-2012 general  
8 appropriations act.

9 Sec. 34. Immigration; request for information and proposals for  
10 seismic sensors pilot program; report; delayed  
11 repeal

12 A. On or before October 1, 2011, the department of public safety shall  
13 issue a request for information to implement a one-year pilot program that  
14 would use seismic sensors to monitor rural airport runways and other rural  
15 areas of this state where illegal drug traffic and illegal alien traffic or  
16 human smuggling are likely to occur. On or before January 1, 2012, the  
17 department of public safety shall report to the joint legislative committee  
18 on the request for information.

19 B. On or before March 1, 2012, the department of public safety shall  
20 issue a request for proposals to implement the program described in  
21 subsection A.

22 C. If the department awards a contract before July 1, 2013, the  
23 department of public safety shall submit a report on or before July 1, 2013  
24 regarding the effectiveness of the pilot program to the governor, the speaker  
25 of the house of representatives and the president of the senate and shall  
26 provide a copy of this report to the secretary of state.

27 D. This section is repealed from and after December 31, 2013.

28 Sec. 35. Prisoners who are serving a sentence of one year or  
29 less; county expense

30 A. Beginning on the effective date of this act or July 1, 2011,  
31 whichever is later, the sentencing county shall reimburse the state  
32 department of corrections at a rate to be determined by the department for  
33 each remaining day of incarceration in the state department of corrections  
34 for any prisoner who was sentenced to one year or less in the state  
35 department of corrections.

36 B. Each county shall make the reimbursements for these costs as  
37 specified in subsection A of this section within thirty days after a request  
38 by the state department of corrections. If the county does not make the  
39 reimbursement, the director of the state department of corrections shall  
40 notify the state treasurer of the amount owed and the treasurer shall  
41 withhold the amount, including any additional interest as provided in section  
42 42-1123, Arizona Revised Statutes, from any transaction privilege tax  
43 distributions to the county. The treasurer shall deposit the withholdings,  
44 pursuant to sections 35-146 and 35-147, Arizona Revised Statutes, in the

1 correctional reimbursement fund established by section 41-1610.02, Arizona  
2 Revised Statutes, as added by this act.

3 Sec. 36. Correctional reimbursement fund; fiscal year  
4 2011-2012; appropriation

5 Notwithstanding section 41-1610.02, Arizona Revised Statutes, as added  
6 by this act, all monies received in the correctional reimbursement fund in  
7 fiscal year 2011-2012 are appropriated to the state department of corrections  
8 in fiscal year 2011-2012 for the purposes of incarcerating prisoners whose  
9 costs are reimbursed by counties.

10 Sec. 37. Retroactivity

11 Section 11-453, Arizona Revised Statutes, as added by this act, is  
12 effective retroactively to from and after December 31, 2007.