

REFERENCE TITLE: juvenile court jurisdiction; classification; age

State of Arizona
Senate
Fifty-fifth Legislature
Second Regular Session
2022

SB 1305

Introduced by
Senators Quezada: Terán; Representatives Andrade, Hernandez M

AN ACT

AMENDING SECTION 8-201, ARIZONA REVISED STATUTES; AMENDING SECTION 8-202, ARIZONA REVISED STATUTES, AS AMENDED BY LAWS 2021, CHAPTER 222, SECTION 1 AND CHAPTER 240, SECTION 1; REPEALING SECTION 8-202, ARIZONA REVISED STATUTES, AS AMENDED LAWS 2021, CHAPTER 435, SECTION 1; AMENDING SECTIONS 8-208, 8-246, 8-272, 8-273, 8-291, 8-291.09, 8-302, 8-323, 8-341, 8-341.01, 8-342, 8-344, 8-348, 8-349, 8-371, 13-501, 13-921, 41-2801 AND 41-2820, ARIZONA REVISED STATUTES; RELATING TO THE JUVENILE COURT.

(TEXT OF BILL BEGINS ON NEXT PAGE)

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

2 Section 1. Section 8-201, Arizona Revised Statutes, is amended to
3 read:

4 8-201. Definitions

5 In this title, unless the context otherwise requires:

6 1. "Abandoned" means the failure of the parent to provide
7 reasonable support and to maintain regular contact with the child,
8 including providing normal supervision. Abandoned includes a judicial
9 finding that a parent has made only minimal efforts to support and
10 communicate with the child. Failure to maintain a normal parental
11 relationship with the child without just cause for a period of six months
12 constitutes prima facie evidence of abandonment.

13 2. "Abuse" means the infliction or allowing of physical injury,
14 impairment of bodily function or disfigurement or the infliction of or
15 allowing another person to cause serious emotional damage as evidenced by
16 severe anxiety, depression, withdrawal or untoward aggressive behavior and
17 which emotional damage is diagnosed by a medical doctor or psychologist
18 and is caused by the acts or omissions of an individual who has the care,
19 custody and control of a child. Abuse includes:

20 (a) Inflicting or allowing sexual abuse pursuant to section
21 13-1404, sexual conduct with a minor pursuant to section 13-1405, sexual
22 assault pursuant to section 13-1406, molestation of a child pursuant to
23 section 13-1410, commercial sexual exploitation of a minor pursuant to
24 section 13-3552, sexual exploitation of a minor pursuant to section
25 13-3553, incest pursuant to section 13-3608 or child sex trafficking
26 pursuant to section 13-3212.

27 (b) Physical injury that results from ~~permitting~~ ALLOWING a child
28 to enter or remain in any structure or vehicle in which volatile, toxic or
29 flammable chemicals are found or equipment is possessed by any person for
30 the purpose of manufacturing a dangerous drug as defined in section
31 13-3401.

32 (c) Unreasonable confinement of a child.

33 3. "Adult" means a person who is eighteen years of age or older OR
34 TWENTY-ONE YEARS OF AGE OR OLDER IF THE PERSON IS ACCUSED OF OR
35 ADJUDICATED DELINQUENT FOR A MISDEMEANOR OFFENSE.

36 4. "Adult court" means the appropriate justice court, municipal
37 court or criminal division of the superior court that has jurisdiction to
38 hear proceedings concerning offenses committed by juveniles as provided in
39 sections 8-327 and 13-501.

40 5. "Award" or "commit" means to assign legal custody.

41 6. "Child", "youth" or "juvenile" means an individual who is under
42 ~~the age of~~ eighteen years OF AGE OR TWENTY-ONE YEARS OF AGE IF THE
43 INDIVIDUAL IS ACCUSED OF OR ADJUDICATED DELINQUENT FOR A MISDEMEANOR
44 OFFENSE.

1 7. "Complaint" means a written statement of the essential facts
2 constituting a public offense that is any of the following:

3 (a) Made on an oath before a judge or commissioner of the superior
4 court or an authorized juvenile hearing officer.

5 (b) Made pursuant to section 13-3903.

6 (c) Accompanied by an affidavit of a law enforcement officer or
7 employee that swears on information and belief to the accuracy of the
8 complaint pursuant to section 13-4261.

9 8. "Criminal conduct allegation" means an allegation of conduct by
10 a parent, guardian or custodian of a child or an adult member of the
11 victim's household that, if true, would constitute any of the following:

12 (a) A violation of section 13-3623 involving child abuse.

13 (b) A felony offense that constitutes domestic violence as defined
14 in section 13-3601.

15 (c) A violation of section 13-1404 or 13-1406 involving a minor.

16 (d) A violation of section 13-1405, 13-1410 or 13-1417.

17 (e) Any other act of abuse that is classified as a felony.

18 (f) An offense that constitutes domestic violence as defined in
19 section 13-3601 and that involves a minor who is a victim of or was in
20 imminent danger during the domestic violence.

21 9. "Custodian" means a person, other than a parent or legal
22 guardian, who stands in loco parentis to the child or a person to whom
23 legal custody of the child has been given by order of the juvenile court.

24 10. "DCS report" means a communication received by the centralized
25 intake hotline that alleges child abuse or neglect and that meets the
26 criteria for a report as prescribed in section 8-455.

27 11. "Delinquency hearing" means a proceeding in the juvenile court
28 to determine whether a juvenile has committed a specific delinquent act as
29 set forth in a petition.

30 12. "Delinquent act" means an act by a juvenile that if committed
31 by an adult would be a criminal offense or a petty offense, a violation of
32 any law of this state, or of another state if the act occurred in that
33 state, or a law of the United States, or a violation of any law that can
34 only be violated by a minor and that has been designated as a delinquent
35 offense, or any ordinance of a city, county or political subdivision of
36 this state defining crime. Delinquent act does not include an offense
37 under section 13-501, subsection A or B if the offense is filed in adult
38 court. Any juvenile who is prosecuted as an adult or who is remanded for
39 prosecution as an adult shall not be adjudicated as a delinquent juvenile
40 for the same offense.

41 13. "Delinquent juvenile" means a child who is adjudicated to have
42 committed a delinquent act.

43 14. "Department" means the department of child safety.

1 15. "Dependent child":

2 (a) Means a child who is adjudicated to be:

3 (i) In need of proper and effective parental care and control and
4 who has no parent or guardian, or one who has no parent or guardian
5 willing to exercise or capable of exercising such care and control.

6 (ii) Destitute or who is not provided with the necessities of life,
7 including adequate food, clothing, shelter or medical care.

8 (iii) A child whose home is unfit by reason of abuse, neglect,
9 cruelty or depravity by a parent, a guardian or any other person having
10 custody or care of the child.

11 (iv) Under eight years of age and who is found to have committed an
12 act that would result in adjudication as a delinquent juvenile or
13 incorrigible child if committed by an older juvenile or child.

14 (v) Incompetent or not restorable to competency and who is alleged
15 to have committed a serious offense as defined in section 13-706.

16 (b) Does not include a child who in good faith is being furnished
17 Christian Science treatment by a duly accredited practitioner if none of
18 the circumstances described in subdivision (a) of this paragraph exists.

19 16. "Detention" means the temporary confinement of a juvenile who
20 requires secure care in a physically restricting facility that is
21 completely surrounded by a locked and physically secure barrier with
22 restricted ingress and egress for the protection of the juvenile or the
23 community pending court disposition or as a condition of probation.

24 17. "Director" means the director of the department.

25 18. "Health professional" has the same meaning prescribed in
26 section 32-3201.

27 19. "Incorrigible child" means a child who:

28 (a) Is adjudicated as a child who refuses to obey the reasonable
29 and proper orders or directions of a parent, guardian or custodian and who
30 is beyond the control of that person.

31 (b) Is habitually truant from school as defined in section 15-803,
32 subsection C.

33 (c) Is a runaway from the child's home or parent, guardian or
34 custodian.

35 (d) Habitually behaves in such a manner as to injure or endanger
36 the morals or health of self or others.

37 (e) Commits any act constituting an offense that can only be
38 committed by a minor and that is not designated as a delinquent act.

39 (f) Fails to obey any lawful order of a court of competent
40 jurisdiction given in a noncriminal action.

41 20. "Independent living program" includes a residential program
42 with supervision of less than twenty-four hours a day.

43 21. "Juvenile court" means the juvenile division of the superior
44 court when exercising its jurisdiction over children in any proceeding
45 relating to delinquency, dependency or incorrigibility.

1 22. "Law enforcement officer" means a peace officer, sheriff,
2 deputy sheriff, municipal police officer or constable.

3 23. "Medical director of a mental health agency":

4 (a) Means a psychiatrist, or licensed physician experienced in
5 psychiatric matters, who is designated in writing by the governing body of
6 the agency as the person in charge of the medical services of the agency,
7 or a psychiatrist designated by the governing body to act for the
8 director. ~~The term~~

9 (b) Includes the superintendent of the state hospital.

10 24. "Mental health agency" means any private or public facility
11 that is licensed by this state as a mental health treatment agency, a
12 psychiatric hospital, a psychiatric unit of a general hospital or a
13 residential treatment center for emotionally disturbed children and that
14 uses secure settings or mechanical restraints.

15 25. "Neglect" or "neglected" means:

16 (a) The inability or unwillingness of a parent, guardian or
17 custodian of a child to provide that child with supervision, food,
18 clothing, shelter or medical care if that inability or unwillingness
19 causes unreasonable risk of harm to the child's health or welfare, except
20 if the inability of a parent, guardian or custodian to provide services to
21 meet the needs of a child with a disability or chronic illness is solely
22 the result of the unavailability of reasonable services.

23 (b) ~~Permitting~~ **ALLOWING** a child to enter or remain in any structure
24 or vehicle in which volatile, toxic or flammable chemicals are found or
25 equipment is possessed by any person for the purposes of manufacturing a
26 dangerous drug as defined in section 13-3401.

27 (c) A determination by a health professional that a newborn infant
28 was exposed prenatally to a drug or substance listed in section 13-3401
29 and that this exposure was not the result of a medical treatment
30 administered to the mother or the newborn infant by a health professional.
31 This subdivision does not expand a health professional's duty to report
32 neglect based on prenatal exposure to a drug or substance listed in
33 section 13-3401 beyond the requirements prescribed pursuant to section
34 13-3620, subsection E. The determination by the health professional shall
35 be based on one or more of the following:

36 (i) Clinical indicators in the prenatal period including maternal
37 and newborn presentation.

38 (ii) History of substance use or abuse.

39 (iii) Medical history.

40 (iv) Results of a toxicology or other laboratory test on the mother
41 or the newborn infant.

42 (d) Diagnosis by a health professional of an infant under one year
43 of age with clinical findings consistent with fetal alcohol syndrome or
44 fetal alcohol effects.

1 (e) Deliberate exposure of a child by a parent, guardian or
2 custodian to sexual conduct as defined in section 13-3551 or to sexual
3 contact, oral sexual contact or sexual intercourse as defined in section
4 13-1401, bestiality as prescribed in section 13-1411 or explicit sexual
5 materials as defined in section 13-3507.

6 (f) Any of the following acts committed by the child's parent,
7 guardian or custodian with reckless disregard as to whether the child is
8 physically present:

9 (i) Sexual contact as defined in section 13-1401.

10 (ii) Oral sexual contact as defined in section 13-1401.

11 (iii) Sexual intercourse as defined in section 13-1401.

12 (iv) Bestiality as prescribed in section 13-1411.

13 26. "Newborn infant" means a child who is under thirty days of age.

14 27. "Petition" means a written statement of the essential facts
15 that allege delinquency, incorrigibility or dependency.

16 28. "Prevention" means the creation of conditions, opportunities
17 and experiences that encourage and develop healthy, self-sufficient
18 children and that occur before the onset of problems.

19 29. "Protective supervision" means supervision that is ordered by
20 the juvenile court of children who are found to be dependent or
21 incorrigible.

22 30. "Qualified young adult" means a former dependent child who is
23 at least eighteen years of age and not over twenty-one years of age, who
24 meets the criteria for an extended foster care program pursuant to section
25 8-521.02 and who signs a voluntary agreement to participate in the
26 program.

27 31. "Referral" means a report that is submitted to the juvenile
28 court and that alleges that a child is dependent or incorrigible or that a
29 juvenile has committed a delinquent or criminal act.

30 32. "Secure care" means confinement in a facility that is
31 completely surrounded by a locked and physically secure barrier with
32 restricted ingress and egress.

33 33. "Serious emotional injury" means an injury that is diagnosed by
34 a medical doctor or a psychologist and that does any one or a combination
35 of the following:

36 (a) Seriously impairs mental faculties.

37 (b) Causes serious anxiety, depression, withdrawal or social
38 dysfunction behavior to the extent that the child suffers dysfunction that
39 requires treatment.

40 (c) Is the result of sexual abuse pursuant to section 13-1404,
41 sexual conduct with a minor pursuant to section 13-1405, sexual assault
42 pursuant to section 13-1406, molestation of a child pursuant to section
43 13-1410, child sex trafficking pursuant to section 13-3212, commercial
44 sexual exploitation of a minor pursuant to section 13-3552, sexual

1 exploitation of a minor pursuant to section 13-3553 or incest pursuant to
2 section 13-3608.

3 34. "Serious physical injury" means an injury that is diagnosed by
4 a medical doctor and that does any one or a combination of the following:

5 (a) Creates a reasonable risk of death.

6 (b) Causes serious or permanent disfigurement.

7 (c) Causes significant physical pain.

8 (d) Causes serious impairment of health.

9 (e) Causes the loss or protracted impairment of an organ or limb.

10 (f) Is the result of sexual abuse pursuant to section 13-1404,
11 sexual conduct with a minor pursuant to section 13-1405, sexual assault
12 pursuant to section 13-1406, molestation of a child pursuant to section
13 13-1410, child sex trafficking pursuant to section 13-3212, commercial
14 sexual exploitation of a minor pursuant to section 13-3552, sexual
15 exploitation of a minor pursuant to section 13-3553 or incest pursuant to
16 section 13-3608.

17 35. "Shelter care" means the temporary care of a child in any
18 public or private facility or home that is licensed by this state and that
19 offers a physically nonsecure environment that is characterized by the
20 absence of physically restricting construction or hardware and that
21 provides the child access to the surrounding community.

22 36. "Young adult administrative review" means an administrative review of
23 a voluntary extended foster care case plan with the qualified young adult,
24 the department's case specialist or designee, an independent party who is
25 not responsible for the case management of or the delivery of services to
26 the qualified young adult and any other individual the young adult
27 invites.

28 Sec. 2. Section 8-202, Arizona Revised Statutes, as amended by Laws
29 2021, chapter 222, section 1 and chapter 240, section 1, is amended to
30 read:

31 8-202. Jurisdiction of juvenile court

32 A. The juvenile court has original jurisdiction over all
33 delinquency proceedings brought under the authority of this title.

34 B. The juvenile court has exclusive original jurisdiction over all
35 proceedings brought under the authority of this title except for
36 delinquency proceedings.

37 C. The juvenile court may consolidate any matter, except that the
38 juvenile court shall not consolidate any of the following:

39 1. A criminal proceeding that is filed in another division of
40 superior court and that involves a child who is subject to the
41 jurisdiction of the juvenile court.

42 2. A delinquency proceeding with any other proceeding that does not
43 involve delinquency, unless the juvenile delinquency adjudication
44 proceeding is not heard at the same time or in the same hearing as a
45 nondelinquency proceeding.

1 D. The juvenile court has jurisdiction of proceedings to:

2 1. Obtain judicial consent to the marriage, employment or
3 enlistment in the armed services of a child, if consent is required by
4 law.

5 2. In an action in which parental rights are terminated pursuant to
6 chapter 4, article 5 or 11 of this title, change the name of a minor child
7 who is the subject of the action. If the minor child who is the subject
8 of the action is twelve years of age or older, the court shall consider
9 the wishes of the child with respect to the name change.

10 E. The juvenile court has jurisdiction over civil traffic
11 violations, civil marijuana violations and offenses listed in section
12 8-323, subsection B that are committed within the county by persons who
13 are under eighteen years of age **OR TWENTY-ONE YEARS OF AGE IF THE OFFENSE**
14 **IS CLASSIFIED AS A MISDEMEANOR** unless the presiding judge of the county
15 declines jurisdiction of these cases. The presiding judge of the county
16 may decline jurisdiction of civil traffic violations and civil marijuana
17 violations committed within the county by juveniles if the presiding judge
18 finds that the declination would promote the more efficient use of limited
19 judicial and law enforcement resources located within the county. If the
20 presiding judge declines jurisdiction, juvenile civil traffic violations
21 and civil marijuana violations shall be processed, heard and disposed of
22 in the same manner and with the same penalties as adult civil traffic
23 violations.

24 F. The orders of the juvenile court under the authority of this
25 chapter or chapter 3 or 4 of this title take precedence over any order of
26 any other court of this state except ~~the court of appeals and the supreme~~
27 ~~court to the extent that they are inconsistent with orders of other~~
28 ~~courts.~~ **FOR THE FOLLOWING:**

29 1. **AN ORDER ENTERED IN THE CRIMINAL COURT CONCERNING AN ONGOING**
30 **CASE THAT GOVERNS A CRIMINAL DEFENDANT'S ABILITY TO CONTACT THE VICTIM,**
31 **THE FAMILY OF THE VICTIM OR OTHER MINOR CHILDREN IF THE CRIMINAL COURT**
32 **MAKES A FINDING THAT CONTACT WITH OTHER MINOR CHILDREN WOULD POSE A RISK**
33 **OF HARM TO THOSE CHILDREN.**

34 2. **ORDERS BY THE COURT OF APPEALS AND THE SUPREME COURT TO THE**
35 **EXTENT THEY ARE INCONSISTENT WITH ORDERS OF OTHER COURTS.**

36 G. Except as provided in subsection H of this section, jurisdiction
37 of a child that is obtained by the juvenile court in a proceeding under
38 this chapter or chapter 3 or 4 of this title shall be retained by it, for
39 the purposes of implementing the orders made and filed in that proceeding,
40 until the child becomes eighteen years of age **OR TWENTY-ONE YEARS OF AGE**
41 **IF THE OFFENSE IS CLASSIFIED AS A MISDEMEANOR**, unless terminated by order
42 of the court before the child's eighteenth birthday **OR TWENTY-FIRST**
43 **BIRTHDAY IF THE OFFENSE IS CLASSIFIED AS A MISDEMEANOR.**

44 H. At any time before an adjudication hearing or a proceeding in
45 which a juvenile is admitting to an allegation in a petition that alleges

1 the juvenile is delinquent, the state may file a notice of intent to
2 retain jurisdiction over a juvenile who is seventeen years of age. If the
3 state files a notice of intent to retain jurisdiction, the juvenile
4 court's jurisdiction over a juvenile is retained on the filing of the
5 notice and the court shall retain jurisdiction over the juvenile until the
6 juvenile reaches nineteen years of age OR TWENTY-ONE YEARS OF AGE IF THE
7 OFFENSE IS CLASSIFIED AS A MISDEMEANOR, unless before the juvenile's
8 nineteenth birthday OR TWENTY-FIRST BIRTHDAY IF THE OFFENSE IS CLASSIFIED
9 AS A MISDEMEANOR either:

10 1. Jurisdiction is terminated by order of the court.

11 2. The juvenile is discharged from the jurisdiction of the
12 department of juvenile corrections pursuant to section 41-2820.

13 I. Persons who are under eighteen years of age OR TWENTY-ONE YEARS
14 OF AGE IF THE OFFENSE IS CLASSIFIED AS A MISDEMEANOR shall be prosecuted
15 in the same manner as adults if either:

16 1. The juvenile court transfers jurisdiction pursuant to section
17 8-327.

18 2. The juvenile is charged as an adult with an offense listed in
19 section 13-501.

20 J. The juvenile court shall retain jurisdiction after a juvenile's
21 eighteenth birthday OR TWENTY-FIRST BIRTHDAY IF THE OFFENSE IS CLASSIFIED
22 AS A MISDEMEANOR for the purpose of:

23 1. Designating an undesignated felony offense as a misdemeanor or
24 felony, including after an adjudication is set aside pursuant to section
25 8-348.

26 2. Modifying an outstanding monetary obligation imposed by the
27 court except for victim restitution.

28 3. Implementing section 36-2862.

29 K. The juvenile court has jurisdiction to make the initial
30 determination prescribed in section 8-829 whether the voluntary
31 participation of a qualified young adult in an extended foster care
32 program pursuant to section 8-521.02 is in the young adult's best
33 interests.

34 Sec. 3. Repeal

35 Section 8-202, Arizona Revised Statutes, as amended by Laws 2021,
36 chapter 435, section 1, is repealed.

37 Sec. 4. Section 8-208, Arizona Revised Statutes, is amended to
38 read:

39 8-208. Juvenile court records; public inspection; exceptions

40 A. The following records relating to a juvenile who is referred to
41 juvenile court are open to public inspection:

42 1. Referrals involving delinquent acts, after the referrals have
43 been made to the juvenile court or the county attorney has diverted the
44 matter according to section 8-321.

1 2. Arrest records, after the juvenile is an accused as defined by
2 section 13-501.

3 3. Delinquency hearings.

4 4. Disposition hearings.

5 5. A summary of delinquency, disposition and transfer hearings.

6 6. Revocation of probation hearings.

7 7. Appellate review.

8 8. Diversion proceedings involving delinquent acts.

9 B. On the request of an adult probation officer or state or local
10 prosecutor, the juvenile court shall release to an adult probation
11 department or prosecutor all information in its possession concerning a
12 person who is charged with a criminal offense.

13 C. The juvenile court shall release all information in its
14 possession concerning a person who is arrested for a criminal offense to
15 superior court programs or departments, other court divisions or judges or
16 as authorized by the superior court for the purpose of assisting in the
17 determination of release from custody, bond and pretrial supervision.

18 D. On request by the appropriate jail authorities for the purpose
19 of determining classification, treatment and security, the juvenile court
20 shall release all information in its possession concerning persons who are
21 under eighteen years of age **OR TWENTY-ONE YEARS OF AGE IF THE OFFENSE IS**
22 **CLASSIFIED AS A MISDEMEANOR**, who have been transferred from juvenile court
23 for criminal prosecution and who are being held in a county jail pending
24 trial.

25 E. The court shall edit the records to protect the identity of the
26 victim or the immediate family of the victim if the victim has died as a
27 result of the alleged offense.

28 F. Except as otherwise provided by law, the records of an adoption,
29 severance or dependency proceeding shall not be open to public inspection.

30 G. The court may order that the records be kept confidential and
31 withheld from public inspection if the court determines that the subject
32 matter of any record involves a clear public interest in confidentiality.

33 H. The disclosure of educational records received pursuant to
34 section 15-141 shall comply with the family educational **RIGHTS** and privacy
35 ~~rights~~ act of 1974 (20 United States Code section 1232g).

36 Sec. 5. Section 8-246, Arizona Revised Statutes, is amended to
37 read:

38 8-246. Jurisdiction; length of commitment; placement;
39 assessment

40 A. When jurisdiction of a juvenile has been acquired by the
41 juvenile court, the juvenile shall continue under the jurisdiction of the
42 juvenile court until the juvenile attains eighteen years of age **OR**
43 **TWENTY-ONE YEARS OF AGE IF THE OFFENSE IS CLASSIFIED AS A MISDEMEANOR** or,
44 if the juvenile court has retained jurisdiction over the person pursuant
45 to section 8-202, subsection H, nineteen years of age **OR TWENTY-ONE YEARS**

1 OF AGE IF THE OFFENSE IS CLASSIFIED AS A MISDEMEANOR, unless sooner
2 discharged pursuant to law. From the time of commitment to the department
3 of juvenile corrections, a juvenile shall be subject to the control of the
4 department of juvenile corrections until the juvenile's discharge pursuant
5 to section 41-2820.

6 B. Except pursuant to section 8-341, subsection N and section
7 8-344, and unless the court has retained jurisdiction over the person
8 pursuant to section 8-202, subsection H:

9 1. The awarding of a juvenile shall not extend beyond the
10 juvenile's eighteenth birthday OR TWENTY-FIRST BIRTHDAY IF THE OFFENSE IS
11 CLASSIFIED AS A MISDEMEANOR.

12 2. Commitment to the department of juvenile corrections shall be
13 until the juvenile attains eighteen years of age OR TWENTY-ONE YEARS OF
14 AGE IF THE OFFENSE IS CLASSIFIED AS A MISDEMEANOR unless sooner discharged
15 by the department of juvenile corrections.

16 C. The supreme court in cooperation with the department of juvenile
17 corrections and other state agencies shall develop a common risk needs
18 assessment instrument to be used for each juvenile who is referred to the
19 juvenile court. The juvenile court shall update the risk needs assessment
20 on each subsequent referral of the juvenile to the juvenile court, and the
21 court shall use the risk needs assessment to determine the appropriate
22 disposition of the juvenile. The supreme court in cooperation with the
23 department of juvenile corrections shall develop guidelines to be used by
24 juvenile court judges in determining those juveniles who should be
25 committed to the department of juvenile corrections.

26 D. For the purposes of this section, "juvenile" includes a person
27 who is under eighteen years of age OR TWENTY-ONE YEARS OF AGE IF THE
28 OFFENSE IS CLASSIFIED AS A MISDEMEANOR or, if the juvenile court has
29 retained jurisdiction over the person pursuant to section 8-202,
30 subsection H, under nineteen years of age OR TWENTY-ONE YEARS OF AGE IF
31 THE OFFENSE IS CLASSIFIED AS A MISDEMEANOR.

32 Sec. 6. Section 8-272, Arizona Revised Statutes, is amended to
33 read:

34 8-272. Psychiatric acute care services; outpatient and
35 inpatient assessments; definition

36 A. If a child exhibits behavior that indicates the child may suffer
37 from a mental disorder or is a danger to self or others, an entity may
38 request that the child receive an outpatient assessment or inpatient
39 assessment.

40 B. A psychologist, psychiatrist or physician shall conduct an
41 outpatient assessment at a time and place that is convenient for the
42 psychologist, psychiatrist or physician and the child. At the conclusion
43 of the outpatient assessment, the psychologist, psychiatrist or physician
44 shall recommend that the child be either:

45 1. Provided with outpatient treatment services.

1 2. Admitted to a psychiatric acute care facility for inpatient
2 assessment or inpatient psychiatric acute care services.

3 3. Provided with residential treatment services.

4 4. Discharged to the entity without further psychological or
5 psychiatric services because the child does not suffer from a mental
6 disorder, is not a danger to self or others or is not a child with a
7 persistent or acute disability or grave disability.

8 C. A psychologist, psychiatrist or physician shall conduct an
9 inpatient assessment within seventy-two hours after a child is admitted to
10 an inpatient assessment facility, excluding weekends and holidays. At the
11 conclusion of the inpatient assessment, the psychologist, psychiatrist or
12 physician shall recommend that the child be either:

13 1. Admitted to a psychiatric acute care facility for inpatient
14 psychiatric acute care services.

15 2. Discharged to an entity and provided with outpatient treatment
16 services.

17 3. Provided with residential treatment services.

18 4. Discharged to the entity without further psychological or
19 psychiatric services because the child does not suffer from a mental
20 disorder, is not a danger to self or others or is not a child with a
21 persistent or acute disability or grave disability.

22 D. Within twenty-four hours after a child is admitted for an
23 inpatient assessment, excluding weekends and holidays, the entity shall
24 file a motion for approval of admission for inpatient assessment with the
25 juvenile court. The motion shall include all of the following:

26 1. The name and address of the inpatient assessment facility.

27 2. The name of the psychologist, psychiatrist or physician who is
28 likely to perform the inpatient assessment.

29 3. The date and time the child was admitted to the inpatient
30 assessment facility.

31 4. A short statement explaining why the child needs an inpatient
32 assessment.

33 E. An entity that files a motion under subsection D of this section
34 shall provide a copy of the motion to all of the parties and their
35 attorneys. The court shall rule on the motion without response from any
36 party, except that any party may request a hearing to review the child's
37 admission for an inpatient assessment. If the court grants a hearing, the
38 court shall set the hearing on an accelerated basis.

39 F. If the psychologist, psychiatrist or physician who performed the
40 outpatient assessment or inpatient assessment of the child recommends that
41 the child receive inpatient acute care psychiatric services, the entity
42 may file a motion for inpatient psychiatric acute care services with the
43 juvenile court. If the psychologist, psychiatrist or physician makes this
44 recommendation after conducting an inpatient assessment, the entity shall
45 file the motion for inpatient psychiatric acute care services within

1 twenty-four hours after the completion of the inpatient assessment,
2 excluding weekends and holidays. The motion shall include all of the
3 following:

4 1. A copy of the written report of the results of the inpatient
5 assessment or outpatient assessment, including:

6 (a) The reason why inpatient psychiatric acute care services are in
7 the child's best interests.

8 (b) The reason why inpatient psychiatric acute care services are
9 the least restrictive available treatment.

10 (c) A diagnosis of the child's condition that requires inpatient
11 psychiatric acute care services.

12 (d) The estimated length of time that the child will require
13 inpatient psychiatric acute care services.

14 2. A written statement from the medical director of the proposed
15 inpatient psychiatric acute care facility or the medical director's
16 designee that the facility's services are appropriate to meet the child's
17 mental health needs.

18 G. As soon as practicable after the filing of a motion under
19 subsection D or F of this section, the court shall appoint an attorney for
20 the child if an attorney has not been previously appointed. The court may
21 also appoint a guardian ad litem for the child.

22 H. If a motion is filed pursuant to subsection F of this section,
23 the court shall hold a hearing on the motion within seventy-two hours
24 after the motion is filed, excluding weekends and holidays. If the child
25 has been admitted for an inpatient assessment, the child may remain at the
26 inpatient assessment facility until the court rules on the motion.

27 I. If a child is admitted for an inpatient assessment and an entity
28 fails to file a motion pursuant to and within the time limit prescribed in
29 subsection F of this section, the child shall be discharged from the
30 inpatient assessment facility.

31 J. If the court approves the admission of the child for inpatient
32 psychiatric acute care services, the court shall find by clear and
33 convincing evidence that both:

34 1. The child is suffering from a mental disorder or is a danger to
35 self or others and requires inpatient psychiatric acute care services.

36 2. Available alternatives to inpatient psychiatric acute care
37 services were considered, but that inpatient psychiatric acute care
38 services are the least restrictive available alternative.

39 K. The court shall review the child's continuing need for inpatient
40 psychiatric acute care services at least every sixty days after the date
41 of the treatment order. The inpatient psychiatric acute care facility
42 shall submit a progress report to the court at least five days before the
43 review and shall provide copies of the progress report to all of the
44 parties, including the child's attorney and guardian ad litem. On its own
45 motion or on the motion of a party, the court may hold a hearing on the

1 child's continuing need for inpatient psychiatric acute care services. If
2 requested by the child, the court shall hold a hearing unless the court
3 has held a review hearing within sixty days before the child's request.
4 If requested by the child, the court may hold a hearing at any time for
5 good cause shown. The progress report shall make recommendations and
6 shall include at least the following:

7 1. The nature of the treatment provided, including any medications
8 and the child's current diagnosis.

9 2. The child's need for continued inpatient psychiatric acute care
10 services, including the estimated length of the services.

11 3. A projected discharge date.

12 4. The level of care required by the child and the potential
13 placement options that are available to the child on discharge.

14 5. A statement from the medical director of the inpatient
15 psychiatric acute care facility or the medical director's designee as to
16 whether inpatient psychiatric acute care services are necessary to meet
17 the child's mental health needs and whether the facility that is providing
18 the inpatient psychiatric acute care services to the child is the least
19 restrictive available alternative.

20 L. If a child is transferred from an inpatient psychiatric acute
21 care facility to another inpatient psychiatric acute care facility, no new
22 inpatient assessment or outpatient assessment is required. Unless the
23 court orders otherwise due to an emergency, an entity shall file a notice
24 of transfer with the juvenile court at least five days before the transfer
25 of the child. The notice shall include all of the following:

26 1. The name and address of the facility to which the child is being
27 transferred and the date of the transfer.

28 2. A statement from the medical director of the receiving inpatient
29 psychiatric acute care facility or the medical director's designee that
30 the receiving facility is an appropriate facility to meet the child's
31 mental health needs and that it is the least restrictive available
32 alternative.

33 3. A statement that the entity has contacted the child's attorney
34 or guardian ad litem and whether the child or the child's attorney or
35 guardian ad litem opposes the transfer.

36 M. Any party may request a hearing to review the transfer of a
37 child to another inpatient psychiatric acute care facility pursuant to
38 subsection L of this section.

39 N. Within fifteen days after a child is discharged, the inpatient
40 psychiatric acute care facility shall prepare a discharge summary. Within
41 twenty days after a child is discharged, an entity shall file a notice of
42 discharge with the juvenile court. The notice shall include:

43 1. A statement of the child's current placement.

44 2. A statement of the mental health services that are being
45 provided to the child and the child's family.

1 3. A copy of the discharge summary that is prepared by a mental
2 health professional.

3 O. When possible, the child's attorney shall communicate with the
4 child within twenty-four hours after a motion is filed pursuant to
5 subsection D or F of this section, excluding weekends and holidays. The
6 child's attorney shall discuss treatment recommendations and shall advise
7 the child of the child's right to request a hearing. The child's attorney
8 or designee shall attend all court hearings related to the child's
9 inpatient assessment or inpatient psychiatric acute care services and
10 shall be prepared to report to the court the child's position on any
11 recommended assessments or treatment. The child may attend any hearing
12 unless the court finds by a preponderance of the evidence that allowing
13 the child to attend would not be in the child's best interests.

14 P. If the child is a dually adjudicated child, the entity that
15 requests an order for inpatient psychiatric acute care services shall
16 notify any other entity of all notices, motions, hearings or other
17 proceedings related to the provision of inpatient psychiatric acute care
18 services. Any entity may attend and participate in all hearings or other
19 proceedings relating to the provision of inpatient psychiatric acute care
20 services to a dually adjudicated child.

21 Q. Section 8-273 applies if residential treatment services are
22 recommended after an inpatient assessment or outpatient assessment or any
23 inpatient psychiatric acute care treatment. Section 8-341.01 applies if a
24 child who is adjudicated delinquent or incorrigible and who is subject to
25 the jurisdiction of the juvenile court requires residential treatment
26 services. Section 41-2815 applies if a child who is committed to the
27 department of juvenile corrections requires residential treatment
28 services.

29 R. Information and records that are obtained or created in the
30 course of any assessment, examination or treatment are subject to the
31 confidentiality requirements of section 36-509, except that information
32 and records may be provided to the department of juvenile corrections
33 pursuant to section 8-341.

34 S. For the purposes of this section, "child" means a person who is
35 under eighteen years of age OR TWENTY-ONE YEARS OF AGE IF THE OFFENSE IS
36 CLASSIFIED AS A MISDEMEANOR or, if the juvenile court has retained
37 jurisdiction over the person pursuant to section 8-202, subsection H,
38 under nineteen years of age OR TWENTY-ONE YEARS OF AGE IF THE OFFENSE IS
39 CLASSIFIED AS A MISDEMEANOR and who is either:

40 1. Found to be dependent or temporarily subject to court
41 jurisdiction pending an adjudication of a dependency petition.

42 2. In the temporary custody of the department pursuant to section
43 8-821.

44 3. Detained in a juvenile court detention facility.

1 4. Committed to the department of juvenile corrections.

2 5. Found to be delinquent and subject to probation supervision.

3 Sec. 7. Section 8-273, Arizona Revised Statutes, is amended to
4 read:

5 8-273. Residential treatment services; definition

6 A. If a child exhibits behavior that indicates the child may suffer
7 from a mental disorder or if it is recommended as a result of an
8 outpatient assessment or inpatient assessment pursuant to section 8-272
9 that a child receive residential treatment services, an entity may file a
10 motion requesting that the juvenile court order a child to receive
11 residential treatment services. If the motion states that all parties,
12 including counsel for the child, have been contacted and are in agreement,
13 the court is not required to set a hearing on the motion.

14 B. A motion for residential treatment services shall be supported
15 by a written psychological, psychiatric or medical assessment recommending
16 residential treatment services. The court may waive the written
17 assessment on a finding of good cause. The written assessment shall
18 include at least the following:

19 1. The reason why residential treatment services are in the child's
20 best interests.

21 2. The reason why residential treatment services are the least
22 restrictive treatment available.

23 3. The reason why the child's behavioral, psychological, social or
24 mental health needs require residential treatment services.

25 4. The estimated length of time that the child will require
26 residential treatment services.

27 C. A motion for residential treatment services shall be supported
28 by a written statement from the medical or clinical director of the
29 residential treatment facility or the director's designee that the
30 facility's services are appropriate to meet the child's needs.

31 D. As soon as practicable after an entity files a motion under
32 subsection A of this section, the court shall appoint an attorney for the
33 child if an attorney has not been previously appointed. The court may
34 also appoint a guardian ad litem for the child.

35 E. The child's attorney shall discuss the treatment recommendations
36 with the child. The child's attorney or designee shall attend all court
37 hearings related to the child's placement in a residential treatment
38 facility and shall be prepared to report to the court on the child's
39 position regarding any recommendations or requests related to the
40 provision of residential treatment services. The child may appear at any
41 hearing, unless the court finds by a preponderance of the evidence that
42 allowing the child to attend the hearing would not be in the child's best
43 interests.

1 F. If the court orders a child to receive residential treatment
2 services, the court shall find by clear and convincing evidence that both:

3 1. The child requires residential treatment services to address the
4 child's behavioral, psychological, social or mental health needs.

5 2. Available alternatives to residential treatment services were
6 considered, but that residential treatment services are the least
7 restrictive available alternative.

8 G. The court shall review the child's continuing need for
9 residential treatment services at least every sixty days from the date of
10 the treatment order. The residential treatment facility shall submit a
11 progress report to the court at least five days before the review and
12 shall provide copies of its report to all of the parties, including the
13 child's attorney and guardian ad litem. The progress report shall include
14 the recommendations of the child's treatment facility and shall include at
15 least the following:

16 1. The nature of the treatment provided, including any medications
17 and the child's current diagnosis.

18 2. The child's need for continued residential treatment services,
19 including the estimated length of the services.

20 3. A projected discharge date.

21 4. The level of care required by the child and the potential
22 placement options that are available to the child on discharge.

23 5. A statement from the medical or clinical director of the
24 residential treatment services facility or the director's designee as to
25 whether residential treatment services are necessary to meet the child's
26 needs and whether the facility that is providing the residential treatment
27 services to the child is the least restrictive available alternative.

28 H. On its own motion or on the motion of a party, the court may
29 schedule a hearing concerning the child's continuing need for residential
30 treatment services. If requested by the child, the court shall schedule a
31 hearing unless the court has held a review hearing within sixty days
32 before the child's request. If requested by the child, the court may hold
33 a hearing at any time for good cause shown.

34 I. If the child is a dually adjudicated child, the entity that
35 requests an order for residential treatment services shall notify any
36 other entity of all notices, motions, hearings or other proceedings
37 related to the provision of residential treatment services. Any entity
38 may attend and participate in all hearings or other proceedings relating
39 to the provision of residential treatment services to a dually adjudicated
40 child.

41 J. Information or records that are obtained or created pursuant to
42 any assessment, examination or treatment are subject to the
43 confidentiality requirements of section 36-509, except that information
44 and records may be provided to the department of juvenile corrections
45 pursuant to section 8-341.

1 K. This section does not apply to a child who is either:
2 1. Committed to the department of juvenile corrections. Section
3 41-2815 applies if a child who is committed to the department of juvenile
4 corrections requires residential treatment services.
5 2. Adjudicated delinquent or incorrigible and who is subject to the
6 jurisdiction of the juvenile court. Section 8-341.01 applies if a child
7 who is adjudicated delinquent or incorrigible and who is subject to the
8 jurisdiction of the juvenile court requires residential treatment
9 services.

10 L. For the purposes of this section, "child" means a person who is
11 under eighteen years of age OR TWENTY-ONE YEARS OF AGE IF THE OFFENSE IS
12 CLASSIFIED AS A MISDEMEANOR or, if the juvenile court has retained
13 jurisdiction over the person pursuant to section 8-202, subsection H,
14 under nineteen years of age OR TWENTY-ONE YEARS OF AGE IF THE OFFENSE IS A
15 MISDEMEANOR and who is either:

16 1. Found to be dependent or temporarily subject to court
17 jurisdiction pending an adjudication of a dependency petition.
18 2. In the temporary custody of the department pursuant to section
19 8-821.

20 Sec. 8. Section 8-291, Arizona Revised Statutes, is amended to
21 read:

22 8-291. Definitions

23 In this article, unless the context otherwise requires:

24 1. "Clinical liaison" means a mental health expert or another
25 individual who has experience and training in mental health or
26 developmental disabilities and who is qualified and appointed by the court
27 to aid in coordinating the treatment or training of juveniles who are
28 found incompetent to stand trial. If developmental disability is an
29 issue, the clinical liaison shall be an expert in developmental
30 disability.

31 2. "Incompetent" means a juvenile who does not have sufficient
32 present ability to consult with the juvenile's lawyer with a reasonable
33 degree of rational understanding or who does not have a rational and
34 factual understanding of the proceedings against the juvenile. Age alone
35 does not render a person incompetent.

36 3. "Juvenile" means a person who is under eighteen years of age OR
37 TWENTY-ONE YEARS OF AGE IF THE OFFENSE IS CLASSIFIED AS A MISDEMEANOR at
38 the time the issue of competency is raised.

39 4. "Mental health expert" means a physician who is licensed
40 pursuant to title 32, chapter 13 or 17 or a psychologist who is licensed
41 pursuant to title 32, chapter 19.1 and who is all of the following:

- 42 (a) Familiar with this state's competency standards and statutes.
- 43 (b) Familiar with the treatment, training and restoration programs
44 that are available in this state.
- 45 (c) Certified by the court as meeting court developed guidelines.

1 Sec. 9. Section 8-291.09, Arizona Revised Statutes, is amended to
2 read:

3 8-291.09. Restoration order; commitment

4 A. The court may order a juvenile to participate in an outpatient
5 or inpatient competency restoration program or may commit the juvenile for
6 competency restoration to the state hospital or another facility. The
7 juvenile court shall approve all competency restoration programs. In
8 determining the type and location of the program, the court shall select
9 the least restrictive alternative after making a finding of probable cause
10 and considering the following:

11 1. If confinement is necessary for program participation.

12 2. If the juvenile meets the civil commitment criteria under title
13 36, chapter 5.

14 B. The court may appoint a guardian ad litem for a juvenile who is
15 ordered to participate in an inpatient or outpatient program pursuant to
16 this section. The guardian ad litem shall both:

17 1. Coordinate the continuity of care following restoration.

18 2. In cooperation with the restoration program, advise the court on
19 matters relating to the appropriateness of the form and location of the
20 program and, on request of the court, shall submit a written report. The
21 court shall distribute copies of any report to the prosecutor and the
22 defense attorney. The privilege against self-incrimination applies to all
23 reports and communications with the juvenile.

24 C. An order entered pursuant to this section shall state if the
25 juvenile is incompetent to refuse treatment pursuant to section 13-4511,
26 including medication.

27 D. The state shall pay the costs of an inpatient competency
28 restoration program at the state hospital until either:

29 1. Ten days, excluding Saturdays, Sundays or other legal holidays,
30 after the hospital submits a report to the court stating that the juvenile
31 has regained competence or that there is no substantial probability that
32 the juvenile will regain competency within six months after the date of
33 the original finding of incompetency.

34 2. The restoration order expires.

35 3. Seven days, excluding Saturdays, Sundays or other legal
36 holidays, after the charges are dismissed.

37 E. The state shall pay the costs of a restoration program for a
38 juvenile who is a ward of the court unless the court orders otherwise. If
39 the court orders otherwise, the county shall pay the costs of the
40 restoration program, or if the proceeding arises out of municipal court,
41 the political subdivision shall pay the costs of the restoration program.

42 F. A restoration order that is issued pursuant to this section is
43 valid for one hundred eighty days from the date of the initial finding of
44 incompetency or until one of the following occurs, whichever occurs first:

1 1. The restoration program submits a report that the juvenile has
2 regained competency or that there is no substantial probability that the
3 juvenile will regain competency within the period of the order.

4 2. The charges are dismissed.

5 3. The juvenile reaches eighteen years of age **OR TWENTY-ONE YEARS**
6 **OF AGE IF THE OFFENSE IS CLASSIFIED AS A MISDEMEANOR.**

7 Sec. 10. Section 8-302, Arizona Revised Statutes, is amended to
8 read:

9 **8-302. Transfer between juvenile and criminal courts**

10 A. If during the pendency of a criminal charge in any court of this
11 state the court determines that the defendant is a juvenile who is not
12 subject to prosecution as an adult pursuant to section 13-501, the court
13 shall transfer the case to the juvenile court, together with all of the
14 original accusatory pleadings and other papers, documents and transcripts
15 of any testimony relating to the case. On transfer, the court shall order
16 that the defendant be taken to a place of detention designated by the
17 juvenile court or to that court itself or shall release the juvenile to
18 the custody of the juvenile's parent or guardian or any other person
19 legally responsible for the juvenile. If the juvenile is released to the
20 juvenile's parent or guardian or any other person legally responsible for
21 the juvenile, the court shall require that the parent, guardian or other
22 person bring the juvenile to appear before the juvenile court at a
23 designated time. The juvenile court shall then proceed with all further
24 proceedings as if a petition alleging delinquency had been filed with the
25 juvenile court under section 8-301 on the effective date of the transfer.
26 This subsection does not apply to a juvenile who is subject to prosecution
27 pursuant to section 13-501 but who is convicted of an offense not listed
28 in section 13-501.

29 B. If during the pendency of a criminal charge in any court of this
30 state the court determines that the defendant is a juvenile who is subject
31 to prosecution as an adult pursuant to section 13-501, subsection B, on
32 motion of the prosecutor the court shall transfer the case to the juvenile
33 court, together with all of the original accusatory pleadings and other
34 papers, documents and transcripts of any testimony relating to the case.
35 On transfer, the court shall order that the juvenile be taken to a place
36 of detention designated by the juvenile court or to that court itself or
37 shall release the juvenile to the custody of the juvenile's parent or
38 guardian or any other person legally responsible for the juvenile. If the
39 juvenile is released to the juvenile's parent or guardian or any other
40 person legally responsible for the juvenile, the court shall require that
41 the parent, guardian or other person bring the juvenile to appear before
42 the juvenile court at a designated time. The juvenile court shall then
43 proceed with all further proceedings as if a petition alleging delinquency
44 had been filed with the juvenile court under section 8-301 on the
45 effective date of the transfer.

1 C. During the pendency of a delinquency action in any court of this
2 state, on the motion of the prosecution and before the adjudication
3 hearing, the court shall dismiss without prejudice any count in the
4 petition charging an offense for which the juvenile is subject to
5 prosecution as an adult pursuant to section 13-501 to allow criminal
6 charges to be filed.

7 D. If a juvenile reaches eighteen years of age **OR TWENTY-ONE YEARS**
8 **OF AGE IF THE OFFENSE IS CLASSIFIED AS A MISDEMEANOR** during the pendency
9 of a delinquency action or before completion of the sentence in any court
10 in this state for an act that if committed by an adult would be a
11 misdemeanor or petty offense or a civil traffic violation, the court shall
12 transfer the case to the appropriate criminal court, together with all of
13 the original accusatory pleadings and other papers, documents and
14 transcripts of any testimony relating to the case and any sentencing
15 order. The appropriate criminal court shall then proceed with all further
16 proceedings as if a uniform Arizona traffic ticket and complaint form or a
17 complaint alleging a misdemeanor or petty offense or a civil traffic
18 violation had been filed with the appropriate criminal court pursuant to
19 section 13-3903 or the Arizona rules of criminal procedure, the rules of
20 procedure in traffic cases or the rules of procedure in civil traffic
21 violation cases.

22 Sec. 11. Section 8-323, Arizona Revised Statutes, is amended to
23 read:

24 8-323. Juvenile hearing officer; appointment; term;
25 compensation; hearings; required attendance;
26 contempt

27 A. The judge of the juvenile court, or in counties having more than
28 one judge of the juvenile court, the presiding judge of the juvenile
29 court, may appoint one or more persons of suitable experience who may be
30 magistrates or justices of the peace to serve as juvenile hearing officers
31 on a full-time or part-time basis. The county board of supervisors shall
32 approve the appointment of justices of the peace as juvenile hearing
33 officers. The local governing body shall approve the appointment of
34 municipal judges as juvenile hearing officers. The juvenile hearing
35 officer serves at the pleasure of the appointing judge. The appointing
36 judge, with the approval of the board of supervisors, shall determine
37 whether any compensation shall be paid to a juvenile hearing officer who
38 is not otherwise employed by a public agency or holding another public
39 office and shall establish the amounts and rates of the compensation.

40 B. Subject to the orders of the juvenile court a juvenile hearing
41 officer may hear and determine juvenile pretrial detention hearings and
42 may process, adjudicate and dispose of all cases that are not classified
43 as felonies and in which a juvenile who is under ~~eighteen~~ **TWENTY-ONE** years
44 of age on the date of the alleged offense is charged with violating any
45 law relating to the following:

- 1 1. Any provision of title 28 not declared to be a felony.
- 2 2. The purchase, possession or consumption of spirituous liquor by
3 a juvenile.
- 4 3. Boating or game and fish.
- 5 4. Curfew.
- 6 5. Truancy.
- 7 6. The damage or disfigurement of property by graffiti or the
8 purchase or possession of materials with the intent to use the materials
9 for graffiti.
- 10 7. The purchase or possession of tobacco.
- 11 8. Any city, town or political subdivision ordinance.
- 12 9. Interference with judicial proceedings involving disobeying or
13 resisting the lawful order, process or other mandate of a juvenile hearing
14 officer or failure to appear related to any offense in this section.
- 15 10. A civil violation involving the possession and personal use of
16 marijuana, marijuana products and marijuana paraphernalia.
- 17 C. A hearing before the juvenile hearing officer or a hearing
18 before a commissioner or a judge of the juvenile court in which the
19 juvenile is charged with any offense set forth in this section may be
20 conducted on an exact legible copy of a written notice to appear,
21 including a uniform Arizona traffic ticket and complaint form, that
22 states, at a minimum, the name and address of the juvenile, the offense
23 charged and the time and place the juvenile shall appear in court.
- 24 D. The juvenile hearing officer, commissioner or judge of the
25 superior court shall not dispose of a petition or citation for any offense
26 under this section unless the parent, guardian or custodian of the
27 juvenile appears in court with the juvenile at the time of disposition of
28 the charge. On a showing of good cause that the parent, guardian or
29 custodian cannot appear on the date and time set by the court, the court
30 may waive the requirement that the parent, guardian or custodian appear.
31 The court shall state on the record the reasons for waiving the
32 requirement that the parent, guardian or custodian appear. At the time
33 the court issues an order to appear or other order pursuant to this
34 section, the court shall inform the juvenile that failure to appear or
35 failure to comply with an order will result in suspension of the
36 juvenile's driver license or privilege to drive. If the juvenile fails to
37 appear pursuant to a citation or an order to appear properly issued under
38 this section or if on disposition fails to comply with any court order,
39 the juvenile hearing officer shall order the department of transportation
40 to suspend the juvenile's driver license or privilege to drive or shall
41 direct the department of transportation to refuse to issue, renew or
42 restore the juvenile's driver license or privilege to drive until the
43 juvenile reaches ~~eighteen~~ TWENTY-ONE years of age or appears in court as
44 directed or complies with the court's order.

1 E. If a parent, guardian or custodian fails to appear with the
2 juvenile, and good cause for the failure to appear is not found as
3 provided in subsection D of this section, the court shall issue an order
4 to show cause to the parent, guardian or custodian as to why that person
5 shall not be held in contempt.

6 F. Except as otherwise provided by law, on an admission by the
7 juvenile of a violation charged pursuant to this section, or after a
8 hearing, on the finding that the juvenile committed the violation, the
9 juvenile hearing officer, commissioner or judge of the superior court may
10 do one or more of the following:

11 1. Place the juvenile on probation, except that a city magistrate
12 or justice of the peace may only place the juvenile on unsupervised
13 probation.

14 2. Transfer the citation to the juvenile court for all further
15 proceedings.

16 3. Suspend the driving privileges of the juvenile, or restrict the
17 juvenile's driving privileges for a period of not to exceed one hundred
18 eighty days.

19 4. Order the juvenile to attend a traffic school or a counseling or
20 education program approved by the presiding judge of the juvenile court or
21 the supreme court.

22 5. Order the juvenile to pay the monetary assessment or penalty
23 that is applicable to the offense. Except as provided in section 8-341,
24 subsection S, the monetary assessment or penalty shall not exceed ~~five~~
25 ~~hundred dollars~~ \$500 plus lawful surcharges and assessments payable to the
26 public agency processing the violation. If no monetary assessment or
27 penalty is specified for the offense, the juvenile hearing officer,
28 commissioner or judge of the superior court may order the juvenile to pay
29 not more than ~~one hundred fifty dollars~~ \$150 plus lawful surcharges and
30 assessments payable to the public agency processing the violation.

31 6. In lieu of or in addition to a monetary assessment or penalty,
32 order the juvenile to perform a program of work that does not conflict
33 with the juvenile's regular schooling and employment, to repair the
34 victim's property or to provide community restitution.

35 7. If the juvenile hearing officer, commissioner or judge of the
36 superior court determines that the person charged is eighteen or more
37 years of age ~~OR TWENTY-ONE OR MORE YEARS OF AGE IS THE OFFENSE IS~~
38 ~~CLASSIFIED AS A MISDEMEANOR~~, transfer the matter to the appropriate
39 criminal court having jurisdiction.

40 8. If the juvenile violated any truancy laws, require the juvenile
41 and the juvenile's parents or guardians to participate in a specialized
42 program consisting of counseling, supervision and education under the
43 terms and conditions the juvenile hearing officer, commissioner or judge
44 of the superior court orders.

1 9. Order the juvenile and one or both of the juvenile's custodial
2 parents to pay restitution to any person who suffered an economic loss as
3 the result of the juvenile's conduct. The juvenile hearing officer,
4 commissioner or judge of the superior court shall not consider the ability
5 of the juvenile's parents to pay restitution before making a restitution
6 order. If the juvenile hearing officer, commissioner or judge of the
7 superior court orders one or both of the juvenile's custodial parents to
8 pay restitution, the amount of the order shall not exceed the liability
9 limit established pursuant to section 12-661.

10 10. Impose sanctions authorized by section 8-343.

11 11. Reprimand the juvenile and take no further action.

12 G. A record of the proceedings before a juvenile hearing officer
13 may be made by a court reporter, videotape or audiotape or any other
14 method approved by the supreme court that accurately reproduces what
15 occurred at the proceeding.

16 H. Within five days after receiving the citation, the juvenile
17 hearing officer shall notify the juvenile court that the juvenile has been
18 charged with an offense by citation and shall indicate the listed
19 charges. The juvenile hearing officer shall retain jurisdiction of the
20 case until all orders made under this section have been fully complied
21 with. Within five days after disposition, the juvenile hearing officer
22 shall transmit a copy of the citation with the findings and disposition of
23 the court noted on the copy to the juvenile court for record keeping
24 purposes. If appropriate, the juvenile hearing officer shall transmit a
25 copy of the citation to the department of transportation. If on
26 disposition the juvenile fails to comply with any court order, the
27 juvenile hearing officer, in the manner provided by subsection D of this
28 section, may impose any of the sanctions prescribed in subsection F of
29 this section.

30 I. Subject to an appeal pursuant to section 8-325 all orders of the
31 juvenile hearing officer shall be effective immediately.

32 J. A city or town attorney or prosecutor shall act on behalf of the
33 state in matters that are heard in a municipal court by a juvenile hearing
34 officer pursuant to this section. In these matters and on approval of the
35 county attorney, with notice to the presiding judge of the juvenile court,
36 the city or town attorney or the prosecutor may establish diversion
37 programs for offenses other than offenses involving either:

38 1. A violation of section 28-1381, 28-1382 or 28-1383.

39 2. The purchase, possession or consumption of spirituous liquor or
40 misdemeanor violations under title 13, chapter 34 if the juvenile has
41 previously participated in a diversion program established pursuant to
42 this subsection at least two times within twenty-four months before the
43 date of the commission of the current offense.

1 Sec. 12. Section 8-341, Arizona Revised Statutes, is amended to
2 read:

3 8-341. Disposition and commitment; definitions

4 A. After receiving and considering the evidence on the proper
5 disposition of the case, the court may enter judgment as follows:

6 1. It may award a delinquent juvenile:

7 (a) To the care of the juvenile's parents, subject to the
8 supervision of a probation department.

9 (b) To a probation department, subject to any conditions the court
10 may impose, including a period of incarceration in a juvenile detention
11 center of not more than one year.

12 (c) To a reputable citizen of good moral character, subject to the
13 supervision of a probation department.

14 (d) To a private agency or institution, subject to the supervision
15 of a probation officer.

16 (e) To the department of juvenile corrections.

17 (f) To maternal or paternal relatives, subject to the supervision
18 of a probation department.

19 (g) To an appropriate official of a foreign country of which the
20 juvenile is a foreign national who is unaccompanied by a parent or
21 guardian in this state to remain on unsupervised probation for at least
22 one year on the condition that the juvenile cooperate with that official.

23 2. It may award an incorrigible child:

24 (a) To the care of the child's parents, subject to the supervision
25 of a probation department.

26 (b) To the protective supervision of a probation department,
27 subject to any conditions the court may impose.

28 (c) To a reputable citizen of good moral character, subject to the
29 supervision of a probation department.

30 (d) To a public or private agency, subject to the supervision of a
31 probation department.

32 (e) To maternal or paternal relatives, subject to the supervision
33 of a probation department.

34 B. If a juvenile is placed on probation pursuant to this section,
35 the period of probation may continue until the juvenile's eighteenth
36 birthday **OR TWENTY-FIRST BIRTHDAY IF THE OFFENSE IS CLASSIFIED AS A**
37 **MISDEMEANOR** or until the juvenile's nineteenth birthday **OR TWENTY-FIRST**
38 **BIRTHDAY IF THE OFFENSE IS CLASSIFIED AS A MISDEMEANOR** if jurisdiction is
39 retained pursuant to section 8-202, subsection H, except that the term of
40 probation shall not exceed one year if all of the following apply:

41 1. The juvenile is not charged with a subsequent offense.

42 2. The juvenile has not been found in violation of a condition of
43 probation.

44 3. The court has not made a determination that it is in the best
45 interests of the juvenile or the public to require continued supervision.

1 The court shall state by minute entry or written order its reasons for
2 finding that continued supervision is required.

3 4. The offense for which the juvenile is placed on probation does
4 not involve a dangerous offense as defined in section 13-105.

5 5. The offense for which the juvenile is placed on probation does
6 not involve a violation of title 13, chapter 14 or 35.1.

7 6. Restitution ordered pursuant to section 8-344 has been made.

8 C. If a juvenile is adjudicated as a first time felony juvenile
9 offender, the court shall provide the following written notice to the
10 juvenile:

11 This is your first felony offense. If you commit
12 another felony offense and you are fourteen years of age or
13 older, any of the following could happen to you:

14 1. You could be tried as an adult in adult criminal
15 court.

16 2. You could be committed to the department of juvenile
17 corrections.

18 3. You could be placed on juvenile intensive probation,
19 which could include incarceration in a juvenile detention
20 center.

21 D. If a juvenile is fourteen years of age or older and is
22 adjudicated as a repeat felony juvenile offender, unless the court
23 determines based on the severity of the offense and a risk assessment that
24 juvenile intensive probation services are not required, the juvenile court
25 shall place the juvenile on juvenile intensive probation, which may
26 include incarceration in a juvenile detention center, or may commit the
27 juvenile to the department of juvenile corrections pursuant to subsection
28 A, paragraph 1, subdivision (e) of this section.

29 E. If the juvenile is adjudicated as a repeat felony juvenile
30 offender, the court shall provide the following written notice to the
31 juvenile:

32 You are now a repeat felony offender. This means:

33 1. You will be tried as an adult in adult criminal
34 court if you commit another felony offense and you are fifteen
35 years of age or older.

36 2. You could be tried as an adult in adult criminal
37 court if you commit another felony offense when you are at
38 least fourteen years of age.

39 3. You could be incarcerated in the state department of
40 corrections if you are convicted as an adult in adult criminal
41 court.

42 F. The failure or inability of the court to provide the notices
43 required under subsections C and E of this section does not preclude the
44 use of the prior adjudications for any purpose otherwise allowed.

1 G. Except as provided in subsection S of this section, after
2 considering the nature of the offense and the age, physical and mental
3 condition and earning capacity of the juvenile, the court shall order the
4 juvenile to pay a reasonable monetary assessment if the court determines
5 that an assessment is in aid of rehabilitation. If the director of the
6 department of juvenile corrections determines that enforcement of an order
7 for monetary assessment as a term and condition of conditional liberty is
8 not cost-effective, the director may require the youth to perform an
9 equivalent amount of community restitution in lieu of the payment ordered
10 as a condition of conditional liberty.

11 H. If a child is adjudicated incorrigible, the court may impose a
12 monetary assessment on the child of not more than \$150.

13 I. A juvenile who is charged with unlawful purchase, possession or
14 consumption of spirituous liquor is subject to section 8-323. The
15 monetary assessment for a conviction of unlawful purchase, possession or
16 consumption of spirituous liquor by a juvenile shall not exceed \$500. The
17 court of competent jurisdiction may order a monetary assessment or
18 equivalent community restitution.

19 J. The court shall require the monetary assessment imposed under
20 subsection G or H of this section on a juvenile who is not committed to
21 the department of juvenile corrections to be satisfied in one or both of
22 the following forms:

23 1. Monetary reimbursement by the juvenile in a lump sum or
24 installment payments through the clerk of the superior court for
25 appropriate distribution.

26 2. A program of work, not in conflict with regular schooling, to
27 repair damage to the victim's property, to provide community restitution
28 or to provide the juvenile with a job for wages. The court order for
29 restitution or monetary assessment shall specify, according to the
30 dispositional program, the amount of reimbursement and the portion of
31 wages of either existing or provided work that is to be credited toward
32 satisfaction of the restitution or assessment, or the nature of the work
33 to be performed and the number of hours to be spent working. The number
34 of hours to be spent working shall be set by the court based on the
35 severity of the offense but shall not be less than sixteen hours.

36 K. If a juvenile is committed to the department of juvenile
37 corrections, the court shall specify the amount of the monetary assessment
38 imposed pursuant to subsection G or H of this section.

39 L. After considering the length of stay guidelines developed
40 pursuant to section 41-2816, subsection C, the court may set forth in the
41 order of commitment the minimum period during which the juvenile shall
42 remain in secure care while in the custody of the department of juvenile
43 corrections. When the court awards a juvenile to the department of
44 juvenile corrections or an institution or agency, it shall transmit with
45 the order of commitment copies of a diagnostic psychological evaluation

1 and educational assessment if one has been administered, copies of the
2 case report, all other psychological and medical reports, restitution
3 orders, any request for postadjudication notice that has been submitted by
4 a victim and any other documents or records pertaining to the case
5 requested by the department of juvenile corrections or an institution or
6 agency. The department shall not release a juvenile from secure care
7 before the juvenile completes the length of stay determined by the court
8 in the commitment order unless the county attorney in the county from
9 which the juvenile was committed requests the committing court to reduce
10 the length of stay. The department may temporarily escort the juvenile
11 from secure care pursuant to section 41-2804, may release the juvenile
12 from secure care without a further court order after the juvenile
13 completes the length of stay determined by the court or may retain the
14 juvenile in secure care for any period subsequent to the completion of the
15 length of stay in accordance with the law.

16 M. Written notice of the release of any juvenile pursuant to
17 subsection L of this section shall be made to any victim requesting
18 notice, the juvenile court that committed the juvenile and the county
19 attorney of the county from which the juvenile was committed.

20 N. Notwithstanding any law to the contrary, if a person is under
21 the supervision of the court as an adjudicated delinquent juvenile at the
22 time the person reaches eighteen years of age OR TWENTY-ONE YEARS OF AGE
23 IF THE OFFENSE IS CLASSIFIED AS A MISDEMEANOR, treatment services may be
24 provided until the person reaches ~~twenty-one~~ TWENTY-FOUR years of age if
25 the court, the person and the state agree to the provision of the
26 treatment and a motion to transfer the person pursuant to section 8-327
27 has not been filed or has been withdrawn. The court may terminate the
28 provision of treatment services after the person reaches eighteen years of
29 age OR TWENTY-ONE YEARS OF AGE IF THE OFFENSE IS CLASSIFIED AS A
30 MISDEMEANOR if the court determines that any of the following applies:

- 31 1. The person is not progressing toward treatment goals.
- 32 2. The person terminates treatment.
- 33 3. The person commits a new offense after reaching eighteen years
34 of age OR TWENTY-ONE YEARS OF AGE IF THE NEW OFFENSE IS A MISDEMEANOR.
- 35 4. Continued treatment is not required or is not in the best
36 interests of the state or the person.

37 0. On the request of a victim of an act that may have involved
38 significant exposure as defined in section 13-1415 or that if committed by
39 an adult would be a sexual offense, the prosecuting attorney shall
40 petition the adjudicating court to require that the juvenile be tested for
41 the presence of the human immunodeficiency virus. If the victim is a
42 minor the prosecuting attorney shall file this petition at the request of
43 the victim's parent or guardian. If the act committed against a victim is
44 an act that if committed by an adult would be a sexual offense or the
45 court determines that sufficient evidence exists to indicate that

1 significant exposure occurred, it shall order the department of juvenile
2 corrections or the department of health services to test the juvenile
3 pursuant to section 13-1415. Notwithstanding any law to the contrary, the
4 department of juvenile corrections and the department of health services
5 shall release the test results only to the victim, the delinquent
6 juvenile, the delinquent juvenile's parent or guardian and a minor
7 victim's parent or guardian and shall counsel them regarding the meaning
8 and health implications of the results.

9 P. If a juvenile has been adjudicated delinquent for an offense
10 that if committed by an adult would be an offense listed in section
11 41-1750, subsection C, the court shall provide the department of public
12 safety Arizona automated fingerprint identification system established in
13 section 41-2411 with the juvenile's ten-print fingerprints, personal
14 identification data and other pertinent information. If a juvenile has
15 been committed to the department of juvenile corrections the department
16 shall provide the fingerprints and information required by this subsection
17 to the Arizona automated fingerprint identification system. If the
18 juvenile's fingerprints and information have been previously submitted to
19 the Arizona automated fingerprint identification system the information is
20 not required to be resubmitted.

21 Q. Access to fingerprint records submitted pursuant to subsection P
22 of this section shall be limited to the administration of criminal justice
23 as defined in section 41-1750. Dissemination of fingerprint information
24 shall be limited to the name of the juvenile, juvenile case number, date
25 of adjudication and court of adjudication.

26 R. If a juvenile is adjudicated delinquent for an offense that if
27 committed by an adult would be a misdemeanor, the court may prohibit the
28 juvenile from carrying or possessing a firearm while the juvenile is under
29 the jurisdiction of the department of juvenile corrections or the juvenile
30 court.

31 S. If a juvenile is adjudicated delinquent for a violation of
32 section 13-1602, subsection A, paragraph 5, the court shall order the
33 juvenile to pay a fine of at least \$300 but not more than \$1,000. Any
34 restitution ordered shall be paid in accordance with section 13-809,
35 subsection A. The court may order the juvenile to perform community
36 restitution in lieu of the payment for all or part of the fine if it is in
37 the best interests of the juvenile. The court shall credit community
38 restitution performed at a rate that is equal to the minimum wage
39 prescribed by section 23-363, subsections A and B, rounded up to the
40 nearest dollar. If the juvenile is convicted of a second or subsequent
41 violation of section 13-1602, subsection A, paragraph 5 and is ordered to
42 perform community restitution, the court may order the parent or guardian
43 of the juvenile to assist the juvenile in the performance of the community
44 restitution if both of the following apply:

1 1. The parent or guardian had knowledge that the juvenile intended
2 to engage in or was engaging in the conduct that gave rise to the
3 violation.

4 2. The parent or guardian knowingly provided the juvenile with the
5 means to engage in the conduct that gave rise to the violation.

6 T. If a juvenile is adjudicated delinquent for an offense involving
7 the purchase, possession or consumption of spirituous liquor or a
8 violation of title 13, chapter 34 and is placed on juvenile probation, the
9 court may order the juvenile to submit to random drug and alcohol testing
10 at least two times per week as a condition of probation.

11 U. If jurisdiction of the juvenile court is retained pursuant to
12 section 8-202, subsection H, the court shall order continued probation
13 supervision and treatment services until a child who has been adjudicated
14 a delinquent juvenile reaches nineteen years of age **OR TWENTY-ONE YEARS OF**
15 **AGE IF THE OFFENSE IS CLASSIFIED AS A MISDEMEANOR** or until otherwise
16 terminated by the court. The court may terminate continued probation
17 supervision or treatment services before the child's nineteenth birthday
18 **OR TWENTY-FIRST BIRTHDAY IF THE OFFENSE IS CLASSIFIED AS A MISDEMEANOR** if
19 the court determines that continued probation supervision or treatment is
20 not required or is not in the best interests of the juvenile or the state
21 or the juvenile commits a criminal offense after reaching eighteen years
22 of age **OR TWENTY-ONE YEARS OF AGE IF THE NEW OFFENSE IS A MISDEMEANOR**.

23 V. For the purposes of this section:

24 1. "First time felony juvenile offender" means a juvenile who is
25 adjudicated delinquent for an offense that would be a felony offense if
26 committed by an adult.

27 2. "Repeat felony juvenile offender" means a juvenile to whom both
28 of the following apply:

29 (a) Is adjudicated delinquent for an offense that would be a felony
30 offense if committed by an adult.

31 (b) Previously has been adjudicated a first time felony juvenile
32 offender.

33 3. "Sexual offense" means oral sexual contact, sexual contact or
34 sexual intercourse as defined in section 13-1401.

35 Sec. 13. Section 8-341.01, Arizona Revised Statutes, is amended to
36 read:

37 **8-341.01. Residential treatment services; definition**

38 A. If at a disposition hearing or a subsequent hearing the court
39 orders a delinquent juvenile or incorrigible child to receive residential
40 treatment services, other than psychiatric acute care services as defined
41 in section 8-271, the placement must be supported by a written
42 psychological, psychiatric or medical evaluation recommending residential
43 treatment services. The court may waive the written evaluation for good
44 cause shown.

1 B. If the court orders a child to receive residential treatment
2 services, the court shall find by clear and convincing evidence that both:

3 1. The child requires residential treatment services to address the
4 child's behavioral, psychological, social or mental health needs.

5 2. Available alternatives to residential treatment services were
6 considered, but that residential treatment services are the least
7 restrictive alternative.

8 C. The court shall review the child's continuing need for
9 residential treatment services at least every sixty days after the date of
10 the treatment order. The residential treatment facility shall submit a
11 progress report to the court at least five days before the review and
12 shall provide copies of its report to all parties, including the child's
13 attorney and guardian ad litem. The progress report shall include the
14 recommendations of the child's treatment facility and shall include at
15 least the following:

16 1. The nature of the treatment provided, including any medications
17 and the child's current diagnosis.

18 2. The child's need for continued residential treatment services,
19 including the estimated length of the services.

20 3. A projected discharge date.

21 4. The level of care required by the child and the potential
22 placement options that are available to the child on discharge.

23 5. A statement from the medical or clinical director of the
24 residential treatment services facility or the director's designee as to
25 whether residential treatment services are necessary to meet the child's
26 needs and whether the facility that is providing the residential treatment
27 services to the child is the least restrictive available alternative.

28 D. On its own motion or the motion of a party, the court may hold
29 an expedited hearing to review the continued placement of the child in
30 residential treatment.

31 E. If the child is also found to be dependent or is temporarily
32 subject to court jurisdiction pending an adjudication of a dependency
33 petition, the probation department shall notify the department of child
34 safety that placement of the child for residential treatment services is
35 being recommended. The department shall receive copies of any reports
36 relating to the child's placement for residential treatment services. The
37 department may attend and participate in all hearings and any other
38 proceedings relating to the placement or continued placement for
39 residential treatment services.

40 F. For the purposes of this section, "child" or "juvenile" includes
41 a person who is under eighteen years of age OR TWENTY-ONE YEARS OF AGE IF
42 THE OFFENSE IS CLASSIFIED AS A MISDEMEANOR or, if the juvenile court has
43 retained jurisdiction over the person pursuant to section 8-202,
44 subsection H, under nineteen years of age OR TWENTY-ONE YEARS OF AGE IF
45 THE OFFENSE IS CLASSIFIED AS A MISDEMEANOR.

1 Sec. 14. Section 8-342, Arizona Revised Statutes, is amended to
2 read:

3 8-342. Commitment of child; medical examination; definition

4 A. A child who is any of the following shall not be committed or
5 awarded to the department of juvenile corrections:

6 1. Adjudicated delinquent for an offense that is not a felony
7 unless the child has been previously adjudicated delinquent for an offense
8 that is a felony or is seriously mentally ill.

9 2. Under fourteen years of age.

10 3. A dependent or incorrigible child unless the child is
11 adjudicated delinquent and is not excluded under paragraph 1 or 2 of this
12 subsection.

13 B. Before commitment to the department of juvenile corrections,
14 every child shall be given a medical examination. If it is determined
15 that any contagious or infectious disease is present, the child shall not
16 be committed to the department of juvenile corrections, but the juvenile
17 court shall order that the child be given the necessary medical treatment
18 at the county hospital or other medical facility. When the child is
19 discharged by competent medical authority, the juvenile court may order
20 the child's commitment to the department of juvenile corrections. In any
21 case copies of records, examinations and evaluations shall be made of the
22 findings of the medical examination and of any subsequent treatment and
23 discharge, which copies shall accompany the child's commitment papers.

24 C. If the child is a dependent child and is committed or awarded to
25 the department of juvenile corrections, the foster care review board shall
26 review the child's case as required by section 8-515.03.

27 D. For the purposes of this section, "child" includes a person who
28 is under eighteen years of age **OR TWENTY-ONE YEARS OF AGE IF THE OFFENSE**
29 **IS CLASSIFIED AS A MISDEMEANOR** or, if the juvenile court has retained
30 jurisdiction over the person pursuant to section 8-202, subsection H,
31 under nineteen years of age **OR TWENTY-ONE YEARS OF AGE IF THE OFFENSE IS**
32 **CLASSIFIED AS A MISDEMEANOR**.

33 Sec. 15. Section 8-344, Arizona Revised Statutes, is amended to
34 read:

35 8-344. Restitution payments

36 A. If a juvenile is adjudicated delinquent, the court, after
37 considering the nature of the offense and the age, physical and mental
38 condition and earning capacity of the juvenile, shall order the juvenile
39 to make full or partial restitution to the victim of the offense for which
40 the juvenile was adjudicated delinquent or to the estate of the victim if
41 the victim has died. The juvenile shall make restitution payments to the
42 clerk of the court for disbursement to the victim or estate of the victim.

43 B. The court shall notify the victim or estate of the victim of the
44 dispositional hearing. The court may consider a verified statement from
45 the victim or estate of the victim concerning damages for lost wages,

1 reasonable damages for injury to or loss of property and actual expenses
2 of medical treatment for personal injury, excluding pain and suffering.

3 C. In ordering restitution pursuant to subsection A of this
4 section, the court may order one or both of the juvenile's custodial
5 parents to make restitution to the victim of the offense for which the
6 juvenile was adjudicated delinquent or to the estate of the victim if the
7 victim has died. The court shall determine the amount of restitution
8 ordered pursuant to this subsection, except that the amount shall not
9 exceed the liability limit established pursuant to section 12-661. The
10 court may order a parent or juvenile who is ordered to pay restitution to
11 satisfy the order in a lump sum or installment payments to the clerk of
12 the court for disbursement to the victim or estate of the victim. If the
13 court orders the juvenile's parents to make restitution pursuant to this
14 subsection, the court shall order the juvenile to make either full or
15 partial restitution, regardless of the juvenile's insufficient earning
16 capacity. The court shall not consider the ability of the juvenile's
17 parents to pay restitution before making a restitution order.

18 D. The juvenile court shall retain jurisdiction of the case after
19 the juvenile attains eighteen years of age OR TWENTY-ONE YEARS OF AGE IF
20 THE OFFENSE IS CLASSIFIED AS A MISDEMEANOR for the purpose of modifying
21 the manner in which court ordered payments are to be made. After a
22 juvenile attains eighteen years of age OR TWENTY-ONE YEARS OF AGE IF THE
23 OFFENSE IS CLASSIFIED AS A MISDEMEANOR or if the court retains
24 jurisdiction over the juvenile pursuant to section 8-202, subsection H on
25 termination of the juvenile's probation, the juvenile court shall enter
26 the following:

27 1. A juvenile restitution order in favor of the state for the
28 unpaid balance, if any, of any costs, fees, surcharges or monetary
29 assessments imposed.

30 2. A juvenile restitution order in favor of each person entitled to
31 restitution for the unpaid balance of any restitution ordered pursuant to
32 this section.

33 E. The clerk of the court shall send a copy of the juvenile
34 restitution order to each person who is entitled to restitution.

35 F. A juvenile restitution order may be recorded and enforced as any
36 civil judgment, except that a juvenile restitution order does not require
37 renewal pursuant to section 12-1611 or 12-1612. A juvenile restitution
38 order does not expire until paid in full. Enforcement of a juvenile
39 restitution order by any person who is entitled to restitution or by the
40 state includes the collection of interest, which accrues at a rate of ten
41 percent per annum.

42 G. A juvenile restitution order is a criminal penalty for the
43 purposes of a federal bankruptcy involving the juvenile.

1 Sec. 16. Section 8-348, Arizona Revised Statutes, is amended to
2 read:

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

5 A. Except as provided in subsection I of this section, a person who
6 is at least eighteen years of age **OR TWENTY-ONE YEARS OF AGE IF THE**
7 **OFFENSE IS CLASSIFIED AS A MISDEMEANOR**, who has been adjudicated
8 delinquent or incorrigible and who has fulfilled the conditions of
9 probation or who is discharged from the department of juvenile corrections
10 pursuant to section 41-2820 on successful completion of the individual
11 treatment plan may apply to the juvenile court to set aside the
12 adjudication. The court shall inform the person of this right in writing
13 at the time of the disposition of the case.

14 B. The person or the person's attorney, probation officer or parole
15 officer may apply to set aside the adjudication. The clerk of the court
16 may not charge a filing fee for an application to set aside an
17 adjudication. The clerk shall transmit a copy of the application to the
18 county attorney in the county where the referral was made.

19 C. The court may consider the following factors when determining
20 whether to set aside an adjudication:

- 21 1. The nature and circumstances of the offense on which the
22 adjudication is based.
- 23 2. Whether the person has been convicted of a felony offense.
- 24 3. Whether the person has any pending criminal charges.
- 25 4. The victim's input.
- 26 5. Any other factor that is relevant to the application.

27 D. Except as provided in subsection F of this section, if the court
28 grants the application, the court shall set aside the adjudication,
29 dismiss the petition and order that the person be released from all
30 penalties and disabilities resulting from the adjudication except those
31 imposed by the department of transportation pursuant to section 28-3304,
32 28-3306, 28-3307, 28-3308 or 28-3319.

33 E. On a showing of good cause, the court may modify any monetary
34 obligation that is imposed by the court except for victim restitution.

35 F. If the court grants an application, any remaining unpaid
36 monetary obligation continues to be owed and is subject to the remedies
37 included in sections 8-344 and 8-345 until the monetary obligation is
38 paid.

39 G. If the court denies an application, the court shall state its
40 reasons for the denial in writing.

41 H. If a victim has made a request for postadjudication notice, the
42 victim has the right to be present and heard at any hearing on the
43 application. The state shall provide the victim with notice of the
44 application and of the rights provided to the victim in this section.

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

- 3 1. A dangerous offense as defined in section 13-105.
- 4 2. An offense for which there has been a finding of sexual
5 motivation pursuant to section 13-118.
- 6 3. An offense in violation of title 13, chapter 14.
- 7 4. An offense in violation of section 28-1381, 28-1382 or 28-1383
8 if the offense can be alleged as a prior violation pursuant to title 28,
9 chapter 4.
- 10 5. An offense for which the person has not paid in full the victim
11 restitution ordered by the court.

12 Sec. 17. Section 8-349, Arizona Revised Statutes, is amended to
13 read:

14 8-349. Destruction of juvenile records; electronic research
15 records; definition

16 A. A person who is at least eighteen years of age **OR TWENTY-ONE**
17 **YEARS OF AGE IF THE OFFENSE IS CLASSIFIED AS A MISDEMEANOR** and who has
18 been adjudicated delinquent or incorrigible may apply for destruction of
19 the person's juvenile court and department of juvenile corrections records
20 if the records involve an adjudication for an offense other than an
21 offense listed in section 13-501, subsection A or B or title 28,
22 chapter 4.

23 B. The person shall attest to all of the following in the
24 application:

- 25 1. The person is at least eighteen years of age **OR TWENTY-ONE YEARS**
26 **OF AGE IF THE OFFENSE IS CLASSIFIED AS A MISDEMEANOR**.
- 27 2. The person has not been convicted of a felony offense or
28 adjudicated delinquent for an offense that would be an offense listed in
29 section 13-501, subsection A or B or title 28, chapter 4.
- 30 3. A criminal charge is not pending.
- 31 4. The person has completed all of the terms and conditions of
32 court-ordered probation or been discharged from the department of juvenile
33 corrections pursuant to section 41-2820 on successful completion of the
34 individual treatment plan.
- 35 5. All restitution is paid in full.
- 36 6. The person is not under the jurisdiction of the juvenile court
37 or the department of juvenile corrections.
- 38 7. The person is not currently required to register pursuant to
39 section 13-3821.
- 40 8. The person has either paid all monetary obligations in full or
41 has requested the court to modify the outstanding monetary obligations
42 pursuant to subsection K of this section.

43 C. The juvenile court may order the destruction of records under
44 subsection A of this section if the court finds all of the following:

- 1 1. The person is at least eighteen years of age OR TWENTY-ONE YEARS
- 2 OF AGE IF THE OFFENSE IS CLASSIFIED AS A MISDEMEANOR.
- 3 2. The person has not been convicted of a felony offense.
- 4 3. A criminal charge is not pending.
- 5 4. The person was not adjudicated for an offense listed in section
- 6 13-501, subsection A or B or title 28, chapter 4.
- 7 5. The person successfully completed the terms and conditions of
- 8 probation or was discharged from the department of juvenile corrections
- 9 pursuant to section 41-2820 on successful completion of the individual
- 10 treatment plan.
- 11 6. All restitution is paid in full.
- 12 7. All monetary obligations are either paid in full or have been
- 13 modified pursuant to subsection K of this section.
- 14 8. The person is not under the jurisdiction of the juvenile court
- 15 or the department of juvenile corrections.
- 16 9. The person is not currently required to register pursuant to
- 17 section 13-3821.
- 18 D. A person who is not eligible to have the person's records
- 19 destroyed pursuant to subsection A of this section may apply to have the
- 20 person's juvenile court and department of juvenile corrections records
- 21 destroyed pursuant to subsection E of this section. The person shall
- 22 attest to all of the following in an application:
- 23 1. The person is at least twenty-five years of age.
- 24 2. The person has not been convicted of a felony offense.
- 25 3. A criminal charge is not pending.
- 26 4. All restitution is paid in full.
- 27 5. The person has either paid all monetary obligations in full or
- 28 has requested the court to modify the outstanding monetary obligations
- 29 pursuant to subsection K of this section.
- 30 6. The person is not currently required to register pursuant to
- 31 section 13-3821.
- 32 E. The juvenile court may order the destruction of records if the
- 33 court finds that all of the following apply to a person who files an
- 34 application pursuant to subsection D of this section:
- 35 1. The person is at least twenty-five years of age.
- 36 2. The person has not been convicted of a felony offense.
- 37 3. A criminal charge is not pending.
- 38 4. All restitution is paid in full.
- 39 5. All monetary obligations are either paid in full or have been
- 40 modified pursuant to subsection K of this section.
- 41 6. The person is not currently required to register pursuant to
- 42 section 13-3821.
- 43 7. The destruction of the records would further the rehabilitative
- 44 process of the applicant.

1 F. The juvenile court and the department of juvenile corrections
2 may store any records for research purposes.

3 G. At the juvenile's disposition hearing, the court shall inform
4 the juvenile, in writing, of the right to the destruction of the
5 juvenile's court and department of juvenile corrections records.

6 H. The clerk of the court may not charge a filing fee for the
7 application to destroy juvenile records.

8 I. The clerk of the court shall transmit a copy of an application
9 submitted pursuant to this section to the county attorney in the county in
10 which the referral was made.

11 J. The county attorney may file an objection to an application that
12 is submitted pursuant to this section for the destruction of records.

13 K. On a showing of good cause, the court may modify any monetary
14 obligation imposed by the court except for victim restitution.

15 L. The juvenile court, the clerk of the superior court and the
16 juvenile probation department, either on order of the juvenile court after
17 the person files an application with the court or on notification by the
18 probation department, shall destroy the records that concern a referral or
19 citation that did not result in further action, that resulted in a
20 successful completion of diversion within ninety days after the person who
21 was the subject of the referral or citation reaches eighteen years of age
22 OR TWENTY-ONE YEARS OF AGE IF THE OFFENSE IS CLASSIFIED AS A MISDEMEANOR
23 or when destruction is ordered by the court. The probation department
24 shall send a copy of the notice to the department of public safety central
25 state repository.

26 M. Within six months after receiving a notification from the
27 superior court that a person's juvenile delinquency or incorrigibility
28 records were destroyed, the department of child safety shall destroy all
29 court, juvenile probation and department of juvenile corrections records
30 that are in the department of child safety's possession and that were
31 produced in the delinquency or incorrigibility matter.

32 N. The clerk of the court shall notify the department of public
33 safety if a person's record is destroyed pursuant to this section.

34 O. For the purposes of this section, "successfully" means, in the
35 discretion of the court, the person satisfied the conditions of probation.

36 Sec. 18. Section 8-371, Arizona Revised Statutes, is amended to
37 read:

38 8-371. Educational rehabilitation; definition

39 A. Juveniles who are subject to the supervision of a probation
40 officer pursuant to an order of the juvenile court, or who are otherwise
41 eligible for absolute discharge or conditional liberty from the department
42 of juvenile corrections in accordance with section 41-2816, shall, as a
43 condition of probation or liberty, be required to do one of the following:

44 1. Attend school in order to obtain vocational training or to
45 achieve an appropriate educational level as prescribed in consultation

1 with the school the juvenile attends by the juvenile's probation officer
2 or by the department of juvenile corrections. If the juvenile fails to
3 attend school regularly, maintain appropriate school behavior, or make
4 satisfactory progress as determined in consultation with the school by the
5 probation officer or department of juvenile corrections as specified in
6 subsection C of this section and the juvenile does not meet the
7 requirements of paragraph 2 of this subsection:

8 (a) If the juvenile court retains jurisdiction, the juvenile court
9 shall take appropriate action to enforce, modify or revoke its order
10 granting probation.

11 (b) If the department of juvenile corrections retains jurisdiction,
12 the department shall act to enforce, modify or revoke its order granting
13 conditional liberty.

14 2. Attend an on-the-job training program or secure and maintain
15 employment. If the juvenile fails to attend the program or maintain
16 employment and does not meet the requirements of paragraph 1 of this
17 subsection:

18 (a) If the juvenile court retains jurisdiction, the juvenile court
19 shall take appropriate action to enforce, modify or revoke its order
20 granting probation.

21 (b) If the department of juvenile corrections retains jurisdiction,
22 the department shall act to enforce, modify or revoke its order granting
23 conditional liberty.

24 B. Subsection A of this section does not apply to juveniles who
25 pass the general educational development test or earn a high school
26 diploma. Subsection A, paragraph 2 of this section does not apply to a
27 juvenile required to attend school under section 15-802.

28 C. If the juvenile chooses to meet the requirements of subsection A
29 of this section by attending a public school:

30 1. If the juvenile had previously been expelled from school, prior
31 to readmission of that juvenile to the school, school officials shall meet
32 with the appropriate juvenile court probation officer or department of
33 juvenile corrections case manager and assist in developing conditions of
34 probation or conditional liberty that will provide specific guidelines for
35 behavior and consequences for misbehavior at school as well as educational
36 objectives that must be achieved. If the juvenile is under the
37 jurisdiction of the juvenile court, the court shall review the conditions
38 of probation for the juvenile and may continue the expulsion or return the
39 child to school under the agreed conditions. If the juvenile is under the
40 jurisdiction of the department of juvenile corrections, the department
41 shall review the terms of conditional liberty for the juvenile and may
42 continue the expulsion or return the child to school under the agreed
43 conditions. The governing board may expel the juvenile for subsequent
44 actions as provided in title 15, chapter 8, article 3.

1 C. A criminal prosecution shall be brought against a juvenile in
2 the same manner as an adult if the juvenile has been accused of a criminal
3 offense and has a historical prior felony conviction.

4 D. At the time the county attorney files a complaint or indictment
5 the county attorney shall file a notice stating that the juvenile is a
6 chronic felony offender. Subject to subsection E of this section, the
7 notice shall establish and confer jurisdiction over the juvenile as a
8 chronic felony offender.

9 E. On motion of the juvenile the court shall hold a hearing after
10 arraignment and before trial to determine if a juvenile is a chronic
11 felony offender. At the hearing the state shall prove by a preponderance
12 of the evidence that the juvenile is a chronic felony offender. If the
13 court does not find that the juvenile is a chronic felony offender, the
14 court shall transfer the juvenile to the juvenile court pursuant to
15 section 8-302. If the court finds that the juvenile is a chronic felony
16 offender or if the juvenile does not file a motion to determine if the
17 juvenile is a chronic felony offender, the criminal prosecution shall
18 continue.

19 F. Except as provided in section 13-921, a person who is charged
20 pursuant to this section shall be sentenced in the criminal court in the
21 same manner as an adult for any offense for which the person is convicted.

22 G. Unless otherwise provided by law, ~~nothing in~~ this section ~~shall~~
23 ~~be construed as to~~ DOES NOT confer jurisdiction in the juvenile court over
24 any person who is eighteen years of age or older OR TWENTY-ONE YEARS OF
25 AGE OR OLDER IF THE OFFENSE IS CLASSIFIED AS A MISDEMEANOR.

26 H. For the purposes of this section:

27 1. "Accused" means a juvenile against whom a complaint, information
28 or indictment is filed.

29 2. "Chronic felony offender" means a juvenile who has had two prior
30 and separate adjudications and dispositions for conduct that would
31 constitute a historical prior felony conviction if the juvenile had been
32 tried as an adult.

33 3. "Forcible sexual assault" means sexual assault pursuant to
34 section 13-1406 that is committed without consent as defined in section
35 13-1401, SUBSECTION A, paragraph 7, subdivision (a).

36 4. "Other violent felony offense" means:

37 (a) Aggravated assault pursuant to section 13-1204, subsection A,
38 paragraph 1.

39 (b) Aggravated assault pursuant to section 13-1204, subsection A,
40 paragraph 2 involving the use of a deadly weapon.

41 (c) Drive by shooting pursuant to section 13-1209.

42 (d) Discharging a firearm at a structure pursuant to section
43 13-1211.

1 Sec. 20. Section 13-921, Arizona Revised Statutes, is amended to
2 read:

3 13-921. Probation for defendants under twenty-two years of
4 age; dual adult juvenile probation

5 A. The court may enter a judgment of guilt and place the defendant
6 on probation pursuant to this section if all of the following apply:

7 1. The defendant is under eighteen years of age **OR TWENTY-ONE YEARS**
8 **OF AGE IF THE OFFENSE IS CLASSIFIED AS A MISDEMEANOR** at the time the
9 offense is committed.

10 2. The defendant is convicted of a felony offense.

11 3. The defendant is not sentenced to a term of imprisonment.

12 4. The defendant does not have a historical prior felony
13 conviction.

14 B. If the court places a defendant on probation pursuant to this
15 section, all of the following apply:

16 1. Except as provided in paragraphs 2, 3 and 4 of this subsection,
17 if the defendant successfully completes the terms and conditions of
18 probation, the court may set aside the judgment of guilt, dismiss the
19 information or indictment, expunge the defendant's record and order the
20 person to be released from all penalties and disabilities resulting from
21 the conviction. The clerk of the court in which the conviction occurred
22 shall notify each agency to which the original conviction was reported
23 that all penalties and disabilities have been discharged and that the
24 defendant's record has been expunged.

25 2. The conviction may be used as a conviction if it would be
26 admissible pursuant to section 13-703 or 13-704 as if it had not been set
27 aside and the conviction may be pleaded and proved as a prior conviction
28 in any subsequent prosecution of the defendant.

29 3. The conviction is deemed to be a conviction for the purposes of
30 sections 28-3304, 28-3305, 28-3306 and 28-3320.

31 4. The defendant shall comply with sections 13-3821 and 13-3822.

32 C. A defendant who is placed on probation pursuant to this section
33 is deemed to be on adult probation.

34 D. If a defendant is placed on probation pursuant to this section,
35 the court as a condition of probation may order the defendant to
36 participate in services that are available to the juvenile court.

37 E. The court may order that a defendant who is placed on probation
38 pursuant to this section be incarcerated in a county jail at whatever time
39 or intervals, consecutive or nonconsecutive, that the court determines.
40 The incarceration shall not extend beyond the period of court ordered
41 probation, and the length of time the defendant actually spends in a
42 county jail shall not exceed one year.

43 F. In addition to the provisions of this section, the court may
44 apply any of the provisions of section 13-901.

1 Sec. 21. Section 41-2801, Arizona Revised Statutes, is amended to
2 read:

3 41-2801. Definitions

4 In this chapter, unless the context otherwise requires:

5 1. "Committed youth" or "youth" means a person who has been
6 committed according to law to the department of juvenile corrections for
7 supervision, rehabilitation, treatment and education and who is either:

8 (a) At least fourteen years of age and under eighteen years of age
9 OR TWENTY-ONE YEARS OF AGE IF THE OFFENSE IS CLASSIFIED AS A MISDEMEANOR.

10 (b) Subject to retained jurisdiction pursuant to section 8-202,
11 subsection H.

12 2. "Department" means the department of juvenile corrections.

13 3. "Director" means the director of the department of juvenile
14 corrections.

15 4. "Educational system" means the state educational system for
16 committed youth.

17 5. "Secure care" means confinement in a facility that is completely
18 surrounded by a locked and physically secure barrier with restricted
19 ingress and egress.

20 Sec. 22. Section 41-2820, Arizona Revised Statutes, is amended to
21 read:

22 41-2820. Discharge

23 A. Each youth shall be discharged from the jurisdiction of the
24 department on attaining eighteen years of age OR TWENTY-ONE YEARS OF AGE
25 IF THE OFFENSE IS CLASSIFIED AS A MISDEMEANOR, except that if the juvenile
26 court retained jurisdiction over the youth pursuant to section 8-202,
27 subsection H, the youth shall be discharged from the jurisdiction of the
28 department on or before attaining nineteen years of age OR TWENTY-ONE
29 YEARS OF AGE IF THE OFFENSE IS CLASSIFIED AS A MISDEMEANOR.

30 B. If the department determines that the youth's treatment,
31 rehabilitation and education pursuant to the individual treatment plan
32 have been successfully completed and that there is a reasonable
33 probability that the youth will observe the law and will not be a threat
34 to the public's safety if at liberty, the youth may be granted a
35 discharge. On the discharge of a youth pursuant to this subsection, the
36 department shall promptly notify the committing court, the county attorney
37 in the county in which the youth was committed and the victim or the
38 victim's representative of the discharge.

39 C. Except as provided in subsection D of this section, a youth
40 shall be discharged from the jurisdiction of the department of juvenile
41 corrections if the youth is convicted of a felony offense.

42 D. A youth who is convicted of a felony offense and who committed
43 the offense while residing in a secure care facility operated by the
44 department of juvenile corrections either:

1 1. Shall be discharged from the department of juvenile corrections
2 if the youth is sentenced to the state department of corrections.

3 2. May be discharged from the department of juvenile corrections if
4 the youth is placed on adult probation and all the following apply:

5 (a) The youth has completed the minimum length of stay in secure
6 care, if any, that was assigned by the committing juvenile court pursuant
7 to section 8-341.

8 (b) The youth would have been eligible to be placed on conditional
9 liberty pursuant to section 41-2818.

10 (c) The youth is subject to the jurisdiction of an adult probation
11 department.

12 E. A youth may be discharged from the jurisdiction of the
13 department if the youth is placed by civil commitment under the
14 jurisdiction of another agency.

15 F. A youth shall be conditionally discharged from the jurisdiction
16 of the department if all of the following requirements are satisfied:

17 1. The youth has completed the minimum length of stay in a secure
18 care facility, if any, that was assigned by the committing juvenile court
19 pursuant to section 8-341.

20 2. The United States immigration and customs enforcement enforces a
21 detainer by taking custody of the youth for immigration proceedings.

22 3. The youth signs a condition that the youth's discharge will be
23 vacated if the youth returns to the United States without legal
24 authorization.

25 G. If the department receives actual notice that a youth who
26 received a discharge pursuant to this section has returned to the United
27 States without legal authorization ~~prior to~~ BEFORE the youth's attaining
28 eighteen years of age OR TWENTY-ONE YEARS OF AGE IF THE OFFENSE IS
29 CLASSIFIED AS A MISDEMEANOR, the department shall:

30 1. Vacate the discharge.

31 2. Place the youth on conditional liberty status.

32 3. Issue a warrant for the apprehension of the youth.

33 4. Notify the United States immigration and customs enforcement.

34 5. Take the youth into custody.

35 H. Notwithstanding subsection A of this section, a youth who is at
36 least eighteen years of age OR TWENTY-ONE YEARS OF AGE IF THE OFFENSE IS
37 CLASSIFIED AS A MISDEMEANOR shall be discharged from the jurisdiction of
38 the department if the jurisdiction over the youth has been retained
39 pursuant to section 8-202, subsection H and the youth is charged with a
40 criminal offense.