

State of Arizona
Senate
Fifty-second Legislature
First Regular Session
2015

SENATE BILL 1222

AN ACT

AMENDING TITLE 13, CHAPTER 6, ARIZONA REVISED STATUTES, BY ADDING SECTION 13-611; AMENDING SECTION 13-3967, ARIZONA REVISED STATUTES; RELATING TO THE DISPOSITION OF OFFENDERS.

(TEXT OF BILL BEGINS ON NEXT PAGE)

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

2 Section 1. Title 13, chapter 6, Arizona Revised Statutes, is amended
3 by adding section 13-611, to read:

4 13-611. Mandatory disposition of offenders; unlawful presence
5 and previously deported arrestees

6 A. NOTWITHSTANDING SECTION 13-603, THE COURT MAY NOT PLACE A DEFENDANT
7 ON PROBATION PURSUANT TO CHAPTER 9 OF THIS TITLE AND SHALL SENTENCE THE
8 DEFENDANT TO NOT LESS THAN THE PRESUMPTIVE TERM OF INCARCERATION IN THE STATE
9 DEPARTMENT OF CORRECTIONS IF THE DEFENDANT WAS PREVIOUSLY DEPORTED FROM THIS
10 COUNTRY AFTER BEING ARRESTED, IS CONVICTED OF A FELONY VIOLATION OF THIS
11 TITLE AND THE TRIER OF FACT DETERMINES THAT THE AGGRAVATING FACTOR LISTED IN
12 SECTION 13-701, SUBSECTION D, PARAGRAPH 21 APPLIES.

13 B. ANY TIME THAT THE PERSON IS NOT IN THIS COUNTRY IS TOLLED WHEN
14 CALCULATING THE STATUTE OF LIMITATIONS PRESCRIBED IN SECTION 13-107.

15 Sec. 2. Section 13-3967, Arizona Revised Statutes, is amended to read:

16 13-3967. Release on bailable offenses before trial; definition

17 A. At his appearance before a judicial officer, any person who is
18 charged with a public offense that is bailable as a matter of right shall be
19 ordered released pending trial on his own recognizance or on the execution of
20 bail in an amount specified by the judicial officer.

21 B. In determining the method of release or the amount of bail, the
22 judicial officer, on the basis of available information, shall take into
23 account all of the following:

- 24 1. The views of the victim.
- 25 2. The nature and circumstances of the offense charged.
- 26 3. The weight of evidence against the accused.
- 27 4. The accused's family ties, employment, financial resources,
28 character and mental condition.
- 29 5. The results of any drug test submitted to the court.
- 30 6. Whether the accused is using any substance if its possession or use
31 is illegal pursuant to chapter 34 of this title.
- 32 7. Whether the accused violated section 13-3407, subsection A,
33 paragraph 2, 3, 4 or 7 involving methamphetamine or section 13-3407.01.
- 34 8. The length of residence in the community.
- 35 9. The accused's record of arrests and convictions.
- 36 10. The accused's record of appearance at court proceedings or of
37 flight to avoid prosecution or failure to appear at court proceedings.
- 38 11. Whether the accused has entered or remained in the United States
39 illegally.
- 40 12. Whether the accused's residence is in this state, in another state
41 or outside the United States.

42 C. If a judicial officer orders the release of a defendant who is
43 charged with a felony either on his own recognizance or on bail, the judicial
44 officer shall condition the defendant's release on the defendant's good
45 behavior while so released. On a showing of probable cause that the

1 defendant committed any offense during the period of release, a judicial
2 officer may revoke the defendant's release pursuant to section 13-3968.

3 D. After providing notice to the victim pursuant to section 13-4406, a
4 judicial officer may impose any of the following conditions on a person who
5 is released on his own recognizance or on bail:

6 1. Place the person in the custody of a designated person or
7 organization agreeing to supervise him.

8 2. Place restrictions on the person's travel, associates or place of
9 abode during the period of release.

10 3. Require the deposit with the clerk of the court of cash or other
11 security, such deposit to be returned on the performance of the conditions of
12 release.

13 4. Prohibit the person from possessing any dangerous weapon or
14 engaging in certain described activities or indulging in intoxicating liquors
15 or certain drugs.

16 5. Require the person to report regularly to and remain under the
17 supervision of an officer of the court.

18 6. Impose any other conditions deemed reasonably necessary to assure
19 appearance as required including a condition requiring that the person return
20 to custody after specified hours.

21 E. In addition to any of the conditions a judicial officer may impose
22 pursuant to subsection D of this section, the judicial officer shall impose
23 both of the following conditions on a person who is charged with a felony
24 violation of chapter 14 or 35.1 of this title and who is released on his own
25 recognizance or on bail:

26 1. Electronic monitoring where available.

27 2. A condition prohibiting the person from having any contact with the
28 victim.

29 F. The judicial officer who authorizes the release of the person
30 charged on his own recognizance or on bail shall do all of the following:

31 1. Issue an appropriate order containing statements of the conditions
32 imposed.

33 2. Inform the person of the penalties that apply to any violation of
34 the conditions of release.

35 3. Advise the person that a warrant for his arrest may be issued
36 immediately on any violation of the conditions of release, including the
37 failure to submit to deoxyribonucleic acid testing ordered pursuant to
38 paragraph 4 of this subsection.

39 4. If the person is charged with a felony or misdemeanor offense
40 listed in section 13-610, subsection 0, paragraph 3 and is summoned to
41 appear, order the person to report within five days to the law enforcement
42 agency that arrested the person or to the agency's designee and submit a
43 sufficient sample of buccal cells or other bodily substances for
44 deoxyribonucleic acid testing and extraction. If a person does not comply

1 with an order issued pursuant to this ~~subsection~~ PARAGRAPH, the court shall
2 revoke the person's release.

3 G. At any time after providing notice to the victim pursuant to
4 section 13-4406, the judicial officer who orders the release of a person on
5 any condition specified in this section or the court in which a prosecution
6 is pending may amend the order to employ additional or different conditions
7 of release, including either an increase or reduction in the amount of
8 bail. On application, the defendant shall be entitled to have the conditions
9 of release reviewed by the judicial officer who imposed them or by the court
10 in which the prosecution is pending. Reasonable notice of the application
11 shall be given to the county attorney and the victim.

12 H. Any information that is stated or offered in connection with any
13 order pursuant to this section need not conform to the rules pertaining to
14 admissibility of evidence in a court of law.

15 I. This section does not prevent the disposition of any case or class
16 of cases by forfeiture of bail or collateral security if such disposition is
17 authorized by the court.

18 J. A judicial officer who orders the release of a juvenile who has
19 been transferred to the criminal division of the superior court pursuant to
20 section 8-327 or who has been charged as an adult pursuant to section 13-501
21 shall notify the appropriate school district on the release of the juvenile
22 from custody.

23 K. IT IS A REBUTTABLE PRESUMPTION THAT A PERSON ON WHOM A HOLD HAS
24 BEEN PLACED BY THE UNITED STATES IMMIGRATION AND CUSTOMS ENFORCEMENT IS A
25 FLIGHT RISK, AND THE JUDICIAL OFFICER MAY NOT RELEASE THE PERSON UNDER ONLY
26 THE SUPERVISION OF PRETRIAL SERVICES OR ON THE PERSON'S OWN RECOGNIZANCE
27 PENDING TRIAL.

28 ~~K.~~ L. For the purposes of this section and section 13-3968, "judicial
29 officer" means any person or court authorized pursuant to the constitution or
30 laws of this state to bail or otherwise release a person before trial or
31 sentencing or pending appeal.