

House Engrossed

FILED
MICHELE REAGAN
SECRETARY OF STATE

State of Arizona
House of Representatives
Fifty-second Legislature
First Regular Session
2015

CHAPTER 100

HOUSE BILL 2164

AN ACT

AMENDING SECTIONS 13-3906 AND 13-3967, ARIZONA REVISED STATUTES; RELATING TO BAIL.

(TEXT OF BILL BEGINS ON NEXT PAGE)

1 Be it enacted by the Legislature of the State of Arizona:
2 Section 1. Section 13-3906, Arizona Revised Statutes, is amended to
3 read:

4 13-3906. Processing arrestees; citizenship determination;
5 notice

6 A. Within twenty-four hours after a person is brought to a law
7 enforcement agency for incarceration, the law enforcement agency shall
8 inquire of the person and determine that person's country of citizenship. If
9 the person is not a United States citizen, the law enforcement agency shall:

10 1. Notify the person's country of citizenship of the person's
11 detention if the person does not waive notification or if the person's
12 country of citizenship requires notification regardless of the person's
13 waiver of notification.

14 2. Document the notification to the person's country of citizenship
15 and any waiver of notification.

16 3. Transmit any information obtained pursuant to this section to the
17 court and the prosecuting agency for the purpose of making a determination
18 pursuant to section 13-3961, subsection A, paragraph 5 or section 13-3967,
19 subsection B, paragraph ~~11~~ 14 or for any other lawful purpose.

20 B. The failure or inability of a law enforcement agency to provide the
21 notice required by this section does not:

22 1. Affect the admissibility of any statements, the voluntariness of a
23 guilty plea or the validity of a conviction.

24 2. Afford a defendant any rights in any proceeding related to
25 deportation, exclusion or denial of naturalization.

26 Sec. 2. Section 13-3967, Arizona Revised Statutes, is amended to read:
27 13-3967. Release on bailable offenses before trial; definition

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

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

35 1. The views of the victim.

36 2. The nature and circumstances of the offense charged.

37 3. WHETHER THE ACCUSED HAS A PRIOR ARREST OR CONVICTION FOR A SERIOUS
38 OFFENSE OR VIOLENT OR AGGRAVATED FELONY AS DEFINED IN SECTION 13-706 OR AN
39 OFFENSE IN ANOTHER STATE THAT WOULD BE A SERIOUS OFFENSE OR VIOLENT OR
40 AGGRAVATED FELONY AS DEFINED IN SECTION 13-706 IF COMMITTED IN THIS STATE.

41 4. EVIDENCE THAT THE ACCUSED POSES A DANGER TO OTHERS IN THE
42 COMMUNITY.

43 5. THE RESULTS OF A RISK OR LETHALITY ASSESSMENT IN A DOMESTIC
44 VIOLENCE CHARGE THAT IS PRESENTED TO THE COURT.

45 ~~3-~~ 6. The weight of evidence against the accused.

1 ~~4.~~ 7. The accused's family ties, employment, financial resources,
2 character and mental condition.

3 ~~5.~~ 8. The results of any drug test submitted to the court.

4 ~~6.~~ 9. Whether the accused is using any substance if its possession or
5 use is illegal pursuant to chapter 34 of this title.

6 ~~7.~~ 10. Whether the accused violated section 13-3407, subsection A,
7 paragraph 2, 3, 4 or 7 involving methamphetamine or section 13-3407.01.

8 ~~8.~~ 11. The length of residence in the community.

9 ~~9.~~ 12. The accused's record of arrests and convictions.

10 ~~10.~~ 13. The accused's record of appearance at court proceedings or of
11 flight to avoid prosecution or failure to appear at court proceedings.

12 ~~11.~~ 14. Whether the accused has entered or remained in the United
13 States illegally.

14 ~~12.~~ 15. Whether the accused's residence is in this state, in another
15 state or outside the United States.

16 C. If a judicial officer orders the release of a defendant who is
17 charged with a felony either on his own recognizance or on bail, the judicial
18 officer shall condition the defendant's release on the defendant's good
19 behavior while so released. On a showing of probable cause that the
20 defendant committed any offense during the period of release, a judicial
21 officer may revoke the defendant's release pursuant to section 13-3968.

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

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

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

29 3. Require the deposit with the clerk of the court of cash or other
30 security, such deposit to be returned on the performance of the conditions of
31 release.

32 4. Prohibit the person from possessing any ~~dangerous~~ DEADLY weapon or
33 engaging in certain described activities or indulging in intoxicating liquors
34 or certain drugs.

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

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

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

- 1 1. Electronic monitoring where available.
- 2 2. A condition prohibiting the person from having any contact with the
- 3 victim.
- 4 F. The judicial officer who authorizes the release of the person
- 5 charged on his own recognizance or on bail shall do all of the following:
- 6 1. Issue an appropriate order containing statements of the conditions
- 7 imposed.
- 8 2. Inform the person of the penalties that apply to any violation of
- 9 the conditions of release.
- 10 3. Advise the person that a warrant for his arrest may be issued
- 11 immediately on any violation of the conditions of release, including the
- 12 failure to submit to deoxyribonucleic acid testing ordered pursuant to
- 13 paragraph 4 of this subsection.
- 14 4. If the person is charged with a felony or misdemeanor offense
- 15 listed in section 13-610, subsection 0, paragraph 3 and is summoned to
- 16 appear, order the person to report within five days to the law enforcement
- 17 agency that arrested the person or to the agency's designee and submit a
- 18 sufficient sample of buccal cells or other bodily substances for
- 19 deoxyribonucleic acid testing and extraction. If a person does not comply
- 20 with an order issued pursuant to this ~~subsection~~ PARAGRAPH, the court shall
- 21 revoke the person's release.
- 22 G. At any time after providing notice to the victim pursuant to
- 23 section 13-4406, the judicial officer who orders the release of a person on
- 24 any condition specified in this section or the court in which a prosecution
- 25 is pending may amend the order to employ additional or different conditions
- 26 of release, including either an increase or reduction in the amount of bail.
- 27 On application, the defendant shall be entitled to have the conditions of
- 28 release reviewed by the judicial officer who imposed them or by the court in
- 29 which the prosecution is pending. Reasonable notice of the application shall
- 30 be given to the county attorney and the victim.
- 31 H. Any information that is stated or offered in connection with any
- 32 order pursuant to this section need not conform to the rules pertaining to
- 33 admissibility of evidence in a court of law.
- 34 I. This section does not prevent the disposition of any case or class
- 35 of cases by forfeiture of bail or collateral security if such disposition is
- 36 authorized by the court.
- 37 J. A judicial officer who orders the release of a juvenile who has
- 38 been transferred to the criminal division of the superior court pursuant to
- 39 section 8-327 or who has been charged as an adult pursuant to section 13-501
- 40 shall notify the appropriate school district on the release of the juvenile
- 41 from custody.
- 42 K. For the purposes of this section and section 13-3968, "judicial
- 43 officer" means any person or court authorized pursuant to the constitution or
- 44 laws of this state to bail or otherwise release a person before trial or
- 45 sentencing or pending appeal.

Passed the House February 16, 2015

Passed the Senate March 24, 2015

by the following vote: 57 Ayes,

by the following vote: 28 Ayes,

0 Nays, 3 Not Voting

0 Nays, 2 Not Voting

[Signature]
Speaker of the House

[Signature]
President of the Senate

[Signature]
Chief Clerk of the House

[Signature]
Secretary of the Senate

EXECUTIVE DEPARTMENT OF ARIZONA
OFFICE OF GOVERNOR

This Bill received by the Governor this

25th day of March, 20 15

at 3:31 o'clock P. M.

[Signature]
Secretary to the Governor

Approved this 30th day of

March

at 1:29 o'clock P. M.

[Signature]
Governor of Arizona

EXECUTIVE DEPARTMENT OF ARIZONA
OFFICE OF SECRETARY OF STATE

This Bill received by the Secretary of State

this 31st day of March, 20 15

at 10:00 o'clock A M.

[Signature]
Secretary of State

H.B. 2164