

REFERENCE TITLE: probation; felony conviction

State of Arizona  
Senate  
Fifty-sixth Legislature  
Second Regular Session  
2024

# SB 1474

Introduced by  
Senator Kern

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 SUBSECTION D OF THIS SECTION, in its  
4 discretion, may issue a warrant for the rearrest of the defendant. ~~and~~

5 2. May modify or add to the conditions ~~or~~, OF PROBATION.

6 3. If the defendant commits an additional offense or violates a  
7 condition OF PROBATION, may revoke probation in accordance with the  
8 ARIZONA rules of criminal procedure ~~at any time before the expiration or~~  
9 ~~termination of the period of probation.~~

10 D. FOR A DEFENDANT WHO IS RELEASED ON PROBATION AS THE RESULT OF A  
11 FELONY CONVICTION, AT THE REQUEST OF THE STATE OR A PROBATION OFFICER, THE  
12 COURT SHALL ISSUE A WARRANT WITHOUT DELAY FOR THE REARREST OF A DEFENDANT  
13 WHO IS CHARGED BY INDICTMENT OR INFORMATION WITH A FELONY OFFENSE THAT WAS  
14 COMMITTED DURING THE PROBATIONARY TERM. A PERSON WHO IS ACCUSED OF  
15 COMMITTING A FELONY OFFENSE WHILE THE PERSON WAS ON PROBATION IS NOT  
16 ELIGIBLE FOR RELEASE WHILE PROBATION REVOCATION PROCEEDINGS ARE PENDING IF  
17 THE COURT FINDS A REASONABLE PROBABILITY EXISTS THAT IT WILL IMPOSE A  
18 SENTENCE OF IMPRISONMENT IF IT FINDS THE DEFENDANT IN VIOLATION OF  
19 PROBATION. A PERSON WHO IS HELD WITHOUT BOND UNDER THIS SUBSECTION IS  
20 ENTITLED TO A BAIL ELIGIBILITY HEARING IN ACCORDANCE WITH THE ARIZONA  
21 RULES OF CRIMINAL PROCEDURE WHERE THE COURT WILL DETERMINE IF THE PERSON  
22 SHOULD BE HELD WITHOUT BOND. THE RELEASE PROVISIONS OF THIS SUBSECTION DO  
23 NOT APPLY IF THE DEFENDANT IS ELIGIBLE FOR MANDATORY PROBATION PURSUANT TO  
24 SECTION 13-901.01 OR IF THE COURT HAS PREVIOUSLY CONSIDERED THE NEW FELONY  
25 OFFENSE AT A PRIOR REVOCATION HEARING.

26 E. If the court revokes the defendant's probation and the defendant  
27 is serving more than one probationary term concurrently, the court may  
28 sentence the person to terms of imprisonment to be served consecutively.

29 ~~D.~~ F. At any time during the probationary term of the person  
30 released on probation, any probation officer, without warrant or other  
31 process and at any time until the final disposition of the case, may  
32 rearrest any person and bring the person before the court.

33 ~~E.~~ G. The court, on its own initiative or on application of the  
34 probationer, after notice and an opportunity to be heard for the  
35 prosecuting attorney and, on request, the victim, may terminate the period  
36 of probation or intensive probation and discharge the defendant at a time  
37 earlier than that originally imposed if in the court's opinion the ends of  
38 justice will be served and if the conduct of the defendant on probation  
39 warrants it.

40 ~~F.~~ H. When granting probation the court may require that the  
41 defendant be imprisoned in the county jail at whatever time or intervals,  
42 consecutive or nonconsecutive, the court shall determine, within the  
43 period of probation, as long as the period actually spent in confinement  
44 does not exceed one year or the maximum period of imprisonment allowed  
45 under chapter 7 of this title, whichever is ~~the~~ shorter.

1 ~~G.~~ I. If the defendant is placed on lifetime probation and has  
2 served one year in the county jail as a term of probation, the court may  
3 require that the defendant be additionally imprisoned in the county jail  
4 at whatever time or intervals, consecutive or nonconsecutive, the court  
5 shall determine, within the period of probation if the defendant's  
6 probation is revoked by the court and the defendant is subsequently  
7 reinstated on probation. The period actually spent in confinement as a  
8 term of being reinstated on probation shall not exceed one year or, when  
9 including the initial one-year period of incarceration imposed as a term  
10 of probation, the maximum period of imprisonment allowed under chapter 7  
11 of this title, whichever is shorter.

12 ~~H.~~ J. If restitution is made a condition of probation, the court  
13 shall fix the amount of restitution and the manner of performance pursuant  
14 to chapter 8 of this title.

15 ~~I.~~ K. When granting probation, the court shall set forth at the  
16 time of sentencing and on the record the factual and legal reasons in  
17 support of each sentence.

18 ~~J.~~ L. If the defendant meets the criteria set forth in section  
19 13-901.01 or 13-3422, the court may place the defendant on probation  
20 pursuant to either section. If a defendant is placed on probation  
21 pursuant to section 13-901.01 or 13-3422, the court may impose any term of  
22 probation that is authorized pursuant to this section and that is not in  
23 violation of section 13-901.01.

24 ~~K.~~ M. If the court imposes a term of probation, the court may  
25 require the defendant to report to a probation officer. The court or the  
26 defendant's probation officer may allow the defendant to fulfill a  
27 reporting requirement through remote reporting. The probation officer  
28 shall take into consideration and make accommodations for the  
29 probationer's work schedule, family caregiver obligations, substance abuse  
30 treatment or recovery program, mental health treatment, transportation  
31 availability and medical care requirements before setting the reporting  
32 time and location requirements for the probationer.

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

35 13-903. Calculation of periods of probation

36 A. A period of probation commences on the day it is imposed or as  
37 designated by the court, and an extended period of probation commences on  
38 the day the original period lapses.

39 B. If a court determines that the defendant violated a condition of  
40 the defendant's probation but reinstates probation, the period between the  
41 date of the violation and the date of restoration of probation is not  
42 computed as part of the period of probation. If it is determined that the  
43 defendant is not a violator, there is no interruption of the period **OF**  
44 **PROBATION**.

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

5 D. The running of the period of probation shall cease during the  
6 period from the filing of the petition to revoke probation to the  
7 termination of revocation of probation proceedings, except that if a court  
8 determines that the defendant is not a violator, there is no interruption  
9 of the period of probation.

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

13 F. Time spent in custody under section 13-901, subsection ~~F~~ D OR H  
14 shall be credited to any sentence of imprisonment imposed ~~upon~~ ON  
15 revocation of probation.

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

18 13-917. Modification of supervision

19 A. The adult probation officer shall periodically examine the risk  
20 and needs of each person granted intensive probation and the risks of  
21 modifying the level of supervision of the person. The court or the adult  
22 probation officer may at any time modify the level of intensive probation  
23 supervision of a person granted intensive probation. The court may  
24 transfer the person to standard probation or terminate the period of  
25 intensive probation pursuant to section 13-901, subsection ~~F~~ G.

26 B. If a petition to revoke the grant of intensive probation is  
27 filed and the court finds that the person has committed an additional  
28 felony offense that posed a serious threat or danger to the community, the  
29 court shall revoke the grant of intensive probation and impose a term of  
30 imprisonment as authorized by law. If the court finds that the person has  
31 committed a violation of a condition of intensive probation that posed a  
32 serious threat or danger to the community, the court shall revoke the  
33 grant of intensive probation and impose a term of imprisonment as  
34 authorized by law. If the court finds that the person has violated any  
35 other condition of intensive probation, the court may modify the  
36 conditions of intensive probation or may revoke the grant of intensive  
37 probation and impose a term of imprisonment as authorized by law.

38 C. The court shall notify the parties, and the victim on request,  
39 of any proposed modification of the terms of a person's intensive  
40 probation if that modification will substantially affect the person's  
41 contact with or safety of the victim or if the modification involves  
42 restitution or incarceration status.

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

3           13-924. Probation; earned time credit; work time credit;  
4                           applicability; definitions

5           A. The court may adjust the period of a probationer's supervised  
6 probation on the recommendation of an adult probation officer for earned  
7 time credit or work time credit.

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

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

12           2. Is current on payments for ~~court-ordered~~ COURT-ORDERED  
13 restitution and is in compliance with all other nonmonetary obligations.

14           3. Is current in completing community restitution.

15           C. Work time credit equals thirty days for every thirty days that a  
16 probationer does all of the following:

17           1. Is engaged in eligible employment. A probationer must provide  
18 supporting documentation to the supervising probation officer within five  
19 business days after completing thirty days of eligible employment. The  
20 supervising probation officer must verify the probationer's employment  
21 through the supporting documentation that is provided by the probationer  
22 and by any other means that the court determines is necessary to verify  
23 the work, including site visits and telephonic verification. The  
24 probation officer must document any request for work time credit that is  
25 denied.

26           2. Exhibits positive progression toward the goals and treatment of  
27 the probationer's case plan.

28           3. Is current on payments for court-ordered restitution and is in  
29 compliance with all other nonmonetary obligations.

30           4. Is current in completing community restitution.

31           D. Any earned time credit and work time credit awarded pursuant to  
32 this section shall be revoked if a probationer is found in violation of a  
33 condition of probation.

34           E. This section does not apply to a probationer who is currently:

35           1. On lifetime probation.

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

37           3. On probation exclusively for a misdemeanor offense.

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

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

1           G. For the purposes of this section:

2           1. "Eligible employment" means any occupation or combination of  
3 occupations for which a person can provide supporting documentation  
4 verifying at least one hundred thirty wage-earning hours in any thirty-day  
5 period.

6           2. "Supporting documentation" means an employment record, pay stub,  
7 employment letter, contract or other reliable means of verifying  
8 employment.