

REFERENCE TITLE: courts; 2022-2023

State of Arizona  
House of Representatives  
Fifty-fifth Legislature  
Second Regular Session  
2022

## **HB 2859**

Introduced by  
Representative Cobb (with permission of Committee on Rules)

AN ACT

AMENDING SECTIONS 12-115, 12-120, 12-120.02, 21-222 AND 22-117, ARIZONA REVISED STATUTES; AMENDING LAWS 2018, CHAPTER 278, SECTION 17, AS AMENDED BY LAWS 2021, CHAPTER 403, SECTION 24; RELATING TO COURTS.

(TEXT OF BILL BEGINS ON NEXT PAGE)

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

2 Section 1. Section 12-115, Arizona Revised Statutes, is amended to  
3 read:

4 12-115. Additional filing, appearance and answer or response  
5 fees; deposit

6 A. In addition to any other assessment authorized by law, the  
7 supreme court shall establish an additional fee on each filing, appearance  
8 and answer or response fee charged by a clerk of the superior court.

9 B. The clerk shall collect the additional fee and monthly remit the  
10 additional fees to the county treasurer. The county treasurer shall  
11 transmit the fees to the state treasurer on or before the fifteenth day of  
12 each month for deposit, pursuant to sections 35-146 and 35-147, in the  
13 Arizona ~~lengthy~~ trial and digital evidence fund established by section  
14 21-222. The state treasurer shall invest and divest monies in the fund as  
15 provided by section 35-313, and monies earned from investment shall be  
16 credited to the fund.

17 C. The additional fee may be deferred or waived pursuant to  
18 sections 12-302 and 12-304.

19 D. In establishing the additional fees under subsection A of this  
20 section, the supreme court may designate by rule that the additional fees  
21 not be imposed on filings in types of cases that involve minimal use of  
22 court resources, that are not afforded the opportunity for a trial by jury  
23 or that do not involve the use of digital evidence.

24 Sec. 2. Section 12-120, Arizona Revised Statutes, is amended to  
25 read:

26 12-120. Creation of court of appeals; court of record;  
27 composition; sessions

28 A. ~~There is created~~ A court of appeals ~~which shall constitute~~ IS  
29 ESTABLISHED AND CONSTITUTES a single court and such court shall be a court  
30 of record.

31 B. The court of appeals shall be divided into two divisions which  
32 shall be designated as division 1 and division 2. Division 1 shall have  
33 ~~sixteen~~ NINETEEN judges, consisting of the chief judge and ~~five~~ SIX  
34 departments of three judges each, denominated, respectively, department A,  
35 department B, department C, department D, ~~and~~ department E AND  
36 DEPARTMENT F. Division 2 shall have ~~six~~ NINE judges, consisting of ~~two~~  
37 THREE departments of three judges each, denominated, respectively,  
38 department A, ~~and~~ department B AND DEPARTMENT C.

39 C. Division 1 shall consist of the counties of Maricopa, Yuma,  
40 La Paz, Mohave, Coconino, Yavapai, Navajo and Apache.

41 D. Division 2 shall consist of the counties of Pima, Pinal,  
42 Cochise, Santa Cruz, Greenlee, Graham and Gila.

1 E. The sessions of divisions 1 and 2 shall be held in Phoenix and  
2 Tucson, respectively. Sessions may be held at places other than Phoenix  
3 or Tucson when in the opinion of a majority of the judges of a division or  
4 department the public interest so requires. The judges of the respective  
5 divisions and departments may hold sessions in either division and shall  
6 do so when directed by the chief justice of the supreme court. Each judge  
7 of the court of appeals may participate in matters pending before a  
8 different division or department. A MATTER MAY BE TRANSFERRED BETWEEN  
9 DIVISIONS IN ORDER TO EQUALIZE CASELOADS AND FOR THE BEST USE OF JUDICIAL  
10 RESOURCES.

11 F. ~~No~~ NOT more than three judges of the court of appeals, including  
12 superior court judges and retired judges sitting with the court, shall  
13 hear and determine a matter and render a decision, and a majority of two  
14 of the three judges shall be sufficient to render a decision.

15 Sec. 3. Section 12-120.02, Arizona Revised Statutes, is amended to  
16 read:

17 12-120.02. Election of judges

18 A. In division 1, of the ~~fifteen~~ NINETEEN judges ~~who are on the~~  
19 ~~bench on July 1, 1995~~, ten of the judges shall be residents of and elected  
20 for retention from Maricopa county, ~~and~~ five of the judges shall be  
21 residents of the remaining counties in the division and shall be elected  
22 for retention by the voters of the counties in division 1, excluding  
23 Maricopa county, AND FOUR OF THE JUDGES SHALL BE AT-LARGE JUDGES AND BE  
24 RESIDENTS OF ANY COUNTY IN THE DIVISION. If ~~the sixteenth~~ AN AT-LARGE  
25 judge is a resident of Maricopa county, the judge shall be elected for  
26 retention by the voters of Maricopa county. If ~~the sixteenth~~ AN AT-LARGE  
27 judge is not a resident of Maricopa county, the judge shall be elected for  
28 retention by the voters of the counties in division 1, excluding Maricopa  
29 county.

30 B. In division 2, OF THE NINE JUDGES, four of the judges shall be  
31 residents of and elected from Pima county, ~~and~~ two of the judges shall be  
32 residents of the remaining counties in the division and shall be elected  
33 by the voters of the counties in division 2, excluding Pima county, AND  
34 THREE OF THE JUDGES SHALL BE AT-LARGE JUDGES AND BE RESIDENTS OF ANY  
35 COUNTY IN THE DIVISION. IF AN AT-LARGE JUDGE IS A RESIDENT OF PIMA  
36 COUNTY, THE JUDGE SHALL BE ELECTED FOR RETENTION BY THE VOTERS OF PIMA  
37 COUNTY. IF AN AT-LARGE JUDGE IS NOT A RESIDENT OF PIMA COUNTY, THE JUDGE  
38 SHALL BE ELECTED FOR RETENTION BY THE VOTERS OF THE COUNTIES IN  
39 DIVISION 2, EXCLUDING PIMA COUNTY.

40 Sec. 4. Section 21-222, Arizona Revised Statutes, is amended to  
41 read:

42 21-222. Arizona trial and digital evidence fund

43 A. The Arizona ~~tengthy~~ trial and digital evidence fund is  
44 established consisting of monies received from the additional fees paid on

1 all filings, appearances, responses and answers pursuant to section 12-115  
2 AND MONIES APPROPRIATED BY THE LEGISLATURE. The monies in the fund shall  
3 not be used for any purpose other than as prescribed in this section.

4 B. The supreme court shall administer the fund and shall adopt  
5 rules for ~~the administration of~~ ADMINISTERING the fund. Not more than  
6 three percent of the monies in the fund shall be used for the reasonable  
7 and necessary costs of administering the fund. On or before the fifteenth  
8 day of each month, on receipt of a request for reimbursement the supreme  
9 court shall transmit monies from the fund to a jury commissioner for  
10 monies paid to a juror under this section, together with a fee of not less  
11 than the amount prescribed in section 12-284, subsection A, class E for  
12 each application for payment of replacement or supplemental earnings by a  
13 juror.

14 C. Subject to the availability of monies, monies in the fund shall  
15 be used to:

16 1. Pay full or partial earnings replacement or supplementation to  
17 jurors who serve as petit jurors ~~for more than five days~~ IN THE SUPERIOR  
18 COURT and who receive less than full compensation. The amount of  
19 replacement or supplemental earnings shall be at least \$40 but not more  
20 than \$300 per day per juror beginning on the first day of jury service.

21 2. If monies are available in the fund after paying jurors pursuant  
22 to paragraph 1 of this subsection, pay for the management and storage of  
23 digital evidence and to facilitate the display of the evidence to the jury  
24 and court at a trial and related proceedings.

25 D. A PERSON WHO SERVES AS A PETIT juror ~~whose jury service lasts~~  
26 ~~more than five days~~ IN THE SUPERIOR COURT may submit a request for payment  
27 from the fund. The amount a juror receives from the fund is limited to  
28 the difference between the jury fee prescribed in section 21-221 and the  
29 actual amount of earnings a juror earns, not less than \$40, up to the  
30 maximum level payable under subsection C, paragraph 1 of this section,  
31 minus any amount the juror actually received from the juror's employer  
32 during the same time period. A juror who requests payment from the fund:

33 1. Shall disclose on the form the juror's regular earnings, the  
34 amount the juror's employer will pay during the term of jury service  
35 starting on the first day and thereafter, the amount of replacement or  
36 supplemental earnings being requested and any other information that the  
37 jury commissioner deems necessary.

38 2. Before receiving payment from the fund, shall submit  
39 verification from the juror's employer, if any, regarding the earnings  
40 information that is provided under paragraph 1 of this subsection. This  
41 verification may include the employee's most recent earnings statement or  
42 a similar document.

1           3. In order to verify the weekly income if the juror is  
2 self-employed or receives compensation other than wages, shall provide a  
3 sworn affidavit attesting to the juror's approximate gross weekly income,  
4 together with any other information that the supreme court requires.

5           E. Jurors who are unemployed and are not eligible for payment  
6 pursuant to subsection C, paragraph 1 and subsection D of this section are  
7 eligible to be paid \$40 per day, even if they receive income in the form  
8 of spousal maintenance, pensions, retirement, unemployment compensation,  
9 disability benefits or other similar income. Commissioners shall not  
10 deduct these other forms of income in calculating the amount these jurors  
11 are to be paid from the fund.

12           Sec. 5. Section 22-117, Arizona Revised Statutes, is amended to  
13 read:

14           22-117. Payment of compensation and expenses

15           A. Justices of the peace shall be allowed by the board of  
16 supervisors, as a county charge, the following:

- 17           1. Space.
- 18           2. Equipment.
- 19           3. Supplies.

20           B. In a county with a population of less than one million five  
21 hundred thousand persons, the state shall pay ~~19.25 per cent~~ FORTY PERCENT  
22 of the compensation and ~~employee-related~~ EMPLOYEE-RELATED expenditures of  
23 a justice of the peace, and the county shall pay ~~80.75 per cent~~ SIXTY  
24 PERCENT of the compensation and ~~employee-related~~ EMPLOYEE-RELATED  
25 expenditures of a justice of the peace, except that the county shall pay  
26 the full amount of the employer contribution of the state retirement  
27 system or plan or any county health plan.

28           C. If a county is subject to subsection B of this section, the  
29 state treasurer shall remit the compensation and ~~employee-related~~  
30 EMPLOYEE-RELATED expenditures payable by the state to the county  
31 treasurer, and the county shall disburse the ~~funds~~ MONIES to the justice  
32 of the peace.

33           D. In a county with a population of one million five hundred  
34 thousand persons or more, the county shall pay one hundred ~~per cent~~  
35 PERCENT of the compensation and ~~employee-related~~ EMPLOYEE-RELATED  
36 expenditures of a justice of the peace.

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

39           1. The county's contribution to the hospitalization and medical  
40 care of the indigent sick and for the administrative costs of implementing  
41 sections 36-2901.01 and 36-2901.04 shall be reduced pursuant to section  
42 11-292, subsection R, in an amount that is equal to the difference  
43 between the total costs that the county paid pursuant to subsection D of

1 this section and the amount that the county would have paid if the county  
2 were subject to subsection B of this section.

3 2. Pursuant to section 41-563, subsection D, the economic estimates  
4 commission shall increase the county's base expenditure limit in an amount  
5 that is equal to the difference between the total costs that the county  
6 paid pursuant to subsection D of this section and the amount that the  
7 county would have paid if the county were subject to subsection B of this  
8 section.

9 F. The total amount that may be expended in any fiscal year by the  
10 state treasurer for justice of the peace compensation and employee related  
11 expenditures reimbursement shall not exceed the amount appropriated in the  
12 general appropriation act for this purpose, together with additional  
13 amounts appropriated by any special legislative appropriation for justices  
14 of the peace.

15 Sec. 6. Laws 2018, chapter 278, section 17, as amended by Laws  
16 2021, chapter 403, section 24, is amended to read:

17 Sec. 17. Supreme court; juvenile probation services fund;  
18 alternative dispute resolution fund; drug  
19 treatment and education fund; Arizona trial and  
20 digital evidence fund; fiscal years 2018-2019,  
21 2019-2020, 2020-2021, 2021-2022 and 2022-2023

22 Notwithstanding sections 8-322, 12-135, 13-901.02 and 21-222,  
23 Arizona Revised Statutes, in fiscal years 2018-2019, 2019-2020, 2020-2021,  
24 ~~and~~ 2021-2022 AND 2022-2023, the supreme court may use up to \$2,600,000  
25 over the combined fiscal years to design, implement and upgrade a new  
26 appellate case management system. The total monies allocated by this  
27 section may not exceed \$2,600,000. The supreme court may use monies in  
28 any of the following funds for the purposes of the new appellate case  
29 management system:

30 1. The juvenile probation services fund established by section  
31 8-322, Arizona Revised Statutes.

32 2. The alternative dispute resolution fund established by section  
33 12-135, Arizona Revised Statutes.

34 3. The drug treatment and education fund established by section  
35 13-901.02, Arizona Revised Statutes.

36 4. The Arizona ~~tenmthy~~ trial AND DIGITAL EVIDENCE fund established  
37 by section 21-222, Arizona Revised Statutes.

38 Sec. 7. Administrative office of the courts; appellate court  
39 resource evaluation; report; delayed repeal

40 A. The administrative office of the courts shall conduct an  
41 evaluation to determine whether the distribution of cases between division  
42 1 and division 2 of the court of appeals should be reallocated between the  
43 divisions for optimal use of judicial resources and expeditious case

1 resolution. The administrative office of the courts shall prepare a  
2 report on the results of the evaluation.

3 B. On or before January 1, 2025, the administrative office of the  
4 courts shall submit the evaluation report to the joint legislative budget  
5 committee and the governor's office of strategic planning and budgeting.

6 C. This section is repealed from and after June 30, 2025.

7 Sec. 8. Court of appeals; chief judge; designation of  
8 specialized departments

9 Through June 30, 2023, the chief judge of each division in the court  
10 of appeals may designate a specialized department to process different  
11 types of matters, including a specialized department that handles matters  
12 related to complex civil litigation.