

REFERENCE TITLE: lifetime injunction; crime victim

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

SB 1653

Introduced by
Senator Kerr: Representative Dunn

AN ACT

AMENDING SECTIONS 11-445 AND 12-1809, ARIZONA REVISED STATUTES; AMENDING TITLE 13, CHAPTER 7, ARIZONA REVISED STATUTES, BY ADDING SECTION 13-719; AMENDING SECTIONS 13-901 AND 31-411.01, ARIZONA REVISED STATUTES; RELATING TO SENTENCING.

(TEXT OF BILL BEGINS ON NEXT PAGE)

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

2 Section 1. Section 11-445, Arizona Revised Statutes, is amended to
3 read:

4 11-445. Fees chargeable in civil actions by sheriffs and
5 constables; constables' standardized daily activity
6 logs

7 A. The sheriff shall receive the following fees in civil actions:

8 1. For serving each true copy of the original summons in a civil
9 suit, ~~sixteen dollars~~ \$16, except that the sheriff shall not charge a fee
10 for service of any document pursuant to section 13-3602 or any injunction
11 against harassment pursuant to section 12-1809 if the court indicates the
12 injunction arises out of ~~a dating relationship~~ SEXUAL VIOLENCE AS DEFINED
13 IN SECTION 23-371.

14 2. For summoning each witness, ~~sixteen dollars~~ \$16.

15 3. For levying and returning each writ of attachment or claim and
16 delivery, ~~forty-eight dollars~~ \$48.

17 4. For taking and approving each bond and returning it to the
18 proper court when necessary, ~~twelve dollars~~ \$12.

19 5. For endorsing the forfeiture of any bond required to be endorsed
20 by the sheriff, ~~twelve dollars~~ \$12.

21 6. For levying each execution, ~~twenty-four dollars~~ \$24.

22 7. For returning each execution, ~~sixteen dollars~~ \$16.

23 8. For executing and returning each writ of possession or
24 restitution, ~~forty-eight dollars~~ \$48 plus a rate of ~~forty dollars~~ \$40 per
25 hour per deputy or constable for the actual time spent in excess of three
26 hours.

27 9. For posting the advertisement for sale under execution, or any
28 order of sale, ~~twelve dollars~~ \$12.

29 10. For posting or serving any notice, process, writ, order,
30 pleading or paper required or ~~permitted~~ ALLOWED by law, not otherwise
31 provided for, ~~sixteen dollars~~ \$16 except that posting for a writ of
32 restitution shall not exceed ~~ten dollars~~ \$10.

33 11. For executing a deed to each purchaser of real property under
34 execution or order of sale, ~~twenty-four dollars~~ \$24.

35 12. For executing a bill of sale to each purchaser of real and
36 personal property under an execution or order of sale, when demanded by
37 the purchaser, ~~sixteen dollars~~ \$16.

38 13. For services in designating a homestead or other exempt
39 property, ~~twelve dollars~~ \$12.

40 14. For receiving and paying money on redemption and issuing a
41 certificate of redemption, ~~twenty-four dollars~~ \$24.

42 15. For serving and returning each writ of garnishment and related
43 papers, ~~forty dollars~~ \$40.

44 16. For the preparation, including notarization, of each affidavit
45 of service or other document pertaining to service, ~~eight dollars~~ \$8.

1 17. For every writ issued on behalf of a justice of the peace, a
2 fee established by the board of supervisors not to exceed ~~five dollars~~ \$5
3 per writ. Monies collected from the writ fees shall be deposited in the
4 constable ethics standards and training fund established by section
5 22-138.

6 B. The sheriff shall also collect the appropriate recording fees if
7 applicable and other appropriate disbursements.

8 C. The sheriff may charge:

9 1. ~~Fifty-six dollars~~ \$56 plus disbursements for any skip tracing
10 services performed.

11 2. A reasonable fee for executing a civil arrest warrant ordered
12 pursuant to court rule by a judge or justice of the peace. The fee shall
13 only be charged to the party requesting the issuance of the civil arrest
14 warrant.

15 3. A reasonable fee for storing personal property levied on
16 pursuant to title 12, chapter 9.

17 D. For traveling to serve or on each attempt to serve civil
18 process, writs, orders, pleadings or papers, the sheriff shall receive ~~two~~
19 ~~dollars forty cents~~ \$2.40 for each mile actually and necessarily traveled
20 but not to exceed two hundred miles, nor to be less than ~~sixteen dollars~~
21 \$16. Mileage shall be charged one way only. For service made or
22 attempted at the same time and place, regardless of the number of parties
23 or the number of papers so served or attempted, only one charge for travel
24 fees shall be made for such service or attempted service.

25 E. For collecting money on an execution when it is made by sale,
26 the sheriff and the constable shall receive ~~eight dollars~~ \$8 for each ~~one~~
27 ~~hundred dollars~~ \$100 or major portion thereof not to exceed a total of ~~two~~
28 ~~thousand dollars~~ \$2,000, but when money is collected by the sheriff
29 without a sale, only one-half of such fee shall be allowed. When
30 satisfaction or partial satisfaction of a judgment is received by the
31 judgment creditor after the sheriff or constable has received an execution
32 on the judgment, the commission is due the sheriff or constable and is
33 established by an affidavit of the judgment creditor filed with the
34 officer. If the affidavit is not lodged with the officer within thirty
35 days of the request, the commission shall be based on the total amount of
36 judgment due as billed by the officer and may be collected as any other
37 debt by that officer.

38 F. The sheriff shall be allowed for all process issued from the
39 supreme court and served by the sheriff the same fees as are allowed the
40 sheriff for similar services on process issued from the superior court.

41 G. The constable shall receive the same fees as the sheriff for
42 performing the same services in civil actions, except that mileage shall
43 be computed from the office of the justice of the peace originating the
44 civil action to the place of service.

1 H. Notwithstanding subsection G of this section, in a county with a
2 population of more than three million persons, if an office of a justice
3 of the peace is located outside of the precinct boundaries, the mileage
4 for a constable shall be calculated pursuant to subsection D of this
5 section, except that the distance between the precinct boundaries and the
6 office of the justice of the peace, as determined by the county and
7 certified by the board of supervisors of that county, shall be subtracted
8 from the mileage calculation. This certified mileage calculation shall be
9 transmitted to the justice courts and the clerks of those courts shall
10 calculate the mileage between the office of the justice of the peace and
11 the location where the civil process, writ, order, pleading or paper was
12 served and reduce the mileage used to calculate the mileage fee according
13 to the certified mileage calculation for that respective jurisdiction.

14 I. Constables shall maintain a standardized daily activity log of
15 work related activities, including a listing of all processes served and
16 the number of processes attempted to be served by case number, the names
17 of the plaintiffs and defendants, the names and addresses of the persons
18 to be served except as otherwise precluded by law, the date of process and
19 the daily mileage.

20 J. The standardized daily activity log maintained in subsection I
21 of this section is a public record and shall be made available by the
22 constable at the constable's office during regular office hours. The
23 standardized daily activity log shall be filed monthly by the tenth day of
24 the following month with the clerk of the board of supervisors. The board
25 of supervisors shall determine the method for filing the standardized
26 daily activity log.

27 Sec. 2. Section 12-1809, Arizona Revised Statutes, is amended to
28 read:

29 12-1809. Injunction against harassment; petition; venue;
30 fees; notices; enforcement; definition

31 A. A person may file a verified petition with a magistrate, justice
32 of the peace or superior court judge for an injunction prohibiting
33 harassment. If the person is a minor, the parent, legal guardian or
34 person who has legal custody of the minor shall file the petition unless
35 the court determines otherwise. The petition shall name the parent,
36 guardian or custodian as the plaintiff, and the minor is a specifically
37 designated person for the purposes of subsection F of this section. If a
38 person is either temporarily or permanently unable to request an
39 injunction, a third party may request an injunction on behalf of the
40 plaintiff. After the request, the judicial officer shall determine if the
41 third party is an appropriate requesting party for the plaintiff.
42 Notwithstanding the location of the plaintiff or defendant, any court in
43 this state may issue or enforce an injunction against harassment.

1 B. An injunction against harassment shall not be granted:
2 1. Unless the party who requests the injunction files a written
3 verified petition for injunction.
4 2. Against a person who is less than twelve years of age unless the
5 injunction is granted by the juvenile division of the superior court.
6 3. Against more than one defendant.
7 C. The petition shall state all of the following:
8 1. The name of the plaintiff. The plaintiff's address and contact
9 information shall be disclosed to the court for purposes of service and
10 notification. The address and contact information shall not be listed on
11 the petition. Whether or not the court issues an injunction against
12 harassment, the plaintiff's address and contact information shall be
13 maintained in a separate document or automated database and is not subject
14 to release or disclosure by the court or any form of public access except
15 as ordered by the court.
16 2. The name and address, if known, of the defendant.
17 3. A specific statement showing events and dates of the acts
18 constituting the alleged harassment.
19 4. The name of the court in which there was or is any prior or
20 pending proceeding or order concerning the conduct that is sought to be
21 restrained.
22 5. The relief requested.
23 D. A fee shall not be charged for filing a petition under this
24 section. Fees for service of process may be deferred or waived under any
25 rule or law applicable to civil actions, except that fees for service of
26 process shall not be charged if the petition arises out of ~~a dating~~
27 ~~relationship or~~ sexual violence as defined in section 23-371. The court
28 shall advise a plaintiff that the plaintiff may be eligible for the
29 deferral or waiver of these fees at the time the plaintiff files a
30 petition. The court shall not require the plaintiff to perform community
31 restitution as a condition of the waiver or deferral of fees for service
32 of process. A law enforcement agency or constable shall not require the
33 advance payment of fees for service of process of injunctions against
34 harassment. If the court does not waive the fees, the serving agency may
35 assess the actual fees against the plaintiff. On request of the
36 plaintiff, an injunction against harassment that is issued by a municipal
37 court may be served by the police agency for that city if the defendant
38 can be served within the city. If the defendant cannot be served within
39 the city, the police agency in the city in which the defendant can be
40 served may serve the injunction. On request of the plaintiff, each
41 injunction against harassment that is issued by a justice of the peace
42 shall be served by the constable for that jurisdiction if the defendant
43 can be served within the jurisdiction. If the defendant cannot be served
44 within that jurisdiction, the constable in the jurisdiction in which the
45 defendant can be served shall serve the injunction. On request of the

1 plaintiff, an injunction against harassment that is issued by a superior
2 court judge or commissioner may be served by the sheriff of the
3 county. If the defendant cannot be served within that jurisdiction, the
4 sheriff in the jurisdiction in which the defendant can be served may serve
5 the order. The court shall provide, without charge, forms for purposes of
6 this section for assisting parties without counsel.

7 E. The court shall review the petition, any other pleadings on file
8 and any evidence offered by the plaintiff, including any evidence of
9 harassment by electronic contact or communication, to determine whether
10 the injunction requested should issue without a further hearing. Rules
11 65(a)(1) and 65(e) of the Arizona rules of civil procedure do not apply to
12 injunctions that are requested pursuant to this section. If the court
13 finds reasonable evidence of harassment of the plaintiff by the defendant
14 during the year preceding the filing of the petition or that good cause
15 exists to believe that great or irreparable harm would result to the
16 plaintiff if the injunction is not granted before the defendant or the
17 defendant's attorney can be heard in opposition and the court finds
18 specific facts attesting to the plaintiff's efforts to give notice to the
19 defendant or reasons supporting the plaintiff's claim that notice should
20 not be given, the court shall issue an injunction as provided in
21 subsection F of this section. If the court denies the requested relief,
22 it may schedule a further hearing within ten days with reasonable notice
23 to the defendant. For the purposes of determining the ~~one-year~~ ONE-YEAR
24 period, any time that the defendant has been incarcerated or out of this
25 state shall not be counted.

26 F. If the court issues an injunction, the court may do any of the
27 following:

28 1. Enjoin the defendant from committing a violation of one or more
29 acts of harassment.

30 2. Restrain the defendant from contacting the plaintiff or other
31 specifically designated persons and from coming near the residence, place
32 of employment or school of the plaintiff or other specifically designated
33 locations or persons.

34 3. Grant relief necessary for the protection of the alleged victim
35 and other specifically designated persons proper under the circumstances.

36 G. The court shall not grant a mutual injunction against
37 harassment. If opposing parties separately file verified petitions for an
38 injunction against harassment, the courts after consultation between the
39 judicial officers involved may consolidate the petitions of the opposing
40 parties for hearing. This does not prohibit a court from issuing cross
41 injunctions against harassment.

42 H. At any time during the period during which the injunction is in
43 effect, the defendant is entitled to one hearing on written request. ~~No~~ A
44 fee may NOT be charged for requesting a hearing. A hearing that is
45 requested by a defendant shall be held within ten days from the date

1 requested unless the court finds compelling reasons to continue the
2 hearing. The hearing shall be held at the earliest possible time. An
3 ex parte injunction that is issued under this section shall state on its
4 face that the defendant is entitled to a hearing on written request and
5 shall include the name and address of the judicial office where the
6 request may be filed. After the hearing, the court may modify, quash or
7 continue the injunction.

8 I. The injunction shall include the following statement:

9 Warning

10 This is an official court order. If you disobey this
11 order, you may be arrested and prosecuted for the crime of
12 interfering with judicial proceedings and any other crime you
13 may have committed in disobeying this order.

14 J. An injunction that is not served on the defendant within one
15 year after the date that the injunction is issued expires. The injunction
16 is effective on the defendant on service of a copy of the injunction and
17 petition and expires one year after service on the defendant. A modified
18 injunction is effective on service and expires one year after service of
19 the initial injunction and petition.

20 K. A supplemental information form that is used solely for the
21 purposes of service of process on the defendant and that contains
22 information provided by the plaintiff is confidential.

23 L. Each affidavit, declaration, acceptance or return of service
24 shall be filed as soon as practicable but not later than seventy-two
25 hours, excluding weekends and holidays, with the clerk of the issuing
26 court or as otherwise required by court rule. This filing shall be
27 completed in person, electronically or by fax.

28 M. The supreme court shall maintain a central repository for
29 injunctions. Within twenty-four hours after the affidavit, declaration,
30 acceptance or return of service has been filed, excluding weekends and
31 holidays, the court from which the injunction or any modified injunction
32 was issued shall enter the order and proof of service into the supreme
33 court's central repository for injunctions. The supreme court shall
34 register the injunction with the national crime information center. The
35 effectiveness of an injunction does not depend on its registration, and
36 for enforcement purposes pursuant to section 13-2810, a copy of an
37 injunction, whether or not registered, is presumed to be a valid existing
38 order of the court for a period of one year from the date of service of
39 the injunction on the defendant.

40 N. A peace officer, with or without a warrant, may arrest a person
41 if the peace officer has probable cause to believe that the person has
42 violated section 13-2810 by disobeying or resisting an injunction that is
43 issued pursuant to this section, whether or not the violation occurred in
44 the presence of the officer. The provisions for release under section
45 13-3903 do not apply to an arrest made pursuant to this subsection. A

1 person who is arrested pursuant to this subsection may be released from
2 custody in accordance with the Arizona rules of criminal procedure or any
3 other applicable statute. An order for release, with or without an
4 appearance bond, shall include pretrial release conditions that are
5 necessary to provide for the protection of the alleged victim and other
6 specifically designated persons and may provide for additional conditions
7 that the court deems appropriate, including participation in any
8 counseling programs available to the defendant.

9 O. If a peace officer responds to a call alleging that harassment
10 has been or may be committed, the officer shall inform in writing any
11 alleged or potential victim of the procedures and resources available for
12 the protection of the victim including:

13 1. An injunction pursuant to this section.

14 2. The emergency telephone number for the local police agency.

15 3. Telephone numbers for emergency services in the local community.

16 P. The remedies provided in this section for enforcement of the
17 orders of the court are in addition to any other civil and criminal
18 remedies available. The municipal court and the justice court may hear
19 and decide all matters arising pursuant to this section. After a hearing
20 with notice to the affected party, the court may enter an order requiring
21 any party to pay the costs of the action, including reasonable attorney
22 fees, if any. An order that is entered by a justice court or municipal
23 court after a hearing pursuant to this section may be appealed to the
24 superior court as provided in title 22, chapter 2, article 4, section
25 22-425, subsection B and the superior court rules of civil appellate
26 procedure without regard to an amount in controversy. ~~NO~~ A fee may NOT be
27 charged to either party for filing an appeal.

28 Q. A peace officer who makes an arrest pursuant to this section is
29 not civilly or criminally liable for the arrest if the officer acts on
30 probable cause and without malice. A peace officer is not civilly liable
31 for noncompliance with subsection O of this section.

32 R. This section does not apply to preliminary injunctions issued
33 pursuant to an action for dissolution of marriage or legal separation or
34 for protective orders against domestic violence.

35 S. In addition to the persons who are authorized to serve process
36 pursuant to rule 4(d), Arizona rules of civil procedure, a peace officer
37 or a correctional officer as defined in section 41-1661 who is acting in
38 the officer's official capacity may serve an injunction against harassment
39 that is issued pursuant to this section.

40 T. For the purposes of this section, "harassment":

41 1. Means ~~any~~ EITHER of the following:

42 (a) A series of acts over any period of time that is directed at a
43 specific person and that would cause a reasonable person to be seriously
44 alarmed, annoyed or harassed and the conduct in fact seriously alarms,
45 annoys or harasses the person and serves no legitimate purpose.

1 (b) One or more acts of sexual violence as defined in section
2 23-371.

3 ~~(c) Any contact if the person is the victim of a crime that was~~
4 ~~committed by the defendant. For the purposes of this subdivision, "crime"~~
5 ~~means a conviction for an offense, whether completed or preparatory, that~~
6 ~~is a dangerous offense as defined in section 13-105, a serious offense or~~
7 ~~violent or aggravated felony as defined in section 13-706 or any offense~~
8 ~~in title 13, chapter 14 or 35.1.~~

9 2. Includes unlawful picketing, trespassory assembly, unlawful mass
10 assembly, concerted interference with lawful exercise of business activity
11 and engaging in a secondary boycott as defined in section 23-1321 and
12 defamation in violation of section 23-1325.

13 Sec. 3. Title 13, chapter 7, Arizona Revised Statutes, is amended
14 by adding section 13-719, to read:

15 13-719. Lifetime injunction; offenses; registration;
16 previously sentenced defendants

17 A. AT THE TIME OF SENTENCING, ON THE REQUEST OF THE VICTIM OR THE
18 PROSECUTOR, THE COURT SHALL ISSUE AN INJUNCTION THAT PROHIBITS THE
19 DEFENDANT FROM CONTACTING THE VICTIM IF THE DEFENDANT IS CONVICTED OF ANY
20 OF THE FOLLOWING OFFENSES, WHETHER COMPLETED OR PREPARATORY:

21 1. A DANGEROUS OFFENSE AS DEFINED IN SECTION 13-105.

22 2. A SERIOUS OFFENSE OR VIOLENT OR AGGRAVATED FELONY AS DEFINED IN
23 SECTION 13-706.

24 3. A FELONY OFFENSE INCLUDED IN CHAPTER 14 OR 35.1 OF THIS TITLE.

25 B. AN INJUNCTION ISSUED PURSUANT TO THIS SECTION IS EFFECTIVE
26 IMMEDIATELY AND SHALL BE SERVED ON THE DEFENDANT AT THE TIME OF
27 SENTENCING. UNLESS THE VICTIM SUBMITS A WRITTEN REQUEST TO THE COURT FOR
28 AN EARLY EXPIRATION, THE INJUNCTION DOES NOT EXPIRE AND IS VALID FOR THE
29 DEFENDANT'S NATURAL LIFETIME.

30 C. THE COURT SHALL PROVIDE INFORMATION TO THE DEPARTMENT OF PUBLIC
31 SAFETY TO REGISTER THE INJUNCTION WITH THE NATIONAL CRIME INFORMATION
32 SYSTEM AND SHALL NOTIFY THE VICTIM OF THE INJUNCTION.

33 D. A VICTIM MAY SUBMIT A PETITION TO THE COURT REQUESTING AN
34 INJUNCTION AGAINST A DEFENDANT WHO WAS SENTENCED FOR AN OFFENSE LISTED IN
35 SUBSECTION A OF THIS SECTION BEFORE THE EFFECTIVE DATE OF THIS SECTION. A
36 LAW ENFORCEMENT AGENCY SHALL SERVE AN INJUNCTION ISSUED PURSUANT TO THIS
37 SUBSECTION AT NO CHARGE TO THE VICTIM. UNLESS THE VICTIM SUBMITS A
38 WRITTEN REQUEST TO THE COURT FOR AN EARLY TERMINATION, THE INJUNCTION
39 ISSUED PURSUANT TO THIS SUBSECTION DOES NOT EXPIRE AND IS VALID FOR THE
40 DEFENDANT'S NATURAL LIFETIME.

41 Sec. 4. Section 13-901, Arizona Revised Statutes, is amended to
42 read:

43 13-901. Probation

44 A. If a person who has been convicted of an offense is eligible for
45 probation, the court may suspend the imposition or execution of sentence

1 and, if so, shall without delay place the person on intensive probation
2 supervision pursuant to section 13-913 or supervised or unsupervised
3 probation on such terms and conditions as the law requires and the court
4 deems appropriate, including participation in any programs authorized in
5 title 12, chapter 2, article 11. If a person is not eligible for
6 probation, imposition or execution of sentence shall not be suspended or
7 delayed. If the court imposes probation, it may also impose a fine as
8 authorized by chapter 8 of this title. If probation is granted the court
9 shall impose a condition that the person waive extradition for any
10 probation revocation procedures and it shall order restitution pursuant to
11 section 13-603, subsection C where there is a victim who has suffered
12 economic loss. When granting probation to an adult the court, as a
13 condition of probation, shall assess a monthly fee of not less than \$65
14 unless, after determining the inability of the probationer to pay the fee,
15 the court assesses a lesser fee. This fee is not subject to any
16 surcharge. In justice and municipal courts the fee shall only be assessed
17 when the person is placed on supervised probation. For persons placed on
18 probation in the superior court, the fee shall be paid to the clerk of the
19 superior court and the clerk of the court shall pay all monies collected
20 from this fee to the county treasurer for deposit in the adult probation
21 services fund established by section 12-267. For persons placed on
22 supervised probation in the justice court, the fee shall be paid to the
23 justice court and the justice court shall transmit all of the monies to
24 the county treasurer for deposit in the adult probation services fund
25 established by section 12-267. For persons placed on supervised probation
26 in the municipal court, the fee shall be paid to the municipal court. The
27 municipal court shall transmit all of the monies to the city treasurer who
28 shall transmit the monies to the county treasurer for deposit in the adult
29 probation services fund established by section 12-267. Any amount
30 assessed pursuant to this subsection shall be used to supplement monies
31 used for the salaries of adult probation and surveillance officers and for
32 support of programs and services of the superior court adult probation
33 departments.

34 B. The period of probation shall be determined according to section
35 13-902, except that if a person is released pursuant to section 31-233,
36 subsection B and community supervision is waived pursuant to section
37 13-603, subsection K, the court shall extend the period of probation by
38 the amount of time the director of the state department of corrections
39 approves for the inmate's temporary release.

40 C. The court, in its discretion, may issue a warrant for the
41 rearrest of the defendant and may modify or add to the conditions or, if
42 the defendant commits an additional offense or violates a condition, may
43 revoke probation in accordance with the rules of criminal procedure at any
44 time before the expiration or termination of the period of probation. If
45 the court revokes the defendant's probation and the defendant is serving

1 more than one probationary term concurrently, the court may sentence the
2 person to terms of imprisonment to be served consecutively.

3 D. At any time during the probationary term of the person released
4 on probation, any probation officer, without warrant or other process and
5 at any time until the final disposition of the case, may rearrest any
6 person and bring the person before the court.

7 E. The court, on its own initiative or on application of the
8 probationer, after notice and an opportunity to be heard for the
9 prosecuting attorney and, on request, the victim, may terminate the period
10 of probation or intensive probation and discharge the defendant at a time
11 earlier than that originally imposed if in the court's opinion the ends of
12 justice will be served and if the conduct of the defendant on probation
13 warrants it. ~~On the petition of the victim pursuant to section 12-1809
14 and before the court terminates the period of probation or intensive
15 probation early, the court after hearing from the victim shall determine
16 whether to prohibit the defendant from contacting the victim and, if
17 necessary, issue an injunction against harassment against the defendant.
18 If the court issues an injunction against harassment, the injunction must
19 be served on the defendant before terminating the period of probation or
20 intensive probation.~~

21 F. When granting probation the court may require that the defendant
22 be imprisoned in the county jail at whatever time or intervals,
23 consecutive or nonconsecutive, the court shall determine, within the
24 period of probation, as long as the period actually spent in confinement
25 does not exceed one year or the maximum period of imprisonment permitted
26 under chapter 7 of this title, whichever is the shorter.

27 G. If the defendant is placed on lifetime probation and has served
28 one year in the county jail as a term of probation, the court may require
29 that the defendant be additionally imprisoned in the county jail at
30 whatever time or intervals, consecutive or nonconsecutive, the court shall
31 determine, within the period of probation if the defendant's probation is
32 revoked by the court and the defendant is subsequently reinstated on
33 probation. The period actually spent in confinement as a term of being
34 reinstated on probation shall not exceed one year or, when including the
35 initial one year period of incarceration imposed as a term of probation,
36 the maximum period of imprisonment permitted under chapter 7 of this
37 title, whichever is shorter.

38 H. If restitution is made a condition of probation, the court shall
39 fix the amount of restitution and the manner of performance pursuant to
40 chapter 8 of this title.

41 I. When granting probation, the court shall set forth at the time
42 of sentencing and on the record the factual and legal reasons in support
43 of each sentence.

1 J. If the defendant meets the criteria set forth in section
2 13-901.01 or 13-3422, the court may place the defendant on probation
3 pursuant to either section. If a defendant is placed on probation
4 pursuant to section 13-901.01 or 13-3422, the court may impose any term of
5 probation that is authorized pursuant to this section and that is not in
6 violation of section 13-901.01.

7 Sec. 5. Section 31-411.01, Arizona Revised Statutes, is amended to
8 read:

9 31-411.01. Parole or community supervision for persons
10 previously convicted of possession or use of
11 marijuana, a dangerous drug or a narcotic drug;
12 treatment; prevention; education; termination of
13 parole or community supervision

14 A. Notwithstanding any law to the contrary, every prisoner who is
15 eligible for parole or community supervision pursuant to section
16 41-1604.16 shall be released on parole or community supervision if in its
17 sole discretion the board of executive clemency determines that there is a
18 substantial probability that the prisoner will remain at liberty without
19 violating the law and the release is in the best interests of the people
20 of this state. If a prisoner is denied release on parole or community
21 supervision, the prisoner is not entitled to a rehearing under this
22 section.

23 B. If a prisoner is released on parole or community supervision
24 pursuant to this section, the board of executive clemency shall order that
25 as a condition of parole or community supervision the person:

26 1. Be required to participate in an appropriate drug treatment or
27 education program that is administered by a qualified agency, organization
28 or individual approved by the department of health services and that
29 provides the treatment or education to persons who abuse controlled
30 substances. Each person who is enrolled in a drug treatment or education
31 program shall pay for the costs of participation in the program to the
32 extent of the person's financial ability.

33 2. On the request of the victim, be prohibited from contacting the
34 victim. ~~The board of executive clemency may inform the victim of the~~
35 ~~victim's ability to petition the court for an injunction against~~
36 ~~harassment pursuant to section 12-1809 prohibiting the person from~~
37 ~~contacting the victim.~~

38 C. A prisoner who is released on parole or community supervision
39 pursuant to this section shall remain on parole or community supervision
40 until the prisoner reaches the earned release credit date pursuant to
41 section 41-1604.10 or the community supervision expiration date pursuant
42 to section 41-1604.07. A prisoner who is on earned release credit release
43 pursuant to section 41-1604.10 is not under the control of the state
44 department of corrections and the department is not required to provide
45 parole services or to otherwise supervise any prisoner released except

1 that the department may revoke the release of the prisoner until the final
2 expiration of the prisoner's sentence if the department believes that the
3 released prisoner has engaged in criminal conduct during the term of the
4 prisoner's release.

5 D. The board of executive clemency may revoke the prisoner's
6 release if the prisoner violates the conditions of supervision that are
7 imposed by the board or the state department of corrections.

8 Sec. 6. Supreme court procedures

9 The supreme court shall develop and adopt procedures for a victim
10 who is eligible for an injunction pursuant to section 13-719, subsection
11 D, Arizona Revised Statutes, as added by this act, to petition the
12 superior court for an injunction that prohibits contact by a defendant who
13 was sentenced before the effective date of this act.