STATE OF ARIZONA

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May 8, 2006

The Honorable Jim Weiers
Speaker of the House
Arizona House of Representatives
1700 West Washington
Phoenix, Arizona 85007

Re: House Bill 2819: adult probation, county responsibility

Dear Speaker Weiers:

Today, I signed House Bill 2819, related to county responsibility for adult probation.

Although our Judicial Branch has expressed bona fide concerns about this bill, I signed it into law today based on assurances I received from the Chair of the Maricopa County Board of Supervisors that despite this bill, Maricopa County will at least maintain funding for juvenile and adult probation programs at levels that equal or exceed the amount of reduction in Maricopa County's AHCCCS contribution pursuant to A.R.S. § 11-292(P). The County also has committed to do its best to keep probation revocations at approximately their current levels, to share its performance results with the State on a timely basis, and to work closely with my office and the legislature in analyzing the impacts of this legislation. Finally, the County has assured me that despite this bill, it will not raise its surcharges above those imposed by other counties.

Based upon these assurances, I am signing House Bill 2819 into law.

Yours very truly,

Janet Napolitano
Governor

JN:TN/jm

cc: The Honorable Ken Bennett
The Honorable Russell K. Pearce

Senate Engrossed House Bill

**FILED**
**JANICE K. BREWER**
**SECRETARY OF STATE**

State of Arizona
House of Representatives
Forty-seventh Legislature
Second Regular Session
2006

**CHAPTER 261**

# HOUSE BILL 2819

AN ACT

AMENDING SECTIONS 11-292, 12-114.01 AND 12-262, ARIZONA REVISED STATUTES; AMENDING TITLE 12, CHAPTER 2, ARTICLE 7, ARIZONA REVISED STATUTES, BY ADDING SECTION 12-269; MAKING APPROPRIATIONS; 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 11-292, Arizona Revised Statutes, is amended to
3 read:
4 11-292. Medical care; definition
5 A. The board of supervisors, subject to the applicable provisions of
6 title 42, chapter 17, articles 2 and 3, shall include in its annual budget an
7 amount equal to fifty per cent of the amount budgeted by the county board of
8 supervisors or the amount expended, whichever is less, for the
9 hospitalization and medical care of the indigent sick pursuant to this
10 article for fiscal year 1980-1981, except for Yuma and La Paz counties. The
11 contribution amounts of those counties shall be equal to the amount Yuma
12 county would have made pursuant to this subsection if a division had not
13 occurred apportioned between the counties. The office of the auditor general
14 shall determine the amount Yuma county would otherwise have included if a
15 division had not occurred and shall then determine the contribution amounts
16 of Yuma and La Paz counties based on the proportionate share of the estimated
17 population in these counties as of July 1, 1982.
18 B. For fiscal year 1994-1995, and for each fiscal year thereafter, the
19 state treasurer shall withhold an amount sufficient to meet the county
20 portion of the nonfederal costs of providing long-term care system services,
21 pursuant to title 36, chapter 29, article 2, excluding services to the
22 developmentally disabled, from monies otherwise payable to the county under
23 section 42-5029, subsection D, paragraph 2. This amount and the state
24 portion of the nonfederal costs shall be specified in the annual
25 appropriation for the maintenance and operation of the Arizona health care
26 cost containment system. For fiscal years 1994-1995, 1995-1996 and
27 1996-1997, monies shall be withheld from each county based on the following
28 percentages derived from a state auditor general's certified audit of fiscal
29 year 1987-1988 county long-term care and home health care expenditures,
30 except that amounts withheld shall be adjusted to reflect amounts paid by
31 counties pursuant to section 36-2952:

| | | |
|---|---|---|
| 32 | 1. Apache: | 0.22% |
| 33 | 2. Cochise: | 2.49% |
| 34 | 3. Coconino: | 0.66% |
| 35 | 4. Gila: | 2.56% |
| 36 | 5. Graham: | 0.64% |
| 37 | 6. Greenlee: | 0.34% |
| 38 | 7. La Paz: | 0.34% |
| 39 | 8. Maricopa: | 56.55% |
| 40 | 9. Mohave: | 2.73% |
| 41 | 10. Navajo: | 0.91% |
| 42 | 11. Pima: | 20.55% |
| 43 | 12. Pinal: | 5.09% |
| 44 | 13. Santa Cruz: | 1.05% |

14. Yavapai: 3.12%
15. Yuma: 2.75%

C. In each fiscal year, of the total amount that is specified in the annual appropriation as the nonfederal portion of the cost of providing long-term care services, excluding services to the developmentally disabled, and that represents an increase from the amount that was specified in the annual appropriation for the prior fiscal year, the state shall pay fifty per cent of the increase. The remaining nonfederal portion of the costs shall be apportioned among the counties according to the proportion that each county's net nonfederal expenditures for long-term care services, excluding services to the developmentally disabled, bears to the total nonfederal expenditure for all counties two fiscal years earlier, with the following adjustments in the following order:

1. If the resulting net county contribution when expressed as an imputed property tax rate per one hundred dollars of net assessed value exceeds ninety cents, the county's contribution shall be reduced so that the imputed property tax rate equals ninety cents and the difference shall be paid by the state.

2. Any county with a native American population that represents at least twenty per cent of the county's total population according to the most recent United States decennial census shall contribute an amount equal to the prior fiscal year's contribution plus fifty per cent of the difference between the prior year's contribution were it calculated using the percentage in subsection B of this section and the current year's contribution as if its share of the total nonfederal portion of the long-term care costs had been calculated using the percentage prescribed in subsection B of this section and the state shall pay any difference from the amount otherwise required by this subsection.

3. If, after making the adjustments in this subsection, a county would contribute more than if its contribution were calculated using the percentage prescribed in subsection B of this section multiplied by the total nonfederal costs of long-term care services, excluding services to the developmentally disabled, the county's contribution shall be reduced to the sum of its prior year's contribution plus fifty per cent of the difference between the prior year's contribution were it calculated using the percentage in subsection B of this section and the current year's contribution as if its share of the total nonfederal portion of long-term care costs had been calculated using the percentage prescribed in subsection B of this section and the state shall pay any difference from the amount otherwise required by this subsection.

D. The director of the Arizona health care cost containment system administration shall notify each county of the amount determined pursuant to subsection A of this section to be included in its annual budget no later than May 1 of each year.

E. If a county does not provide funding as specified in subsection A of this section, the state treasurer shall subtract the amount owed to the

1 Arizona health care cost containment system fund by the county from any
2 payments required to be made by the state treasurer to that county pursuant
3 to section 42-5029, subsection D, paragraph 2, plus interest on that amount
4 pursuant to section 44-1201 retroactive to the first day the funding was due.
5 If the monies the state treasurer withholds are insufficient to meet that
6 county's funding requirement as specified in subsection A of this section,
7 the state treasurer shall withhold from any other monies payable to that
8 county from whatever state funding source is available an amount necessary to
9 fulfill that county's requirement. The state treasurer shall not withhold
10 distributions from the highway user revenue fund pursuant to title 28,
11 chapter 18, article 2.
12 F. Each month payment of an amount equal to one-twelfth of the total
13 amount determined pursuant to subsection A of this section shall be made to
14 the state treasurer. Beginning October 1, 1989, payment of this amount shall
15 be made to the state treasurer on or before the fifth day of each month.
16 Upon request from the director of the Arizona health care cost containment
17 system administration, the state treasurer shall require that up to three
18 months' payments be made in advance, if necessary.
19 G. The state treasurer shall deposit the amounts paid pursuant to
20 subsection F of this section and amounts withheld pursuant to subsection E of
21 this section in the Arizona health care cost containment system fund
22 established pursuant to section 36-2913.
23 H. If payments made pursuant to subsection F of this section exceed
24 the amount required to meet the costs incurred by the Arizona health care
25 cost containment system for the hospitalization and medical care of a person
26 who is defined as an eligible person pursuant to section 36-2901, paragraph
27 6, subdivision (a), the director of the Arizona health care cost containment
28 system administration may instruct the state treasurer either to reduce
29 remaining payments to be paid pursuant to this section by a specified amount
30 or to provide to the counties specified amounts from the Arizona health care
31 cost containment system fund.
32 I. The amount of the county contribution to the Arizona health care
33 cost containment system fund established in section 36-2913 shall not exceed
34 thirty-three per cent of the amount that the system administration expended
35 in the county for fiscal year 1983-1984. For the purposes of this
36 subsection, system administration expenditures in a county for fiscal year
37 1983-1984 are the total capitation and fee for service amounts paid by the
38 system administration to providers in a county before February 1, 1986 for
39 services rendered during fiscal year 1983-1984 to persons eligible for the
40 system.
41 J. The state treasurer shall deposit amounts withheld pursuant to
42 subsection E of this section in the Arizona health care cost containment
43 system fund established by section 36-2913.
44 K. The state treasurer shall deposit the monies withheld from the
45 counties and contributed by the state pursuant to subsection B of this

1 section in the long-term care system fund established by section 36-2913, in
2 twelve equal monthly installments. The monthly installments shall be
3 deposited in the fund by the state treasurer by the fourth working day of
4 each month.
5 L. By July 1 or within sixty days after enactment of the annual
6 appropriation for the maintenance and operation of the Arizona health care
7 cost containment system, whichever is later, and after consulting with the
8 joint legislative budget committee and the governor's office of strategic
9 planning and budgeting, the state treasurer shall notify each county of the
10 amount to be withheld pursuant to subsection B of this section.
11 M. If the monies deposited in the long-term care system fund pursuant
12 to subsection K of this section are insufficient to meet the funding
13 requirement as specified in the annual appropriation for the maintenance and
14 operation of the Arizona health care cost containment system pursuant to
15 subsection B of this section, the state treasurer shall withhold from any
16 other monies payable to that county from any available state funding source,
17 other than the highway user revenue fund, the amount required to fulfill
18 fifty per cent of the funding requirement and shall deposit the monies in the
19 long-term care system fund. The state shall pay the remaining fifty per cent
20 of the funding requirement.
21 N. If any monies in the funds for the purpose of title 36, chapter 29,
22 article 2 remain unexpended at the end of the fiscal year, the director of
23 the Arizona health care cost containment system administration shall specify
24 to the state treasurer the amount to be withdrawn from the long-term care
25 system fund. Of the amount specified, the state treasurer shall distribute
26 fifty per cent to the counties pursuant to subsection B or C of this section.
27 The remaining fifty per cent shall be distributed to the state.
28 O. The board of supervisors of a county that is a program contractor
29 pursuant to section 36-2940 shall include in its annual budget, subject to
30 title 42, chapter 17, articles 2 and 3, monies received from the Arizona
31 health care cost containment system fund and long-term care system fund for
32 the purposes of title 36, chapter 29, article 2.
33 P. Notwithstanding any law to the contrary, beginning in fiscal year
34 2005-2006 and in each fiscal year thereafter, the state treasurer shall
35 withhold a total of two million three hundred ninety-five thousand four
36 hundred dollars for the county contribution for the administrative costs of
37 implementing sections 36-2901.01 and 36-2901.04 beginning with the second
38 monthly distribution of transaction privilege tax revenues otherwise
39 distributable after subtracting any amounts withheld for the county long-term
40 care contribution. Beginning in fiscal year 2006-2007, the state treasurer
41 shall adjust the amount withheld according to the annual changes in the GDP
42 price deflator and as calculated by the joint legislative budget committee
43 staff. Beginning in fiscal year 2006-2007, the joint legislative budget
44 committee shall calculate an additional adjustment of the allocation required
45 by this subsection based on changes in the population as reported by the

department of economic security. For the purposes of this subsection "GDP price deflator" has the same meaning prescribed in section 41-563. Each county's annual contribution is as follows:

1. Apache, 3.296 per cent.
2. Cochise, 6.148 per cent.
3. Coconino, 6.065 per cent.
4. Gila, 2.491 per cent.
5. Graham, 1.7110 per cent.
6. Greenlee, 0.455 per cent.
7. La Paz, 0.9430 per cent.
8. Mohave, 7.079 per cent.
9. Navajo, 4.640 per cent.
10. Pima, 42.168 per cent.
11. Pinal, 8.251 per cent.
12. Santa Cruz, 1.950 per cent.
13. Yavapai, 7.794 per cent.
14. Yuma, 6.949 per cent.

Q. The state treasurer shall deposit the amounts paid pursuant to subsection P of this section in the budget neutrality compliance fund established by section 36-2928.

R. BEGINNING IN FISCAL YEAR 2006-2007 FOR A COUNTY THAT IS SUBJECT TO SECTION 12-269, THE COUNTY'S CONTRIBUTIONS PURSUANT TO THIS SECTION SHALL BE REDUCED BY THE AMOUNT OF STATE AID FOR PROBATION SERVICES THAT THE COUNTY WOULD HAVE RECEIVED IN THE FIRST FISCAL YEAR IN WHICH THE COUNTY DOES NOT RECEIVE STATE AID FOR PROBATION SERVICES. ANY INCREASE IN THE COUNTY'S CONTRIBUTIONS IN SUBSEQUENT YEARS SHALL BE REDUCED ACCORDING TO ITS PROPORTIONATE SHARE OF THE BASE CONTRIBUTION. COUNTY CONTRIBUTIONS SHALL BE REDUCED IN THE FOLLOWING PRIORITY:

1. FIRST AS APPLIED TO THE CONTRIBUTION PROVIDED FOR IN SUBSECTION P OF THIS SECTION.

2. SECOND AS APPLIED TO THE CONTRIBUTION PROVIDED FOR IN SUBSECTION A OF THIS SECTION OR ANY OTHER CONTRIBUTION FOR ACUTE CARE OR FOR THE PROVISION OF HOSPITALIZATION AND MEDICAL CARE THAT WOULD OTHERWISE BE REQUIRED.

3. THIRD AS APPLIED TO THE CONTRIBUTION PROVIDED FOR IN SUBSECTION C OF THIS SECTION.

~~R.~~ S. For the purposes of this section, "net assessed value" includes the values used to determine voluntary contributions collected pursuant to title 9, chapter 4, article 3 and title 48, chapter 1, article 8.

Sec. 2. Section 12-114.01, Arizona Revised Statutes, is amended to read:

12-114.01. <u>Probation surcharge; deposit</u>

A. EXCEPT AS PROVIDED IN SECTION 12-269, in addition to any other penalty assessment provided by law, a probation surcharge of ~~five~~ TEN dollars shall be levied on every fine, penalty and forfeiture imposed and collected by the SUPERIOR, JUSTICE AND MUNICIPAL courts for criminal offenses and any

civil penalty imposed and collected for a civil traffic violation and fine, penalty or forfeiture for a violation of the motor vehicle statutes, for a violation of any local ordinance relating to the stopping, standing or operation of a vehicle, except parking violations, or for a violation of the game and fish statutes in title 17.

B. The monies collected pursuant to this section shall be deposited, pursuant to sections 35-146 and 35-147, in the judicial collection enhancement fund established by section 12-113 to be used to supplement monies currently used for the salaries of adult and juvenile probation and surveillance officers and for support of programs and services of the superior court adult and juvenile probation departments.

C. The court may waive all or part of a probation surcharge in the same manner and subject to the same limitations provided for the waiver of penalty assessments in section 12-116.01, subsection E and section 12-116.02, subsection D.

Sec. 3. Section 12-262, Arizona Revised Statutes, is amended to read:

12-262. Submission of plan; use of funds; election; report

A. 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 section 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~~ USED 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.

B. IF A COUNTY IS SUBJECT TO SECTION 12-269, THE FOLLOWING APPLY:

1. BEGINNING IN FISCAL YEAR 2006-2007, THE COUNTY'S CONTRIBUTION TO THE HOSPITALIZATION AND MEDICAL CARE OF THE INDIGENT SICK, TO THE NONFEDERAL PORTION OF PROVIDING LONG-TERM CARE AND FOR THE ADMINISTRATIVE COSTS OF IMPLEMENTING SECTIONS 36-2901.01 AND 36-2901.04 SHALL BE REDUCED PURSUANT TO SECTION 11-292, SUBSECTION R.

2. THE ECONOMIC ESTIMATES COMMISSION SHALL INCREASE THE COUNTY'S BASE EXPENDITURE LIMIT BEGINNING IN THE FISCAL YEAR THAT THE COUNTY ASSUMES FUNDING RESPONSIBILITY PURSUANT TO SECTION 41-563, SUBSECTION D.

C. THE SUPREME COURT SHALL REPORT TO THE JOINT LEGISLATIVE BUDGET COMMITTEE ALL AMOUNTS PROVIDED TO ANY COUNTY PURSUANT TO THIS ARTICLE FOR ADULT PROBATION SERVICES OR JUVENILE PROBATION SERVICES.

Sec. 4. Title 12, chapter 2, article 7, Arizona Revised Statutes, is amended by adding section 12-269, to read:

12-269. Probation funding; counties with a population of two million or more persons; report

A. THE ADMINISTRATIVE OFFICE OF THE COURTS SHALL NOT DISBURSE ANY DIRECT STATE AID FOR PROBATION SERVICES MONIES, INCLUDING MOTOR POOL COSTS, THAT ARE APPROPRIATED FOR JUVENILE INTENSIVE PROBATION SERVICES PURSUANT TO SECTION 8-353, STATE AID FOR PROBATION SERVICES PURSUANT TO SECTION 12-262, ADULT INTENSIVE PROBATION PURSUANT TO TITLE 13, CHAPTER 9 AND COMMUNITY PUNISHMENT PROGRAMS PURSUANT TO ARTICLE 11 OF THIS CHAPTER TO A COUNTY WITH A POPULATION OF TWO MILLION OR MORE PERSONS.

B. A COUNTY WITH A POPULATION OF TWO MILLION OR MORE PERSONS SHALL MAINTAIN PROBATION STANDARDS THAT ARE OTHERWISE PRESCRIBED BY LAW, EXCEPT THAT THE PROBATION RATIOS THAT ARE LISTED IN SECTIONS 8-203, 8-353, 12-251 AND 13-916 DO NOT APPLY. THE COUNTY SHALL MAINTAIN APPROPRIATE RATIOS OF OFFICERS TO PROBATIONERS CONSISTENT WITH EVIDENCE BASED PRACTICES IN DIFFERENTIATED CASE MANAGEMENT AND SHALL ANNUALLY REPORT ITS PERFORMANCE TO THE CHIEF JUSTICE OF THE ARIZONA SUPREME COURT, THE SPEAKER OF THE HOUSE OF REPRESENTATIVES AND THE PRESIDENT OF THE SENATE ON OR BEFORE OCTOBER 1 OF EACH YEAR. THE ANNUAL REPORT SHALL INCLUDE, FOR EACH PROBATION PROGRAM, THE RATE OF SUCCESSFUL COMPLETION OF PROBATION, THE RATE OF NEW FELONY CONVICTIONS AND THE RATE OF COMMITMENT TO THE STATE DEPARTMENT OF CORRECTIONS OR THE DEPARTMENT OF JUVENILE CORRECTIONS.

C. IN LIEU OF THE SURCHARGE PRESCRIBED IN SECTION 12-114.01 AND IN ADDITION TO ANY OTHER PENALTY ASSESSMENT PROVIDED BY LAW, A COUNTY WITH A POPULATION OF TWO MILLION OR MORE PERSONS SHALL LEVY A PROBATION SURCHARGE IN AN AMOUNT DETERMINED BY THE COUNTY ON EVERY FINE, PENALTY AND FORFEITURE IMPOSED AND COLLECTED BY THE SUPERIOR, JUSTICE AND MUNICIPAL COURTS FOR CRIMINAL OFFENSES AND ANY CIVIL PENALTY IMPOSED AND COLLECTED FOR A CIVIL TRAFFIC VIOLATION AND FINE, PENALTY OR FORFEITURE FOR A VIOLATION OF THE MOTOR VEHICLE STATUTES, FOR A VIOLATION OF ANY LOCAL ORDINANCE RELATING TO THE STOPPING, STANDING OR OPERATION OF A VEHICLE, EXCEPT PARKING VIOLATIONS, OR FOR A VIOLATION OF THE GAME AND FISH STATUTES IN TITLE 17.

D. THE MONIES COLLECTED PURSUANT TO THIS SECTION SHALL BE DEPOSITED, PURSUANT TO SECTIONS 35-146 AND 35-147, IN THE ADULT PROBATION SERVICES FUND ESTABLISHED BY SECTION 12-267 OR IN THE JUVENILE PROBATION FUND ESTABLISHED BY SECTION 12-268 IN SUCH PROPORTION AS DETERMINED BY THE BOARD OF SUPERVISORS.

E. FOR THE PURPOSES OF SECTIONS 12-267 AND 12-268, IN A COUNTY WITH A POPULATION OF TWO MILLION OR MORE PERSONS, PROBATION FEES UNDER SECTION 13-901 AND PROBATION SURCHARGES UNDER THIS SECTION ARE NOT STATE APPROPRIATIONS.

F. NOTWITHSTANDING ANY OTHER PROVISION OF THIS SECTION, THE ADMINISTRATIVE OFFICE OF THE COURTS SHALL PROVIDE CENTRALIZED SUPPORT

SERVICES TO ALL COUNTIES FROM MONIES THAT ARE PROVIDED FOR PROBATION PROGRAMS.

Sec. 5. Arizona health care cost containment system; appropriations

A. In addition to any other law, the appropriation made to the Arizona health care cost containment system from county funds in fiscal year 2006-2007 is reduced by $7,435,400 for those counties taking on additional probation costs pursuant to section 12-269, Arizona Revised Statutes, as added by this act.

B. The sum of $7,435,400 is appropriated from the state general fund in fiscal year 2006-2007 to the Arizona health care cost containment system to offset the reduction for counties subject to section 12-269, Arizona Revised Statutes, as added by this act.

Sec. 6. Counties; reduction

In accordance with section 11-292, subsection R, Arizona Revised Statutes, as amended by this act, for a county that is subject to section 12-269, Arizona Revised Statutes, as added by this act, that county's contribution shall be reduced by $7,435,400.

Sec. 7. Courts; appropriation

A. The appropriation made from the state general fund to the superior court juvenile standard probation special line item in fiscal year 2006-2007 is reduced by $3,110,900 due to counties taking on additional probation costs pursuant to section 12-269, Arizona Revised Statutes, as added by this act.

B. The appropriation made from the state general fund to the superior court juvenile intensive probation special line item in fiscal year 2006-2007 is reduced by $3,769,400 due to counties taking on additional probation costs pursuant to section 12-269, Arizona Revised Statutes, as added by this act.

C. The appropriation made from the state general fund in fiscal year 2006-2007 through Laws 2006, chapter 1 and allocated to the superior court for the salary adjustment shall be reduced by $555,100 due to counties taking on additional probation costs pursuant to section 12-269, Arizona Revised Statutes, as added by this act.

**APPROVED BY THE GOVERNOR MAY 8, 2006.**

**FILED IN THE OFFICE OF THE SECRETARY OF STATE MAY 8, 2006.**