



Arizona Justice of the Peace Conference

Legislative Review

54TH Legislature,

1st Regular Session

Effective August 27, 2019*

*Unless otherwise indicated



Bills Signed into Law

Administrative

Chapter 21, SB1317. Bodily Fluids Exposure; Testing

A public safety employee or volunteer may petition the court for an order authorizing testing of another individual for certain viruses and diseases if the employee or volunteer was exposed to blood or other bodily fluids while rendering aid to an individual, whether living or deceased, as a part of official duties during a medical emergency.

Section amended: §13-1210

Chapter 23, SB1474. POW/MIA Flag; Display

Allows a POW/MIA flag to be displayed on or in front of municipal, justice, or regional court buildings or centers on any day that the U.S. flag is displayed.

Section amended: §38-449

Chapter 39, SB1054. Early Ballots; Deficiencies; Cure Period

Requires the county recorder or officer in charge of elections to make a reasonable effort to contact and advise an early voter in the event of an inconsistent signature on the ballot envelope. The voter must correct the signature no later than the fifth business day after a primary, general, or special election that includes a federal officer, or the third business day after any other election. Any state, county, school district, special district, city or town utilizing a vote tabulating device must file a copy of the computer program with the secretary of state at least 17 days prior to an election.

Sections amended: §§16-445, 16-550 and 16-621

Chapter 55, HB2569. Occupational Licensing; Reciprocity

Requires an occupational or professional license or certificate to be issued to a person who establishes residency in this state, is currently licensed or certified in good standing in at least one other state in the discipline applied for and at the same practice level as determined by the regulating entity, and if the person meets a list of other specified requirements. Removes language allowing a regulating entity to require a person to practice under the direct supervision of a licensee or certificate holder if the person has been licensed or certified for less than five years.

Allows a regulating entity that administers an examination specific to Arizona laws as part of the application process to require an out-of-state applicant to pass the examination. All laws governing the practice of the profession would apply and the person is subject to the jurisdiction of the regulating entity.

Section amended: §32-4302

Chapter 56, SB1030. Remote Online Notarization; Registration

In pertinent part, allows for online notarization. Sets forth parameters. Requires the Secretary of State to adopt rules to govern remote online notarizations. Mandates requirements for the electronic records, signatures, and seals of online notarization procedures.

Delayed effective date of July 1, 2020.

Sections amended: §41-319 and 41-330

Section added: §44-7011

Chapter 150, HB 2122. Do-Not-Resuscitate Orders; Minors; Parental Consent

Establishes protocols for hospitals with respect to do-not-resuscitate (DNR) orders for minors. Allows a parent or guardian to petition the superior court in the county in which the minor resides or is receiving treatment for an order enjoining a violation or threatened violation of the protocols or to resolve a conflict between the parties. Directs the superior court, upon receipt of the petition, to issue an order fixing the date, time and place of a hearing. Notice of the hearing must be given to the interested parties unless the court determines that holding a preliminary hearing without notice is necessary to prevent imminent danger to the minor's life. Prohibits a DNR from being implemented pending the final determination of the superior court proceedings, including any appeals.

Section added: §36-418

Chapter 166, HB 2660. Occupational Regulation; Prior Conviction; Applicability

Exempts probation departments from the provision of law prohibiting disqualification from employment solely because of a prior conviction for a felony or misdemeanor.

An agency may determine that a person's criminal record disqualifies the person from obtaining a license, permit, certificate or other state recognition only if the agency concludes that the state has an important interest in protecting public safety that is superior to the person's right and the person was convicted of:

- One of the enumerated offenses and the conviction occurred within seven years before the petition
- An offense the agency is legally required to consider. The seven year period excludes any time the person was imprisoned by Arizona Department of Corrections.
- Any of the enumerated offenses

In order to disqualify a person, the agency must determine by clear and convincing evidence at the time of the petition that:

- The specific offense that the person was convicted of is substantially related to the state's interest.
- The person, based on the offense the person was convicted of and the person's current circumstances, is more likely to reoffend by virtue of having the license, permit, certificate or other state recognition than if the person did not have the license, permit, certificate or other state recognition.

Sections amended: §§13-904 and 41-1093.04

Chapter 209, HB 2241. JLAC; Political Subdivisions; Investigation

A political subdivision subject to the expenditure limitations prescribed by the Arizona Constitution must comply with the uniform expenditure reporting system prescribed by the auditor general. The auditor general may notify the attorney general if a political subdivision does not comply and the attorney general may file a petition for special action in any court of competent jurisdiction to compel any political subdivision to comply. The attorney general may also apply for injunctive relief to enjoin a political subdivision from violating the statute.

Section amended: §41-1270.07

Chapter 256, HB2676. Public Officers; Records; Confidentiality

Laws permitting sealing of records of eligible people by the county recorder, county assessor, county treasurer and ADOT as well as voter registration records is expanded to include identifying information (not defined).

Sections amended: §§11-483, 11-484, 16-153, 28-454

Chapter 263, HB2747. Budget; General Appropriations Act 2019-20

In pertinent part, appropriates \$39,500 to the office of the Water Master and \$250,000 for digitization and updates to the case management system.

Chapter 265, HB2749. K-12 Education; Budget Reconciliation

In pertinent part, modifies the funding formula for county juvenile detention center education programs by increasing the base amount from \$20,000 to \$100,000 per county and the variable amount per student from \$15 to \$25 per day for FY 2020. Beginning in FY 2021, the base and variable amounts for the prior year will be adjusted by a prescribed growth rate, subject to appropriation. Requires any excess monies in a county's detention center education fund to be used to supplement classroom spending.

Section amended: §15-913

Chapter 268, HB2752. Criminal Justice Budget Reconciliation

In pertinent part, exempts Department of Corrections correctional officers from jury duty on request through January 1, 2022.

Section affected: §21-202

Chapter 275, HB2501. Electronic Records; State Library

The state library is to establish, operate and maintain a trusted electronic records repository to keep and make available the electronic and digitized records of the state archives and state documents program and of any documents and public records received, subject to legislative appropriation.

Sections amended: §§41-151.09, 41-151.15

Section added: §41-151.26

Chapter 286, HB2190. CORP; Accidental Disability; Definition

Modifies the definition of “accidental disability” as it relates to the Corrections Officer Retirement Plan to include any physical or mental condition that totally and permanently prevents an employee from performing a reasonable range of duties within the employee's department that was incurred while performing employee duties.

Section amended: §38-881

Chapter 300, SB1064. Court Security Officers; Certification; Powers

Each court may utilize court security officers to insure the safe transaction of the business of the court. Court security officers certified by the supreme court must be employees of the court and are not eligible for new enrollment in CORP or PSPRS. Officers may:

- with reasonable cause, detain a person on the premises for a reasonable time to contact a law enforcement officer and maintain the safety and well-being of a person who is in a judicial branch facility, on judicial branch grounds or where a court is convening
- refuse to allow a weapon or unlawful material in a judicial branch facility, on judicial branch grounds or where a court is convening
- respond to threats to and emergencies involving a judicial branch employee in a judicial branch facility, on judicial branch grounds or where a court is convening
- receive information from a law enforcement agency regarding threats to a judicial branch facility or judicial branch grounds or to a judicial branch employee.

Section added: §12-299.10

Chapter 318, SB1494. Marijuana; Testing; Advisory Council; Library

In pertinent part, Arizona Medical Marijuana Act identification cards and registration certificates are valid for two years instead of one year after date of issue.

Sections amended: §§6-2801 36-2803, 36-2804.01, 36-2804.05, 36-2804.06, 36-2806, 36-2810, 36-2816, 36-2819

Sections added: §§36-2803.01, 36-2804.07, 36-2820 and 36-2821

Civil

Chapter 20, SB1309. Renewal of Judgements; Applicability

Modifies that the 10-year limitations period to request or issue a writ of execution or renewal of judgement applies only to those judgements entered either:

- a. after August 2, 2013; or
- b. before August 3, 2013, and renewed before August 3, 2018

The court does not need to take any action for a renewal filed by affidavit with the clerk to be considered successfully completed.

Sections amended: §§12-1551, 12-1611 and 12-1613

Chapter 29, HB2230. Writ of Garnishment; Certified Mail

A judgment creditor may serve a writ of garnishment and associated summons by certified mail, return receipt requested. The effective date of service by certified mail is the date of receipt.

A judgment creditor may serve a writ of garnishment on a financial institution, other than a trust company or title insurance company, by certified mail at the institution's regular place of business, or to the garnishee's statutory agent or at a location designated by the garnishee. A writ of garnishment served on a financial institution may be effective regarding money and property located at branches outside the county of service.

The requirement that a writ of garnishment be directed at a sheriff, constable, or other officer is repealed.

Sections amended: §§12-1574 and 12-1577

Chapter 42, HB2191. Prohibited Uses; Criminal Justice Records

A mugshot website operator is prohibited from using criminal justice records or the names, addresses, telephone numbers and other information contained in criminal justice records to solicit business for pecuniary gain, including requiring the payment of a fee in exchange for removing or revising criminal justice records published on the website.

A person whose criminal justice record is published and who suffers a pecuniary loss or is otherwise adversely affected has a cause of action against the person

responsible for the violation and may recover damages of at least \$100 per day during the first 30 days of a violation, \$200 per day during the subsequent 30 days of the violation, and \$500 per day for each day thereafter.

Exempts activities by a licensed attorney, private investigator or registered process server if associated with a criminal or civil proceeding as well as newspapers, radio and television stations or networks, and any other online news outlet in connection with disseminating news to the public.

Sections added: §§44-7901 and 44-7902

Chapter 51, HB2240. Limitations of Actions; Dedicated Property

A municipality or county is prohibited from bringing an action or arbitration against persons involved in the development or improvements of real property more than eight years after the improvements have been accepted by the municipality or county for ownership, operation and maintenance if the action or arbitration is based on either a municipal or county code, ordinance or other legal requirement or a permit that is required as a condition of development. The limitations period excludes actions or arbitrations based on a claim of willful, reckless, or concealed violation of a municipal or county requirement.

Limitations period does not affect a municipality's or county's statutory immunities or defenses under Title 12, Chapter 7, Article 2 (Actions Against Public Entities or Public Employees).

Section amended: §12-552

Chapter 60, SB1271. Purchaser Dwelling Actions; Notice; Complaints

In pertinent part, allows the court to award the prevailing party with respect to a contested issue in a contested dwelling action reasonable attorney fees and taxable costs. Four factors determine the reasonable nature of the award:

- a. the offer made by the seller before the purchaser filed the dwelling action
- b. the purchaser's response to the seller's offer
- c. the relation between the fees incurred over the duration of the dwelling action and the value of the relief obtained with respect to the contested issue
- d. the amount of fees incurred in responding to any unsuccessful motions, claims, and defenses

The trier of the fact must prove the defect and the amount of damages caused by that defect and then determine the degree of fault of any of the defendants.

The legislature finds that bifurcation of the issues of the existence of a defect and causation from the issue of apportionment of fault is efficient, fair, and convenient for all parties and that is how the settlement of issues should be adopted.

Extends the Construction Liability Apportionment Study Committee through September 30, 2020.

Sections amended: §12-1362 and 12-1363

Sections added: §12-1364, 32-115.09

Chapter 118, SB1250. Protective Orders; Sexual Assault

Permits a victim to obtain an injunction against harassment for an act of sexual violence and prohibits the court from charging process service fees if the victim filed the petition for an act of sexual violence.

Delayed effective date of January 1, 2020.

Section amended: §12-1809

Chapter 145, SB1397. Registrar of Contractors Omnibus

In pertinent part, an action for a judgment to recover an award from the Residential Contractors' Recovery Fund may commence no later than two years after the date of the commission of the act by the contractor that is the cause of the injury or from the date of occupancy.

If a claimant commences an action for judgment, the claimant must notify the Registrar of Contractors in writing within 30 days after the commencement of the action. The Registrar may intervene and defend the action at any time. If a claimant recovers a valid judgment against a contractor, the claimant, on 20 days written notice to the Registrar, may apply to the court for an order directing payment out of the Fund. If the claimant fails to notify the Registrar of the action, the court may direct payment out of the Fund on receipt of consent to payment signed by the Registrar. If the court receives written objections by the Registrar, the court may not direct payment from the Fund without allowing the Registrar a reasonable opportunity to present and support their objections. On receipt of a certified copy of the order, the Registrar may authorize payment out of the Fund even if an appeal has been commenced but not completed.

The recovery limits apply to all judgments awarded beginning September 1, 2002.

Sections amended: §§32-1101, 32-1104, 32-1105, 32-1107, 32-1121, 32-1122, 32-1123, 32-1123.01, 32-1124, 32-1125, 32-1125.01, 32-1126, 32-1127, 32-1131, 32-1132, 32-1134, 32-1134.02, 32-1137, 32-1151.02, 32-1152, 32-1152.01, 32-1154, 32-1155, 32-1156, 32-1156.01, 32-1161, 32-1165, 32-1168, 32-1169, 32-1170.02, 32-1181, 32-1182, 32-1183, 32-1185, 32-1186, 32-1187 and 32-1188

Sections added: §§32-1127.01, 32-1132.01, 32-1133, 32-1133.01

Sections repealed: §§32-1136, 32-1155.01, 32-1166, 32-1166.01, 32-1166.02 and 32-1167

Chapter 202, HB2151. Satisfaction of Judgment; Justice Courts

A prevailing party is required to file a satisfaction of judgment in the superior court or justice court within 40 days after a judgment has been paid in full. A prevailing party is required to file a satisfaction of judgment in the small claims division of the justice court within 30 days after judgment has been paid in full.

An opposing party may file a motion to compel satisfaction of judgment if the prevailing party fails to file a satisfaction of judgment or cannot be located after the opposing party had exercised due diligence to locate the prevailing party. The opposing party must include an affidavit with the motion to compel satisfaction that evidences proof of payment and, if necessary, due diligence in locating the prevailing party.

A judge may hold a hearing on the motion to compel satisfaction of judgment and may compel the moving party to post a bond in the amount of the judgment.

Sections added: §§12-1567, 22-247, and 22-525

Chapter 259, HB2466. Civil Action; Assault; Limitation; Liability

The statute of limitations to bring an action for damages that a minor suffers as a result of another person's negligent or intentional act if that act is a cause of sexual conduct or sexual contact committed against the minor or for the failure to report sexual conduct or sexual contact with a minor pursuant to §13-3620 is increased to 12 years after the plaintiff reaches 18 years of age. "Person," "sexual conduct" and "sexual contact" are defined. The latter two are defined the same as in the criminal code. Applies to any cause of action that is commenced on or after May 27, 2019 or was filed before and remains pending on May 27, 2019.

The court may notify the victim that civil remedies may be available under the above following the final disposition of a criminal proceeding.

A cause of action for the damages that would otherwise be barred by the statute of limitations is revived and may be commenced before December 31, 2020. A cause of action revived may be brought against a person who was not the perpetrator of the offense if that person knew or otherwise had actual notice of any misconduct that created an unreasonable risk of sexual conduct or sexual contact with a minor by an employee, a volunteer, representative or an agent. The plaintiff has the burden of proving the claim by clear and convincing evidence. Punitive damages may not be awarded for a revived claim.

Contains an emergency clause. Effective May 27, 2019.

Sections added: §§12-514 and 13-4443

Chapter 268, HB2752. Criminal Justice Budget Reconciliation

In pertinent part, exempts Department of Corrections correctional officers from jury duty on request through January 1, 2022.

Section affected: §21-202

Chapter 270, HB2754. Health; Budget Reconciliation

In pertinent part, the court may order a patient undergo outpatient or combined inpatient and outpatient treatment in a secure facility if the patient has been determined to be seriously mentally ill and chronically resistant to treatment based on clear and convincing evidence of enumerated factors. Requires the Department of Health Services to license secure behavioral health residential facilities that provide secure 24-hour treatment for seriously mentally ill persons who are chronically resistant to treatment for a mental disorder and are placed in the facility pursuant to a court order. The facility may not provide services to any person who is not court ordered and or have more than 16 beds. To be “secure” the facility must limit a patient’s egress in the least restrictive manner consistent with the patient’s court-ordered treatment plan.

Sections amended: §§13-4512, 36-273, 36-405.02, 36-540, 36-550.05, 36-773, 36-2985, 41-3955.01

Sections added: §§36-425.06, 36-550.09, 36-2903.12, 36-2903.13, 46-341, 46-342, 46-343

Chapter 278, SB1216. Uniform Receivership Act; Commercial Property

Establishes the Uniform Commercial Real Estate Receivership Act and permits the court to appoint a receiver for an interest in commercial real property and any personal property related to or used in operating the real property with some exceptions. The court may appoint a receiver for mortgaged property under a foreclosure or other enforcement. Outlines criteria for disqualification of a receiver and empowers a court appointed receiver the exclusive jurisdiction to direct the receiver and determine any controversy related to the receivership or receivership property. Does not apply to a receivership for which the receiver was appointed prior to the Act.

Sections added: §§33-2601, 33-2602, 33-2603, 33-2604, 33-2605, 33-2606, 33-2607, 33-2608, 33-2609, 33-2610, 33-2611, 33-2612, 33-2613, 33-2614, 33-2615, 33-2616, 32-2617, 32-2618, 32-2619, 32-2620, 32-2621, 32-2622, 32-2623, 32-2624, 32-2625, and 32-2626

Chapter 289, HB2358. Landlord Tenant; Partial Payment; Assistance

A landlord's acceptance of a housing assistance payment does not constitute an acceptance of a partial payment of rent or a waiver of the landlord's right to terminate a rental agreement for any breach by the tenant. Defines “*housing assistance payment*.”

Sections amended: §§33-1310 and 33-1371

Chapter 321, SB1538. Adult Protective Services

Expands the list of individuals who are required to report abuse, neglect and exploitation of vulnerable adults and outlines requirements for disclosure of Adult Probationary Services information. Provides authority for information sharing among courts and grants certain privacy protections to APS employees. Establishes criminal penalties for disclosure of confidential information.

Sections amended: §§ 11-483, 11-484, 13-2401, 16-153, 28-454, 39-123, 39-124, 41-1959, 46-451, and 46-454

Sections added: §§ 46-460 and 46-461

Criminal Justice

Chapter 5, SB1003. Industrial Hemp; Licensing; Effective Date

In pertinent part, changes the effective date of Laws 2018, Chapter 287 regarding industrial hemp from August 1, 2019 to June 1, 2019. Included in the 2018 enactment is that the propagation, manufacturing, distribution and market research is subject to regulation by the Department of Agriculture and violations of Title 3, Article 41 pertaining to industrial hemp are a Class 1 Misdemeanor.

It is an affirmative defense to prosecution for possession or cultivation of marijuana if the accused is an industrial hemp licensee or designee or agent of a licensee in compliance with statute. It is not a defense to prosecution for possession, sale, transportation or distribution of marijuana if the product is not industrial hemp.

Emergency Clause, effective Date: February 20, 2019

Sections amended: Amends Laws 2018, Chapter 287, Section 7 and Section 9

Chapter 27, HB2023. Political Signs; Ballot Measures; Tampering

Knowingly removing, altering, defacing, or covering a political sign, mailer, handout, flyer or other material printed in support or opposition to a ballot measure, question, or issue is a Class 2 Misdemeanor. Exempts persons authorized by the committee that provided the sign or printed materials from the penalty.

The period of penalties for tampering with signs or other printed materials for a candidate who does not advance to the general election ends seven days after the primary.

Section amended: §16-1019

Chapter 32, HB2421. Animal Cruelty; Working Animal; Harassment

The intentional or knowing harassment of a working animal in a law enforcement vehicle or trailer without either legal privilege or consent of the owner is a Class 1

Misdemeanor. "Harass" is defined as engaging in conduct that a reasonable person would expect to impede or interfere with a working animal's performance of its duties.

Section amended: §13-2910

Chapter 62, SB1312. Bad Checks; Restitution Payments

Restitution payments for bad checks is made to the county attorney's office if prior to a conviction. Restitution made prior to a conviction is a mitigating factor. Restitution made after conviction is made through the court.

Section amended: §13-809

Chapter 63, SB1314. Death Penalty; Aggravating Circumstances

Removes from the list of aggravating circumstances for the trier of fact to consider in imposing the death penalty:

- the defendant knowingly created a grave risk of death to another person in addition to the person murdered during the commission of the offense;
- the defendant committed the offense as consideration for the receipt, or in expectation of the receipt, of anything of pecuniary value;
- the offense was committed in a cold, calculated manner without pretense of moral or legal justification; and
- the defendant used or authorized a remote stun gun in the commission of the offense.

Adds to the list of aggravating circumstances for the trier of fact to consider in imposing the death penalty, the defendant committed the offense as a result of payment, or a promise of payment, of anything of pecuniary value.

Section amended: §13-751

Chapter 70, HB2008. Duty to Report; Supervisor; Administrator

The immediate or next-higher-level supervisor or administrator of a person responsible for the care or treatment of a minor other than a parent, stepparent, or guardian is required to report a reasonable belief of abuse, physical injury, non-accidental neglect, or deprivation of care developed in the course of employment. The supervisor or administrator is exempted from mandatory reporting if they reasonably believed the report has already been made by another employee under mandatory reporting requirements.

Section amended: §13-3620

Chapter 71, HB2053. Competency Evaluations; Reports

Removes the requirement that a mental health examiner's report address the necessity of continuing that treatment and any limitations of the medication on competency if the defendant is competent by virtue of ongoing treatment with

psychotropic medication. The court, however, in its discretion, may appoint a mental health expert who is a physician to address the question.

Section amended: §13-4509

Chapter 92, SB1076. Abducting Child from State Agency

Establishes the crime of Abduction of a child from a state agency. A person commits Abduction of a child from a state agency by either knowing or having reason to know that a child is in the custody of a state agency, the person either takes, entices or keeps the child from the lawful custody of the state agency or intentionally fails or refuses immediately return or impedes the immediate return of a child to the lawful custody of the state agency including at the expiration of visitation or access.

Sets forth various classifications of offense, ranging from a Class 3 to a Class 6 Felony.

Section added: §13-1310

Chapter 97, HB2041. Hospital Assaults; Testing; Reporting; Sanctions

A private hospital employee may request and obtain a court ordered blood test of a person who bites, scratches, spits on, or transfers bodily fluids through the skin of a hospital employee and who meets the same requirements for court ordered blood tests requested by a public safety employee, volunteer, or entity for the same conduct. Notice of the test results must be provided to the hospital employee and to the employer.

Upon written notice from the agency, officer, or entity employing the hospital employee, a medical examiner is permitted to draw blood from a deceased assailant.

“Hospital employee” is defined as a private hospital employee or volunteer or person authorized to perform official duties at a private hospital while performing those authorized duties.

Section amended: §13-1210

Chapter 136, HB2281. Liquor Omnibus

In pertinent part, it is a Class 1 Misdemeanor for a person who is at least 18 years of age to knowingly allow or promote a party, gathering or event at the person’s residence or other property under the person’s control where two or more persons under the legal drinking age are in possession of or consuming spirituous liquor.

Sections amended: §§4-101, 4-112, 4-201, 4-203, 4-203.02, 4-205.02, 4-205.04, 4-205.10, 4-206.01, 4-210, 4-241, 4-244

Sections added: §4-207.02 and 42-1251.01

Chapter 144, SB1311. Material Witnesses; Contempt; Detention; Bond

Repeals current statutes governing material witnesses.

The state or the defendant may certify by motion that the presence of a material witness is necessary. A court may require a material witness to appear and post a secured or unsecured appearance bond in the event the court finds that the witness is unlikely to appear or testify in a grand jury proceeding or pending criminal action. A court can modify an appearance bond.

Law enforcement may detain a material witness if the court finds that a material witness willfully failed to comply with a properly served subpoena or order to appear. A detained material witness must be brought before the court on the same or next court date.

Enumerates action a court may take if the court finds that a detained material witness who has been given an opportunity to appear is unlikely to comply with a future subpoena or order to appear. Requires the court to release the material witness from detention and from all imposed obligations after the completion of testimony or a deposition.

The Arizona Rules of Criminal Procedure govern any deposition of a material witness and the Arizona Rules of Evidence govern the use or admissibility of the deposition.

Defines “material witness.”

Sections amended: §13-4073 and 13-4074

Sections added: §13-4081, 13-4082, 13-4083, and 13-4084

Sections repealed: §13-4081, 13-4082, 13-4083, 13-4084, and 13-4085

Chapter 149, HB2080. Civil Rights Restoration; Application; Procedure

Clarifies and consolidates various statutes pertaining to the restoration of civil rights.

Grants automatic restoration of civil rights for a first offender who has outstanding court ordered monetary obligations, other than victim restitution. A first offender does not apply to have civil rights restored.

Regarding a second or subsequent offender, if the court denies an application to have a person’s civil rights restored, the court must state its reasons for the denial in writing. If restoration of civil rights is discretionary, a victim has the right to be present and be heard at any proceeding in which the defendant has filed an application. If the victim made a request for postconviction notice, the attorney for the state must provide the victim with notice of the defendant's application and of the applicable victim’s rights.

The superior court clerk must notify DPS if a person’s civil rights are restored. Defines “final discharge” as completion of probation or receipt of a certificate of absolute discharge from the U.S. Bureau of Prisons or Arizona Department of Corrections.

Civil rights include the right to vote, the right to hold public office of trust or profit and the right to serve as a juror.

Sections added: §§13-906, 13-908, and 13-910

Sections amended: §§8-249, 13-904, 13-905, 13-907, 13-2604, 13-3101, and 16-1011

Sections repealed: §§13-905, 13-906, 13-908, 13-909, 13-910, and 13-911

Sections renumbered: §13-907 to §13-905, §13-907.01 to §13-909, §13-912 to §13-907

Chapter 156, HB2550. Regulation; Kratom Products

Prohibits a dealer from distributing, selling, or exposing for sale a kratom product to an individual who is under 18 years of age. A dealer that prepares, distributes, sells or exposes for sale a food that is represented to be a “kratom product” (defined) is required to disclose on the product label the factual basis on which that representation is made. Kratom may not be adulterated or contaminated with specified substances.

A dealer that violates kratom product disclosure requirements and prohibitions is guilty of a Class 2 Misdemeanor. A person aggrieved by a violation of a kratom product disclosure requirements and prohibition may bring a private cause of action in court for damages resulting from that violation, including economic, noneconomic or consequential damages.

Sections added: §§36-795, 36-795.01, 36-795.02, and 36-795.03

Chapter 179, HB2602. Multiple Sentences for Imprisonment

If multiple sentences of imprisonment are imposed on a person at the same time, the sentences may run consecutively or concurrently, as determined by the court. The court must state on the record the reason for its determination.

Section amended: §13-711

Chapter 188, HB2671. Animal Cruelty; Domestic Animals; Classification

The crime of Cruelty to animals is expanded to include intentionally or knowingly subjecting a domestic animal to cruel mistreatment, and intentionally or knowingly killing a domestic animal without legal privilege or the owner’s consent. The offenses are classified as Class 5 Felonies.

Section amended: §13-2910

Chapter 207, SB1291. Prohibited Weapons; Nunchaku; Repeal

Removes nunchaku from the list of prohibited weapons in the criminal code.

Sections amended: §13-3101, 13-3102, and 13-3110

Chapter 219, SB1315. Victim's Rights; Refusal of Interviews

The probation department, rather than the court, is required to provide victims notice of terms of release in criminal cases and in juvenile cases.

The juvenile probation department, rather than the court, is required to provide the victim notice of the terms of a juvenile diversion program. Various required victim notifications are moved from the juvenile court to the juvenile probation department. The probation department is also now responsible for providing the victim statutorily permitted information from the pre-disposition report.

A victim of a juvenile or criminal offense may supply their contact information on a form provided by the investigating law enforcement agency. Unless the case involved a dismissal with prejudice or an acquittal, the right of victims and their representatives to refuse an interview or discovery request by the defendant or the defendant's representatives extends beyond final disposition of the case.

A prosecutor who has not received a crime victim's notification information no longer must inform the victim of a decision not to proceed with the case. In a superior court case, if requested by the victim, the probation department, rather than the court, notifies the victim of listed enumerated rights.

A victim of a juvenile or criminal offense may seek an order, bring a special action, file a notice in a trial court, as well as in an appellate proceeding seeking to enforce any right, or to challenge an order denying any right, guaranteed to a victim.

Sections amended: §§8-383, 8-387, 8-388, 8-396, 8-397, 8-398, 8-404, 8-412, 8-416, 13-4402, 13-4408, 13-4415, 13-4417, 13-4425, 13-4437, 22-371, and 22-425

Chapter 227, HB2118. Unauthorized Practice; Health Professions

It is a Class 5 Felony to engage in the practice of a health profession without having the licensure or certification required by the state. A health profession regulatory board shall refer each verified complaint for the unauthorized practice of a health profession to the county attorney or attorney general for prosecution.

Section added: §32-3226

Chapter 244, HB2480. Setting Aside Judgment; Felony Offenses

A person convicted of a misdemeanor against a victim who is under 15 years of age is now eligible to apply to the court to have the judgment of guilt set aside.

Section amended: §13-907 (renumbered as §13-905 in Chapter 149).

Chapter 270, HB2754. Health; Budget Reconciliation

In pertinent part, the court may order a patient undergo outpatient or combined inpatient and outpatient treatment in a secure facility if the patient has been determined

to be seriously mentally ill and chronically resistant to treatment based on clear and convincing evidence of enumerated factors. Requires the Department of Health Services to license secure behavioral health residential facilities that provide secure 24-hour treatment for seriously mentally ill persons who are chronically resistant to treatment for a mental disorder and are placed in the facility pursuant to a court order. The facility may not provide services to any person who is not court ordered and or have more than 16 beds. To be "secure" the facility must limit a patient's egress in the least restrictive manner consistent with the patient's court-ordered treatment plan.

Sections amended: §§13-4512, 36-273, 36-405.02, 36-540, 36-550.05, 36-773, 36-2985, 41-3955.01

Sections added: §§36-425.06, 36-550.09, 36-2903.12, 36-2903.13, 46-341, 46-342, 46-343

Chapter 274, HB2475. Water Use; Criminal Penalty; Wells

Exempts a person from a Class 2 Misdemeanor for using water that is entitled to another person if the person used the water through a registered well without knowledge that the water constitutes the sub flow of a river or stream.

Section amended: §45-112

Chapter 310, SB1310. Earned Release Credits; Drug Offenses

Inmates serving a prison sentence for Possession or use of marijuana, dangerous drugs or narcotic drugs, or Possession of drug paraphernalia are eligible for earned release credits at a rate of three days for every seven days served. The 85% served requirement is reduced to 70%. The inmate must successfully complete a drug treatment program or other major self-improvement program provided by the department and not previously been convicted of a violent or aggravated felony. Applicable to persons in DOC on or after the effective date.

Contains an emergency clause. Effective June 7, 2019.

Section amended: §41-1604.07

Chapter 321, SB1538. Adult Protective Services

Expands the list of individuals who are required to report abuse, neglect and exploitation of vulnerable adults and outlines requirements for disclosure of Adult Probationary Services information. Provides authority for information sharing among courts and grants certain privacy protections to APS employees. Establishes criminal penalties for disclosure of confidential information.

Sections amended: §§ 11-483, 11-484, 13-2401, 16-153, 28-454, 39-123, 39-124, 41-1959, 46-451, and 46-454

Sections added: §§ 46-460 and 46-461

Family Law

Chapter 28, HB2112. Community Property Award; Convicted Spouse

A person making court-ordered installment payments following a division of property to a spouse convicted and sentenced to at least 80 years or life in prison may ask the court to modify the payment, regardless of when the conviction occurred.

Section amended: §25-318.02

Juvenile Justice

Chapter 125, HB2055. Juvenile Court; Jurisdiction

Designation of undesignated felonies

Grants the juvenile court continued jurisdiction after a person's 18th birthday for purposes of designating an undesignated felony as a misdemeanor or felony, including after an adjudication has been set aside.

Setting aside of adjudications

Enumerates criteria for the court to consider in determining whether to grant the application, including:

- the nature and circumstances of the offense upon which the adjudication is based,
- whether the applicant was subsequently convicted of a felony offense or has any pending criminal charges
- victim input and the status of restitution owed by the person, if any, and
- any other factor relevant to the application.

Permits a person to apply to set aside a delinquency adjudication even if the person has been convicted as an adult of a criminal offense, has a pending criminal charge, has not successfully completed probation or an individual treatment plan, or has not fully paid all monetary assessments (excluding restitution). The court may mitigate any unpaid monetary obligations except victim restitution. If the application is granted, all remaining obligations continue to be owed and are subject to all remedies until paid. Prohibits applications from persons adjudicated delinquent for:

- a dangerous offense
- an offense for which the person is currently required to register as a sex offender
- an offense for which there has been a finding of sexual motivation pursuant to section ARS13-118
- DUI, if it can be alleged as a prior
- an offense for which the person has not paid victim restitution in full

Destruction of juvenile records

Permits a person who has been adjudicated delinquent to apply for destruction of the person's juvenile court and ADJC records, with some exceptions. Any records of a referral or citation that did not result in a petition being filed or that resulted in a successful completion of diversion must be destroyed by the juvenile court, the clerk of the court and the juvenile probation department within 90 days after the person becomes 18 years of age.

Sections amended: §§ 8-202, 8-348, 8-349

Chapter 137, HB2378. Adoption; Child Welfare; Dependency

Requires the court to hold an expedited hearing on an adoption motion supported by a sworn affidavit that the child is free for adoption, is at least 16 years of age, consents to the adoption, has lived with the prospective adoptive parent for at least six months, and the expedited hearing is in the child's best interests. The Department of Child Safety (DCS) must complete any required social study within six months after receiving a completed application to adopt the child.

Unless a court has ordered otherwise, if a child in DCS custody is receiving or in need of special education services, DCS must promptly notify the child's public education agency of the name and contact information of the child's parent. When the biological or adoptive parent of the child attempts to act as the parent, the biological or adoptive parent is presumed to be the parent for the purposes of making educational decisions.

Section added: §8-514.08

Sections amended: §§8-112, 8-113, 8-526

Chapter 219, SB1315. Victim's Rights; Refusal of Interviews

The probation department, rather than the court, is required to provide victims notice of terms of release in criminal cases and in juvenile cases.

The juvenile probation department, rather than the court, is required to provide the victim notice of the terms of a juvenile diversion program. Various required victim notifications are moved from the juvenile court to the juvenile probation department. The probation department is also now responsible for providing the victim statutorily permitted information from the pre-disposition report.

A victim of a juvenile or criminal offense may supply their contact information on a form provided by the investigating law enforcement agency. Unless the case involved a dismissal with prejudice or an acquittal, the right of victims and their representatives to refuse an interview or discovery request by the defendant or the defendant's representatives extends beyond final disposition of the case.

A prosecutor who has not received a crime victim's notification information no longer must inform the victim of a decision not to proceed with the case. In a superior

court case, if requested by the victim, the probation department, rather than the court, notifies the victim of listed enumerated rights.

A victim of a juvenile or criminal offense may seek an order, bring a special action, file a notice in a trial court, as well as in an appellate proceeding seeking to enforce any right, or to challenge an order denying any right, guaranteed to a victim.

Sections amended: §§8-383, 8-387, 8-388, 8-396, 8-397, 8-398, 8-404, 8-412, 8-416, 13-4402, 13-4408, 13-4415, 13-4417, 13-4425, 13-4437, 22-371, and 22-425

Chapter 262, SB1539. Extended Foster Care Program

Prohibits an interested party from filing a dependency petition concerning a child who has been adjudicated delinquent and is under the jurisdiction of the juvenile court, who is awaiting delinquency adjudication or disposition, or who has been released from ADJC within the previous six months, unless the interested party contacts DCS at least 14 days before filing the petition and provides DCS with notice of the intent to file a petition, the allegations contained in the petition and the factual basis supporting the allegations. The interested party must affirm in the petition that these requirements have been met and serve notice on DCS.

If a petition is filed, the court may not issue any temporary orders with respect to DCS, including placing the child in DCS's legal or physical custody, joining DCS as a party, or ordering DCS to provide any services to the child or the family, without first conducting a hearing. The court must take evidence at the hearing if requested by DCS or a party. Requires the court to provide DCS and the interested party at least 72-hours written or electronic notice of the hearing and an opportunity to be heard as to any proposed orders. If DCS is provided notice and fails to appear, the court may proceed with the hearing.

Authorizes DCS to establish an Extended Foster Care Program for qualified young adults and establishes program requirements. Requires the juvenile court to determine whether the voluntary participation of a qualified young adult in the program is in the person's best interest.

Sections amended: §§8-144, 8-201 and 8-202

Section added: §8-521-02

Probate/Tax

Chapter 46, HB2054. Electronic Wills; Requirements

Prohibits a person who stands to benefit from a will from being a witness to the signing of the will beginning Oct. 1, 2019, unless the will is self-proved. Makes various technical changes to definitions contained in the electronic wills legislation passed last

year to make the statutes internally consistent with respect to self-proving electronic wills, identification requirements for the testator, and the role of a qualified custodian.

Retroactive to July 1, 2019.

Sections amended: §§ 14-1201, 14-2502, 14-2505, 14-2506, 14-2518, 14-2519, 14-2521, 14-2523, 14-3402, 14-3971

Chapter 48, HB2042. Income Tax; Statute of Limitations

If a taxpayer fails to file a report or return for income tax or withholding tax, the Department of Revenue may assess the tax within seven years after the date the report or return was required to be filed. The Department may assess the tax or begin a proceeding in court for collecting the tax at any time, in the case of:

- a false or fraudulent return with the intent to evade tax
- failure to file a return for any tax administered under A.R.S. Title 42 (*taxation*) other than income tax and withholding tax
- failure to file an income tax or withholding tax return if it is shown that the failure was due to an intent to evade tax.

Applies to assessments issued beginning on or after Sept. 1, 2019.

Section amended: §42-1104

Transportation

Chapter 73, HB2107. Municipalities; Parking; Public Vehicles

Prohibits a city or town from restricting a resident from parking a vehicle on a street or driveway if the vehicle is required to be available at the person's residence as a condition of employment and the person is employed at either a public service entity or public safety agency.

Section added: §9-500.46

Chapter 112, HB2318. Texting While Driving; Prohibition; Enforcement

A person is prohibited, unless parked or stopped, from operating a motor vehicle on a street or highway if the person either:

- a. physically holds or supports with any part of the person's body a portable wireless communication device or a stand-alone electronic device. Exceptions apply.
- b. writes, sends or reads any text- based communication including a text message, email or internet data on a portable wireless communication device or stand- alone electronic device. Exceptions apply.

An operator of an authorized emergency, law enforcement or probation vehicle who uses a device while acting in an official capacity is excluded from this chapter.

Beginning January 1, 2021, penalties for a violation are as follows:

- a. at least \$75 but not more than \$149 for an initial violation;
- b. at least \$150 but not more than \$250 for a second or subsequent violation

The following penalties for causing physical injury or death by a moving violation are applied to portable wireless communication devices violations:

- a. Class 1 Misdemeanor (6 months/ \$2500 plus surcharges);
- b. attending and successfully completing traffic survival school;
- c. reporting the conviction for a violation to ADOT;
- d. suspension of driving privileges, if ordered by the court;
- e. performing community restitution, if ordered by the court; and
- f. paying restitution of not more than \$100,000, if ordered by the court.

Contains an emergency clause: Effective April 22, 2019.

Section added: §28-914

Sections amended: §§28-672, 28-963, 28-3164, and 28-3312

Chapter 120, SB1398. Miniature Scooters; Electric Standup Scooters

In pertinent part, an electric bicycle and electric standup scooter are subject to the same statutory provisions as a bicycle and not subject to motor vehicle title, registration, vehicle license tax, driver licenses or vehicle insurance requirements. A local authority may regulate electric bicycles and electric standup scooters.

Defines “electric bicycle” and “electric miniature scooter.” References “electric standup scooter.”

Delayed effective date: September 1, 2020.

Section amended: §§28-101, 28-627, and 28-819

Chapter 153, HB2366. Motor Vehicle Accidents; Restricted License

The court is required to direct ADOT to either suspend or restrict driving privileges for a first-time Causing serious physical injury or death by a moving violation for a period of:

- 90 to 180 days if the violation results in serious physical injury
- 180 days to one year if the violation results in death.

Section amended: §28-672

Chapter 255, HB2492. State Highway Work Zones; Accidents

Adds §28-710 to the list of underlying offenses included within the statute, Causing serious injury or death by a moving violation.

Section amended: §28-672

Chapter 279, SB1220. Reviser's Technical Corrections

In pertinent part, blends two amendments to §12-114, Surcharge on court authorized diversion programs for traffic offenses, from the 2018 session. The surcharge increases from \$5 to \$9 is not repealed on September 1, 2019.

Section amended: §12-114

Chapter 287, HB2265. Defensive Driving Schools; Course Curriculum

Requires each certified defensive driving school to submit the school's future schedule of classroom defensive driving courses, including the dates, start and end times, instructors' names and location for each course, to the supreme court. A class may only admit students who are registered with that school and defensive driving school instructors are prohibited from teaching or facilitating for more than one certified school during the same class instruction time period. A course's date, time and location cannot be changed or canceled except for extraordinary circumstances.

Prohibits the supreme court from conducting an efficacy study or adopting or amending any rules relating to defensive driving schools until July 1, 2020 unless the administrative director determines an emergency exists that necessitates an immediate adoption or amendment of a rule.

Section amended: §28-3395

Session law added

Failed to pass

HB2005: moving violations; defensive driving school

HB2099: voting rights; restoration; felonies

HB2169: incarceration; prohibited; failure to pay

HB2170: juveniles; natural life sentence; repeal

HB2174: criminal; arrest records; erasure

HB2207: property crimes; classification; sentencing

HB2213: repetitive offenders; strike prior felony

HB2245: mandatory minimum sentences; judicial discretion
HB2267: adoption; birth certificate
HB2270: earned release credits; prisoners; literacy
HB2300: sex offender registration; early termination
HB2301: probation; early termination; hearing; appeal
HB2302: prisoners; earned release credits
HB2311: incorrect arrest; record clearance
HB2362: expungement; arrest; conviction; sentencing records
HB2379: undesignated felony offenses; misdemeanors
HB2382: driving on suspended license; towing
HB2400: sentencing; mandatory minimum; exception
HB2401: voting rights; felonies; automatic restoration
HB2403: sentencing; mitigation; monetary obligations; fines
HB2404: marijuana possession; paraphernalia; classification; sentencing
HB2424: undesignated felony; misdemeanor designation
HB2466: criminal proceedings; child welfare; preclusion
HB2480: setting aside judgment; felony offense
HB2531: hands-free wireless communication devices; driving
HB2555: civil penalty; marijuana
HB2584: defensive driving school certification; ownership
HB2555: civil penalty; marijuana
HB2620: suspended driver license; towing
HB2659: appropriation; DOC; second chance centers
HB2661: prisoners; recidivism reduction release credit
SB1060: electronic smoking devices; use; restrictions
SB1117: voting rights; restoration; felonies
SB1202: voting rights; felonies; automatic restoration
SB1209: death penalty; repeal
SB1313: juror contact; advisement; interview requirements

SB1378: earned release credits; prisoners

SB1379: classification; drug possession

SB1421: criminal law; purpose

SB1423: historical prior felony conviction; definition

SB1437: criminal history; required disclosure; limitations

Vetoed

SB1141: distracted driving

SB1334: sentencing; repetitive offender

Updated 8/16/2019