

ARIZONA REVISED STATUTES (A.R.S.)

ARTICLE 7. STATE AID FOR PROBATION SERVICES

§ 12-261. Administration

The state supreme court shall carry out the provisions of this article.

§ 12-262. Submission of plan; use of funds

The presiding judge of the superior court in each county desiring to improve, maintain or expand juvenile probation services, or to achieve or maintain the average adult probation case supervision requirement prescribed in § 12-251, may prepare a plan in accordance with guidelines issued by the Supreme Court. The plan shall be submitted to the state Supreme Court. The Supreme Court guidelines shall require that the plan include:

1. That funds received under this article shall be used primarily for payment of salaries of probation officers supervising adults, or juveniles on probation to the superior, justice or municipal court.
2. That the funds provided by the state for this purpose will be utilized to supplement county funds provided for probation services.
3. The proposed budget necessary to implement the plan, including the amount currently budgeted for that county's probation program.

§ 12-263. Approval and revocation of plans

The Supreme Court shall have the authority to reject any plan submitted pursuant to § 12-262. Upon approval of a plan submitted, the Supreme Court shall enter into a funding agreement with the county and shall make payments to the county as necessary to carry out the agreement.

§ 12-264. Continued allocation of funds

By May 31 and December 31 of each year, each presiding judge of the superior court operating a program under this article shall submit to the Supreme Court an evaluation report describing the program and its accomplishments. If, in the judgment of the court, the program is successful or has shown reasonable promise of being successful, the court may continue such funding. If the program has not shown reasonable success as agreed to in the funding agreement, the court shall require submission of a new plan or modification of the existing plan as a condition of continued funding.

§ 12-265. Allocation of funds; prohibition

A. Any county operating a program under this article shall receive a base amount of twenty thousand dollars from the funds appropriated annually for the purpose of carrying out this article. The remainder of any appropriated funds, excluding funds appropriated for administration, shall be made available to each participating county based upon the Supreme Court's determination of the need for and probable effectiveness of each plan submitted pursuant to this article. The Supreme Court shall allocate such funds available according to this section.

B. Funds apportioned to each county shall be distributed within the county between the adult and juvenile probation departments in proportion to the adult and juvenile populations of that county based on the most recently available census figures from the Department of Economic Security or may be distributed on any other basis approved by both the juvenile and adult probation departments of such counties and by the Supreme Court.

C. State funds awarded to any county under this article must be utilized to improve, maintain or expand existing juvenile probation programs or to achieve or maintain the average adult probation case supervision requirement prescribed in § 12-251. No state funds may be used to increase any salaries funded under current county probation programs.

§ 12-266. Administrative personnel

The Supreme Court may employ such personnel as it deems necessary to carry out the duties of this article.

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CHAPTER 9. PROBATION AND RESTORATION OF CIVIL RIGHTS

§ 13-901. Probation

A. If a person who has been convicted of an offense is eligible for probation, the court may suspend the imposition or execution of sentence and, if so, shall without delay place such person on intensive probation supervision pursuant to § 13-913 or supervised or unsupervised probation upon such terms and conditions as the law requires and the court deems appropriate, including participation in any programs authorized in Title 12, Chapter 2, Article 11.¹ If a person is not eligible for probation, imposition or execution of sentence shall not be suspended or delayed. If the court imposes probation, it may also impose a fine as authorized by Chapter 8 of this title.² If probation is granted, the court shall impose a condition that the person waive extradition for any probation revocation procedures and it shall order restitution pursuant to § 13-603, subsection C where there is a victim who has suffered economic loss. When granting probation to an adult, the court shall, as a condition of probation, assess a monthly fee of not less than fifty dollars unless, after determining the inability of the probationer to pay the fee, the court assesses a lesser fee. In justice and municipal courts the fee shall only be assessed when the person is placed on supervised probation. For persons placed on probation in the superior court, the fee shall be paid to the clerk of the superior court and the clerk of the court shall pay all monies collected from this fee to the county treasurer for deposit in the adult probation services fund established by § 12-267. For persons placed on supervised probation in the justice court, the fee shall be paid to the justice court and the justice court shall transmit the monies to the county treasurer for deposit in the adult probation services fund established by § 12-267. For persons placed on supervised probation in the municipal court, the fee shall be paid to the municipal court. The municipal court shall transmit the monies to the city treasurer who shall transmit the monies to the county treasurer for deposit in the adult probation services fund established by § 12-267. Any amount greater than forty dollars of the fee assessed pursuant to this subsection shall only be used to supplement monies currently used for the salaries of adult probation and surveillance officers and for support of programs and services of the superior court adult probation departments.

B. The period of probation shall be determined according to § 13-902.

C. The court may in its discretion issue a warrant for the rearrest of the defendant and may modify or add to the conditions or, if the defendant commits an additional offense or violates a condition, may revoke probation in accordance with the rules of criminal procedure at any time prior to the expiration or termination of the period of probation. If the court revokes the defendant's probation and the defendant is serving more than one probationary term concurrently, the court may sentence the person to terms of imprisonment to be served consecutively.

D. At any time during the probationary term of the person released on probation, any

¹Section 12-299 et seq.

²Section 13-801 et seq.

probation officer may, without warrant or other process, at any time until the final disposition of the case, rearrest any person and bring the person before the court.

E. The court, on its own initiative or upon application of the probationer, after notice and an opportunity to be heard for the prosecuting attorney, and on request, the victim, may terminate the period of probation or intensive probation and discharge the defendant at a time earlier than originally imposed if in the court's opinion the ends of justice will be served by early termination and discharge, and if the conduct of the defendant on probation warrants it.

F. When granting probation, the court may require that the defendant be imprisoned in the county jail at times or intervals, consecutive or nonconsecutive, the court shall determine, within the period of probation, as long as the period actually spent in confinement does not exceed one year or the maximum period of imprisonment permitted under Chapter 7 of this title,³ whichever is the shorter.

G. If restitution is made a condition of probation, the court shall fix the amount thereof and the manner of performance pursuant to the provisions of Chapter 8 of this title.⁴

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

I. If the defendant meets the criteria set forth in § 13-901.01 or 13-3422, the court may place the defendant on probation pursuant to either section. If the defendant is placed on probation pursuant to § 13-901.01 or 13-3422, the court may impose a term of probation authorized pursuant to this section which is not in violation of §13-901.01.

§ 13-902. Periods of probation

- A. Unless terminated sooner, probation may continue for the following periods:
1. for a class 2 felony, seven years.
 2. for a class 3 felony, five years.
 3. for a class 4 felony, four years.
 4. for a class 5 or 6 felony, three years.
 5. for a class 1 misdemeanor, three years.
 6. for a class 2 misdemeanor, two years.

³Section 13-701 et seq.

⁴Section 13-801 et seq.

7. for a class 3 misdemeanor, one year.

B. Notwithstanding subsection A of this section, unless terminated sooner, probation may continue for the following periods:

1. For a violation of § 28-1381 or 28-1382, five years.

2. For a violation of § 28-1383, ten years.

C. When the court has required, as a condition of probation, that the defendant make restitution for any economic loss related to the defendant's offense and that condition has not been satisfied, the court at any time prior to the termination or expiration of probation may extend the period within the following limits:

1. For a felony, not more than three years.

2. For a misdemeanor, not more than one year.

D. Notwithstanding any other provision of law, justice courts and municipal courts may impose the probation periods specified in subsection A, paragraphs 5, 6, and 7 and subsection B, paragraph 1 of this section.

E. After conviction of a felony offense or an attempt to commit any offense that is included in chapter 14 or 35.1 of this title or § 13-2923 or 13-3623, if probation is available, probation may continue for a term not less than the term that is specified in subsection A of this section up to and including life and that the court believes is appropriate for the ends of justice.

§ 13-03. Calculation of periods of probation

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

B. If a court determines that the defendant violated a condition of the defendant's probation but reinstates probation, the period between the date of the violation and the date of restoration of probation is not computed as part of the period of probation. It is determined that the defendant is not a violator, there is no interruption of the period.

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

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

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

F. Time spent in custody under § 13-901, subsection F shall be credited to any sentence of imprisonment imposed upon revocation of probation.

§ 13-904. Suspension of civil rights and occupational disabilities

A. A conviction for a felony suspends the following civil rights of the person sentenced:

1. The right to vote.
2. The right to hold public office of trust or profit.
3. The right to serve as a juror.

4. During any period of imprisonment any other civil rights the suspension of which is reasonably necessary for the security of the institution in which the person sentenced is confined or for the reasonable protection of the public.

5. The right to possess a gun or firearm.

B. Persons sentenced to imprisonment shall not thereby be rendered incompetent as witnesses upon the trial of a criminal action or proceeding, or incapable of making and acknowledging a sale or conveyance of property.

C. A person sentenced to imprisonment is under the protection of the law, and any injury to his person, not authorized by law, is punishable in the same manner as if such person was not convicted and sentenced.

D. The conviction of a person for any offense shall not work forfeiture of any property, except if a forfeiture is expressly imposed by law. All forfeitures to the state, unless expressly imposed by law, are abolished.

E. A person shall not be disqualified from employment by this state or any of its agencies or political subdivisions, nor shall a person whose civil rights have been restored be disqualified to engage in any occupation for which a license, permit or certificate is required to be issued by this state solely because of a prior conviction for a felony or misdemeanor within or without this state. A person may be denied employment by this state or any of its agencies or political subdivisions or a person who has had his civil rights restored may be denied a license, permit or certificate to engage in an occupation by reason of the prior conviction of a felony or misdemeanor if the offense has a reasonable relationship to the functions of the employment or occupation for which the license, permit, or certification is sought.

F. Subsection E of this section is not applicable to any law enforcement agency.

G. Any complaints concerning a violation of subsection E shall be adjudicated in accordance with the procedures set forth in title 41, chapter 6¹ and title 12, chapter 7, article 6.²

H. A person who is adjudicated delinquent under § 8-341 does not have the right to carry or possess a gun or firearm.

§ 13-905. Restoration of civil rights; persons completing probation

A. A person who has been convicted of two or more felonies whose period of probation has been completed may have any civil rights which were lost or suspended by his felony conviction restored by the judge who discharges him at the end of the term of probation.

B. Upon proper application, a person who has been discharged from probation either prior to or after adoption of this chapter may have any civil rights which were lost or suspended by his felony conviction restored by the superior court judge by whom the person was sentenced or his successors in office from the county in which he was originally convicted. The clerk of such superior court shall have the responsibility for processing the application upon request of the person involved or his attorney. The superior court shall cause a copy of the application to be served upon the county attorney.

C. If the person was convicted of a dangerous offense under § 13-604, the person may not file for the restoration of his right to possess or carry a gun or firearm. If the person was convicted of a serious offense as defined in § 13-604, the person may not file for the restoration of his right to possess or carry a gun or firearm for ten years from the date of his discharge from probation. If the person was convicted of any other felony offense, the person may not file for the restoration of his right to possess or carry a gun or firearm for two years from the date of his discharge from probation.

§ 13-906. Applications by persons discharged from prison

A. Upon proper application, a person who has been convicted of two or more felonies who has received an absolute discharge from imprisonment may have any civil rights which were lost or suspended by his conviction restored by the superior court judge by whom the person was sentenced or his successors in office from the county in which he was originally sentenced.

B. A person who is subject to the provisions of subsection A of this section may file, no sooner than two years from the date of his absolute discharge, an application for restoration of civil rights that shall be accompanied by a certificate of absolute discharge from the director of the state department of corrections. The clerk of the superior court that sentenced the applicant shall have the responsibility for processing applications for restoration of civil rights upon request of the person

¹Section 41-1001 et seq.

²Section 12-901 et seq.

involved, his attorney or a representative of the state department of corrections. The superior court shall cause a copy of the application to be served upon the county attorney.

C. If the person was convicted of a dangerous offense under § 13-604, the person may not file for the restoration of his right to possess or carry a gun or firearm. If the person was convicted of a serious offense as defined in § 13-604, the person may not file for the restoration of his right to possess or carry a gun or firearm for ten years from the date of his absolute discharge from imprisonment. If the person was convicted of any other felony offense, the person may not file for the restoration of his right to possess or carry a gun or firearm for two years from the date of his absolute discharge from imprisonment.

§ 13-907. Setting aside judgment of convicted person on discharge; making of application; release from disabilities; exceptions

A. Except as provided in subsection B of this section, every person convicted of a criminal offense may, upon fulfillment of the conditions of probation or sentence and discharge by the court, apply to the judge, justice of the peace or magistrate who pronounced sentence or imposed probation or such judge, justice of the peace or magistrate's successor in office to have the judgment of guilt set aside. The convicted person shall be informed of this right at the time of discharge. The application to set aside the judgment may be made by the convicted person or by the convicted person's attorney or probation officer authorized in writing. If the judge, justice of the peace or magistrate grants the application, the judge, justice of the peace or magistrate shall set aside the judgment of guilt, dismiss the accusations or information and order that the person be released from all penalties and disabilities resulting from the conviction other than those imposed by the department of transportation pursuant to § 28-3304, 28-3306, 28-3307, or 28-3308, except that the conviction may be used as a conviction if such conviction would be admissible had it not been set aside and may be pleaded and proved in any subsequent prosecution of such person by the state or any of its subdivisions for any offense or used by the department of transportation in enforcing the provisions of § 28-3304, 28-3306, 28-3307, or 28-3308 as if the judgment of guilt had not been set aside.

B. This section does not apply to a person convicted of a criminal offense:

1. Involving the infliction of serious physical injury.
2. Involving the use or exhibition of a deadly weapon or dangerous instrument.
3. For which the person is required or ordered by the court to register pursuant to § 13-3821.
4. For which there has been a finding of sexual motivation pursuant to § 13-118.
5. In which the victim is a minor under fifteen years of age.
6. In violation of § 28-3473, any local ordinance relating to stopping, standing, or

operation of a vehicle or title 28, chapter 3,¹ except a violation of § 28-693 or any local ordinance relating to the same subject matter as § 28-693.

§ 13-908. Restoration of civil rights in the discretion of the superior court judge

Except as provided in § 13-912, the restoration of civil rights and the dismissal of the accusation or information under the provisions of this chapter shall be in the discretion of the superior court judge by whom the person was sentenced or his successor in office.

§ 13-909. Restoration of civil rights; persons completing probation for federal offense

A. A person who has been convicted of two or more felonies whose period of probation has been completed may have any civil rights which were lost or suspended by his felony conviction in a United States district court restored by the presiding judge of the superior court in the county in which he now resides, upon filing of an affidavit of discharge from the judge who discharged him at the end of the term of probation.

B. Upon proper application, a person who has been discharged from probation either prior to or after adoption of this chapter may have any civil rights which were lost or suspended by his felony conviction restored by an application filed with the clerk of the superior court in the county in which he now resides. The clerk of the superior court shall process the application upon request of the person involved or his attorney.

C. If the person was convicted of a dangerous offense under § 13-604, the person may not file for the restoration of his right to possess or carry a gun or firearm. If the person was convicted of a serious offense as defined in § 13-604, the person may not file for the restoration of his right to possess or carry a gun or firearm for ten years from the date of his discharge from probation. If the person was convicted of any other felony offense, the person may not file for the restoration of his right to possess or carry a gun or firearm for two years from the date of his discharge from probation.

§ 13-910. Applications by persons discharged from federal prison

A. Upon proper application, a person who has been convicted of two or more felonies who has received an absolute discharge from imprisonment in a federal prison may have any civil rights which were lost or suspended by his conviction restored by the presiding judge of the superior court in the county in which he now resides.

B. A person who is subject to the provisions of subsection A may file, no sooner than two years from the date of his absolute discharge, an application for restoration of civil rights that shall be accompanied by a certificate of absolute discharge from the director of the federal bureau of prisons, unless it is shown to be impossible to obtain such certificate. Such application shall be filed with the clerk of the superior court in the county in which the person now resides and such clerk shall be responsible for processing applications for restoration of civil rights upon request of the

¹Section 28-601 et seq.

person involved or his attorney.

C. If the person was convicted of an offense which would be a dangerous offense under § 13-604, the person may not file for the restoration of his right to possess or carry a gun or firearm. If the person was convicted of an offense which would be a serious offense as defined in § 13-604, the person may not file for the restoration of his right to possess or carry a gun or firearm for ten years from the date of his absolute discharge from imprisonment. If the person was convicted of any other felony offense, the person may not file for the restoration of his right to possess or carry a gun or firearm for two years from the date of his absolute discharge from imprisonment.

§ 13-911. Restoration of civil rights in the discretion of the presiding judge of the superior court

The restoration of civil rights under provisions of § 13-909 or 13-910 is within the discretion of the presiding judge of the superior court in the county in which the person resides.

§ 13-912. Restoration of civil rights; automatic for first offenders; persons excluded

A. Upon completion of the term of probation, or upon absolute discharge from imprisonment, and upon the completion of payment of any fine or restitution imposed, any person who has not previously been convicted of any other felony shall automatically be restored any civil rights which were lost or suspended by the conviction.

B. This section does not apply to a person's right to possess weapons as defined in § 13-3101 unless he applies to a court pursuant to the procedures of § 13-906.

§ 13-912.01 Restoration of civil rights; persons adjudicated delinquent

A. A person who was adjudicated delinquent and whose period of probation has been completed may have his right to possess or carry a gun or firearm restored by the judge who discharges the person at the end of his term of probation.

B. A person who was adjudicated delinquent and who has been discharged from probation, on proper application, may have his right to carry or possess a gun or firearm restored by the judge of the juvenile court in the county where the person was adjudicated delinquent or his successors. The clerk of the superior court shall process the application on the request of the person involved or the person's attorney. The applicant shall serve a copy of the application on the county attorney.

C. If the person's adjudication was for a dangerous offense under § 13-604, a serious offense as defined in § 13-604, burglary in the first degree, burglary in the second degree or arson, the person may not file for the restoration of his right to possess or carry a gun or firearm until the person attains thirty years of age. If the person's adjudication was for any other felony offense, the person may not file for the restoration of his right to possess or carry a gun or firearm for two years from the date of his discharge.

