

REFERENCE TITLE: probation; felony violation; rearrest

State of Arizona  
Senate  
Fifty-sixth Legislature  
First Regular Session  
2023

## **SB 1262**

Introduced by  
Senators Kern: Rogers

AN ACT

AMENDING SECTIONS 13-901, 13-903, 13-917 AND 13-924, ARIZONA REVISED  
STATUTES; RELATING TO PROBATION.

(TEXT OF BILL BEGINS ON NEXT PAGE)

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

2 Section 1. Section 13-901, Arizona Revised Statutes, is amended to  
3 read:

4 13-901. Probation

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

40 B. The period of probation shall be determined according to section  
41 13-902, except that if a person is released pursuant to section 31-233,  
42 subsection B and community supervision is waived pursuant to section  
43 13-603, subsection K, the court shall extend the period of probation by  
44 the amount of time the director of the state department of corrections  
45 approves for the inmate's temporary release.

1 C. AT ANY TIME DURING THE PROBATIONARY TERM OF THE PERSON RELEASED  
2 ON PROBATION, the court:

3 1. EXCEPT AS PROVIDED IN PARAGRAPH 2 OF THIS SUBSECTION, in its  
4 discretion, may issue a warrant for the rearrest of the defendant.

5 2. SHALL ISSUE A WARRANT WITHOUT DELAY FOR THE REARREST OF A  
6 DEFENDANT WHO IS CHARGED BY INDICTMENT OR INFORMATION WITH A FELONY  
7 OFFENSE THAT WAS COMMITTED WHILE THE DEFENDANT IS ON PROBATION, UNLESS THE  
8 COURT HAS PREVIOUSLY CONSIDERED THE FELONY OFFENSE AT A PRIOR REVOCATION  
9 HEARING. A DEFENDANT WHO IS ARRESTED PURSUANT TO THIS PARAGRAPH IS NOT  
10 ELIGIBLE FOR RELEASE WHILE PROBATION REVOCATION PROCEEDINGS ARE PENDING.

11 3. ~~and~~ May modify or add to the conditions ~~of~~, OF PROBATION.

12 4. If the defendant commits an additional offense or violates a  
13 condition OF PROBATION, may revoke probation in accordance with the  
14 ARIZONA rules of criminal procedure ~~at any time before the expiration or~~  
15 ~~termination of the period of probation.~~

16 D. If the court revokes the defendant's probation and the defendant  
17 is serving more than one probationary term concurrently, the court may  
18 sentence the person to terms of imprisonment to be served consecutively.

19 ~~D.~~ E. At any time during the probationary term of the person  
20 released on probation, any probation officer, without warrant or other  
21 process and at any time until the final disposition of the case, may  
22 rearrest any person and bring the person before the court.

23 ~~E.~~ F. The court, on its own initiative or on application of the  
24 probationer, after notice and an opportunity to be heard for the  
25 prosecuting attorney and, on request, the victim, may terminate the period  
26 of probation or intensive probation and discharge the defendant at a time  
27 earlier than that originally imposed if in the court's opinion the ends of  
28 justice will be served and if the conduct of the defendant on probation  
29 warrants it.

30 ~~F.~~ G. When granting probation the court may require that the  
31 defendant be imprisoned in the county jail at whatever time or intervals,  
32 consecutive or nonconsecutive, the court shall determine, within the  
33 period of probation, as long as the period actually spent in confinement  
34 does not exceed one year or the maximum period of imprisonment ~~permitted~~  
35 ALLOWED under chapter 7 of this title, whichever is ~~the~~ shorter.

36 ~~G.~~ H. If the defendant is placed on lifetime probation and has  
37 served one year in the county jail as a term of probation, the court may  
38 require that the defendant be additionally imprisoned in the county jail  
39 at whatever time or intervals, consecutive or nonconsecutive, the court  
40 shall determine, within the period of probation if the defendant's  
41 probation is revoked by the court and the defendant is subsequently  
42 reinstated on probation. The period actually spent in confinement as a  
43 term of being reinstated on probation shall not exceed one year or, when  
44 including the initial ~~one year~~ ONE-YEAR period of incarceration imposed as

1 a term of probation, the maximum period of imprisonment ~~permitted~~ ALLOWED  
2 under chapter 7 of this title, whichever is shorter.

3 ~~H.~~ I. If restitution is made a condition of probation, the court  
4 shall fix the amount of restitution and the manner of performance pursuant  
5 to chapter 8 of this title.

6 ~~I.~~ J. When granting probation, the court shall set forth at the  
7 time of sentencing and on the record the factual and legal reasons in  
8 support of each sentence.

9 ~~J.~~ K. If the defendant meets the criteria set forth in section  
10 13-901.01 or 13-3422, the court may place the defendant on probation  
11 pursuant to either section. If a defendant is placed on probation  
12 pursuant to section 13-901.01 or 13-3422, the court may impose any term of  
13 probation that is authorized pursuant to this section and that is not in  
14 violation of section 13-901.01.

15 Sec. 2. Section 13-903, Arizona Revised Statutes, is amended to  
16 read:

17 13-903. Calculation of periods of probation

18 A. A period of probation commences on the day it is imposed or as  
19 designated by the court, and an extended period of probation commences on  
20 the day the original period lapses.

21 B. If a court determines that the defendant violated a condition of  
22 the defendant's probation but reinstates probation, the period between the  
23 date of the violation and the date of restoration of probation is not  
24 computed as part of the period of probation. If it is determined that the  
25 defendant is not a violator, there is no interruption of the period OF  
26 PROBATION.

27 C. The running of the period of probation shall cease during the  
28 unauthorized absence of the defendant from the jurisdiction or from any  
29 required supervision and shall resume only ~~upon~~ ON the defendant's  
30 voluntary or involuntary return to the probation service.

31 D. The running of the period of probation shall cease during the  
32 period from the filing of the petition to revoke probation to the  
33 termination of revocation of probation proceedings, except that if a court  
34 determines that the defendant is not a violator, there is no interruption  
35 of the period of probation.

36 E. If probation is imposed on one who at the time is serving a  
37 sentence of imprisonment imposed on a different conviction, service of the  
38 sentence of imprisonment shall not satisfy the probation.

39 F. Time spent in custody under section 13-901, subsection ~~F~~ G  
40 shall be credited to any sentence of imprisonment imposed ~~upon~~ ON  
41 revocation of probation.

1           Sec. 3. Section 13-917, Arizona Revised Statutes, is amended to  
2 read:

3           13-917. Modification of supervision

4           A. The adult probation officer shall periodically examine the risk  
5 and needs of each person granted intensive probation and the risks of  
6 modifying the level of supervision of the person. The court or the adult  
7 probation officer may at any time modify the level of intensive probation  
8 supervision of a person granted intensive probation. The court may  
9 transfer the person to standard probation or terminate the period of  
10 intensive probation pursuant to section 13-901, subsection ~~E~~ F.

11           B. If a petition to revoke the grant of intensive probation is  
12 filed and the court finds that the person has committed an additional  
13 felony offense that posed a serious threat or danger to the community, the  
14 court shall revoke the grant of intensive probation and impose a term of  
15 imprisonment as authorized by law. If the court finds that the person has  
16 committed a violation of a condition of intensive probation that posed a  
17 serious threat or danger to the community, the court shall revoke the  
18 grant of intensive probation and impose a term of imprisonment as  
19 authorized by law. If the court finds that the person has violated any  
20 other condition of intensive probation, the court may modify the  
21 conditions of intensive probation or may revoke the grant of intensive  
22 probation and impose a term of imprisonment as authorized by law.

23           C. The court shall notify the parties, and the victim on request,  
24 of any proposed modification of the terms of a person's intensive  
25 probation if that modification will substantially affect the person's  
26 contact with or safety of the victim or if the modification involves  
27 restitution or incarceration status.

28           Sec. 4. Section 13-924, Arizona Revised Statutes, is amended to  
29 read:

30           13-924. Probation; earned time credit; applicability

31           A. The court may adjust the period of a probationer's supervised  
32 probation on the recommendation of an adult probation officer for earned  
33 time credit.

34           B. Earned time credit equals twenty days for every thirty days that  
35 a probationer does all of the following:

36           1. Exhibits positive progression toward the goals and treatment of  
37 the probationer's case plan.

38           2. Is current on payments for court ordered restitution and is in  
39 compliance with all other nonmonetary obligations.

40           3. Is current in completing community restitution.

41           C. Any earned time credit awarded pursuant to this section shall be  
42 revoked if a probationer is found in violation of a condition of  
43 probation.

1 D. This section does not apply to a probationer who is currently:

2 1. On lifetime probation.

3 2. On probation for any class 2 or 3 felony.

4 3. On probation exclusively for a misdemeanor offense.

5 4. Required to register pursuant to section 13-3821.

6 E. This section has no effect on the ability of the court to  
7 terminate the period of probation or intensive probation pursuant to  
8 section 13-901, subsection ~~E~~ F at a time earlier than originally imposed.