

REFERENCE TITLE: courts; 2022-2023.

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

SB 1726

Introduced by
Senators Fann: Borrelli, Gowan, Gray, Leach (with permission of Committee
on Rules)

AN ACT

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

(TEXT OF BILL BEGINS ON NEXT PAGE)

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

17 12-120.02. Election of judges

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

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

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

42 21-222. Arizona trial and digital evidence fund

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

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

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

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

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

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

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

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

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

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

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

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

14 22-117. Payment of compensation and expenses

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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