

Senate Engrossed

**FILED**

**MICHELE REAGAN**  
**SECRETARY OF STATE**

State of Arizona  
Senate  
Fifty-third Legislature  
First Regular Session  
2017

**CHAPTER 8**  
**SENATE BILL 1066**

AN ACT

AMENDING SECTIONS 13-810, 13-3414, 13-3990, 13-4410 AND 31-412, ARIZONA  
REVISED STATUTES; RELATING TO THE CLERK OF THE COURT.

(TEXT OF BILL BEGINS ON NEXT PAGE)

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

2 Section 1. Section 13-810, Arizona Revised Statutes, is amended to  
3 read:

4 13-810. Consequences of nonpayment of fines, fees,  
5 restitution or incarceration costs

6 A. In addition to any other remedy provided by law, including a  
7 writ of execution or other civil enforcement, if a defendant who is  
8 sentenced to pay a fine, a fee or incarceration costs defaults in the  
9 payment of the fine, fee or incarceration costs or of any installment as  
10 ordered, ~~the clerk of the court imposing the fine, fee or incarceration~~  
11 ~~costs shall notify the prosecutor and the sentencing court. The court, on~~  
12 ~~motion of the prosecuting attorney or on its own motion, shall require the~~  
13 ~~defendant to show cause why the defendant's default should not be treated~~  
14 ~~as contempt and may issue a summons or a warrant of arrest for the~~  
15 ~~defendant's appearance.~~

16 B. In addition to any other remedy provided by law, including a  
17 writ of execution or other civil enforcement, if a defendant who is  
18 ordered to pay restitution defaults in the payment of the restitution or  
19 of any installment as ordered, ~~the clerk of the court that imposed the~~  
20 ~~restitution shall notify the prosecutor and the sentencing court on a~~  
21 ~~monthly basis. The court, on motion of the prosecuting attorney, on~~  
22 ~~petition of any person entitled to restitution pursuant to a court order~~  
23 ~~or on its own motion, shall require the defendant to show cause why the~~  
24 ~~defendant's default should not be treated as contempt and may issue a~~  
25 ~~summons or a warrant of arrest for the defendant's appearance.~~

26 C. At any hearing on the order to show cause the court, the  
27 prosecuting attorney or a person entitled to restitution may examine the  
28 defendant under oath concerning the defendant's financial condition,  
29 employment and assets or on any other matter relating to the defendant's  
30 ability to pay restitution.

31 D. If the court finds that the defendant has wilfully failed to pay  
32 a fine, a fee, restitution or incarceration costs or finds that the  
33 defendant has intentionally refused to make a good faith effort to obtain  
34 the monies required for the payment, the court shall find that the default  
35 constitutes contempt and may do one of the following:

36 1. Order the defendant incarcerated in the county jail until the  
37 fine, fee, restitution or incarceration costs, or a specified part of the  
38 fine, fee, restitution or incarceration costs, is paid.

39 2. Revoke the defendant's probation, parole or community  
40 supervision and sentence the defendant to prison pursuant to law.

41 3. Enter an order pursuant to section 13-812. The levy or  
42 execution for the collection of a fine, a fee, restitution or  
43 incarceration costs does not discharge a defendant who is incarcerated for  
44 nonpayment of the fine, fee, restitution or incarceration costs until the  
45 amount of the fine, fee, restitution or incarceration costs is collected.

1 4. Order the defendant to perform community restitution.

2 E. If the court finds that the default is not wilful and that the  
3 defendant cannot pay despite sufficient good faith efforts to obtain the  
4 monies, the court may take any lawful action including:

5 1. Modify the manner in which the restitution, fine, fee or  
6 incarceration costs are to be paid.

7 2. Enter any reasonable order that would assure compliance with the  
8 order to pay.

9 3. Enter an order pursuant to section 13-812. The levy or  
10 execution for the collection of a fine, a fee, restitution or  
11 incarceration costs does not discharge a defendant incarcerated for  
12 nonpayment of the fine, fee, restitution or incarceration costs until the  
13 amount of the fine, fee, restitution or incarceration costs is collected.

14 F. If a fine, a fee, restitution or incarceration costs are imposed  
15 on an enterprise it is the duty of the person or persons authorized to  
16 make disbursement from the assets of the enterprise to pay them from those  
17 assets, and their failure to do so shall be held a contempt unless they  
18 make the showing required in subsection A or B of this section.

19 G. IF A DEFENDANT IS SENTENCED TO PAY A FINE, A FEE, RESTITUTION OR  
20 INCARCERATION COSTS, THE CLERK OF THE SENTENCING COURT, ON REQUEST, SHALL  
21 MAKE THE DEFENDANT'S PAYMENT HISTORY AVAILABLE TO THE PROSECUTOR, VICTIM,  
22 VICTIM'S ATTORNEY, PROBATION DEPARTMENT AND COURT WITHOUT COST.

23 Sec. 2. Section 13-3414, Arizona Revised Statutes, is amended to  
24 read:

25 13-3414. Convicted person's information to be sent to  
26 licensing board and the department of economic  
27 security; suspension or revocation of license or  
28 registration

29 A. On the conviction of a person of an offense in this chapter,  
30 ~~a copy of the judgment and sentence, and of the opinion of the court or~~  
31 ~~magistrate, if any opinion is filed, shall be sent by the COURT OR, IF~~  
32 ~~DIRECTED BY THE COURT, THE clerk of the court, or by the magistrate, SHALL~~  
33 PROVIDE THE CONVICTED PERSON'S NAME, CASE NUMBER, DATE OF CONVICTION AND  
34 CRIME CONVICTED OF AND, IF KNOWN, THE CONVICTED PERSON'S SOCIAL SECURITY  
35 NUMBER, DATE OF BIRTH, ADDRESS AND LICENSE OR REGISTRATION NUMBER to all  
36 of the following:

37 1. The board or officer, if any, by whom the convicted defendant  
38 has been licensed or registered to practice a profession or to carry on a  
39 business. On the conviction of any such person, the court, in its  
40 discretion, may suspend or revoke the license or registration of the  
41 convicted defendant to practice the profession or to carry on the  
42 business. On the application of any person whose license or registration  
43 has been suspended or revoked, and on proper showing and for good cause,  
44 the board or officer may reinstate the license or registration.

1           2. If the court has knowledge that the convicted person receives  
2 temporary assistance for needy families cash benefits, the department of  
3 economic security.

4           B. ON REQUEST OF AN ENTITY LISTED IN SUBSECTION A OF THIS SECTION,  
5 THE COURT OR, IF DIRECTED BY THE COURT, THE CLERK OF THE COURT SHALL  
6 PROVIDE THE REQUESTING ENTITY WITH A COPY OF THE CONVICTED PERSON'S  
7 JUDGMENT AND SENTENCE AND OF THE OPINION OF THE COURT, IF ANY OPINION IS  
8 FILED.

9           Sec. 3. Section 13-3990, Arizona Revised Statutes, is amended to  
10 read:

11           13-3990. Notice of conviction of teachers

12           A. On the conviction of a person of an offense in this title or of  
13 any felony, if the person is certified to teach by the state board of  
14 education or is teaching in a community college district or charter  
15 school, ~~a copy of the judgment and sentence, and of the opinion of the~~  
16 ~~court or magistrate, if any opinion is filed, shall be sent by THE COURT~~  
17 ~~OR, IF DIRECTED BY THE COURT, the clerk of the court, or by the~~  
18 ~~magistrate,~~ SHALL PROVIDE THE CONVICTED PERSON'S NAME, CASE NUMBER, DATE  
19 OF CONVICTION AND CRIME CONVICTED OF AND, IF KNOWN, THE CONVICTED PERSON'S  
20 SOCIAL SECURITY NUMBER, DATE OF BIRTH, ADDRESS AND LICENSE OR REGISTRATION  
21 NUMBER to the state board of education, to the community college district  
22 or to the charter school.

23           B. ON REQUEST OF AN ENTITY LISTED IN SUBSECTION A OF THIS SECTION,  
24 THE COURT OR, IF DIRECTED BY THE COURT, THE CLERK OF THE COURT SHALL  
25 PROVIDE THE REQUESTING ENTITY WITH A COPY OF THE CONVICTED PERSON'S  
26 JUDGMENT AND SENTENCE AND OF THE OPINION OF THE COURT, IF ANY OPINION IS  
27 FILED.

28           Sec. 4. Section 13-4410, Arizona Revised Statutes, is amended to  
29 read:

30           13-4410. Notice of conviction, acquittal or dismissal; impact  
31 statement

32           A. The prosecutor's office ~~shall~~, on request, SHALL give to the  
33 victim within fifteen days after the conviction or acquittal or dismissal  
34 of the charges against the defendant notice of the criminal offense for  
35 which the defendant was convicted or acquitted or the dismissal of the  
36 charges against the defendant.

37           B. If the defendant is convicted and the victim has requested  
38 notice, the victim shall be notified, if applicable, of:

39           1. The function of the presentence report.

40           2. The name and telephone number of the probation department that  
41 is preparing the presentence report.

42           3. The right to make a victim impact statement under section  
43 13-4424.

44           4. The defendant's right to view the presentence report.

1           5. The victim's right to view the presentence report except those  
2 parts excised by the court or made confidential by law and, on request, to  
3 receive a copy from the prosecutor.

4           6. The right to be present and be heard at any presentence or  
5 sentencing proceeding pursuant to section 13-4426.

6           7. The time, place and date of the sentencing proceeding.

7           8. If the court orders restitution, the right to:

8           (a) File a restitution lien pursuant to section 13-806.

9           (b) REQUEST A COPY OF THE DEFENDANT'S RESTITUTION PAYMENT HISTORY  
10 FROM THE CLERK OF THE COURT PURSUANT TO SECTION 13-810 OR 31-412.

11           C. The victim shall be informed that the victim's impact statement  
12 may include the following:

13           1. An explanation of the nature and extent of any physical,  
14 psychological or emotional harm or trauma suffered by the victim.

15           2. An explanation of the extent of any economic loss or property  
16 damage suffered by the victim.

17           3. An opinion of the need for and extent of restitution.

18           4. Whether the victim has applied for or received any compensation  
19 for the loss or damage.

20           D. Notice provided pursuant to this section does not remove the  
21 probation department's responsibility pursuant to section 12-253 to  
22 initiate the contact between the victim and the probation department  
23 concerning the victim's economic, physical, psychological or emotional  
24 harm. At the time of contact, the probation department shall advise the  
25 victim of the date, time and place of sentencing and of the victim's right  
26 to be present and be heard at that proceeding.

27           Sec. 5. Section 31-412, Arizona Revised Statutes, is amended to  
28 read:

29           31-412. Criteria for release on parole; release; custody of  
30 parolee; definition

31           A. If a prisoner is certified as eligible for parole pursuant to  
32 section 41-1604.09 the board of executive clemency shall authorize the  
33 release of the applicant on parole if the applicant has reached the  
34 applicant's earliest parole eligibility date pursuant to section  
35 41-1604.09, subsection D and it appears to the board, in its sole  
36 discretion, that there is a substantial probability that the applicant  
37 will remain at liberty without violating the law and that the release is  
38 in the best interests of the state. The applicant shall thereupon be  
39 allowed to go on parole in the legal custody and under the control of the  
40 state department of corrections, until the board revokes the parole or  
41 grants an absolute discharge from parole or until the prisoner reaches the  
42 prisoner's individual earned release credit date pursuant to section  
43 41-1604.10. When the prisoner reaches the prisoner's individual earned  
44 release credit date the prisoner's parole shall be terminated and the

1 prisoner shall no longer be under the authority of the board but shall be  
2 subject to revocation under section 41-1604.10.

3 B. Notwithstanding subsection A of this section, the director of  
4 the state department of corrections may certify as eligible for parole any  
5 prisoner, regardless of the classification of the prisoner, who has  
6 reached the prisoner's parole eligibility date pursuant to section  
7 41-1604.09, subsection D, unless an increased term has been imposed  
8 pursuant to section 41-1604.09, subsection F, for the sole purpose of  
9 parole to the custody of any other jurisdiction to serve a term of  
10 imprisonment imposed by the other jurisdiction or to stand trial on  
11 criminal charges in the other jurisdiction or for the sole purpose of  
12 parole to the custody of the state department of corrections to serve any  
13 consecutive term imposed on the prisoner. On review of an application for  
14 parole pursuant to this subsection the board may authorize parole if, in  
15 its discretion, parole appears to be in the best interests of the state.

16 C. A prisoner who is otherwise eligible for parole, who is not on  
17 home arrest or work furlough and who is currently serving a sentence for a  
18 conviction of a serious offense or conspiracy to commit or attempt to  
19 commit a serious offense shall not be granted parole or absolute discharge  
20 from imprisonment except by one of the following votes:

21 1. A majority affirmative vote if four or more members consider the  
22 action.

23 2. A unanimous affirmative vote if three members consider the  
24 action.

25 3. A unanimous affirmative vote if two members consider the action  
26 pursuant to section 31-401, subsection I and the chairman concurs after  
27 reviewing the information considered by the two members.

28 D. The board, as a condition of parole, shall order a prisoner to  
29 make any court-ordered restitution.

30 E. Payment of restitution by the prisoner in accordance with  
31 subsection D of this section shall be made through the clerk of the  
32 superior court in the county in which the prisoner was sentenced for the  
33 offense for which the prisoner has been imprisoned in the same manner as  
34 restitution is paid as a condition of probation. The clerk of the  
35 superior court ~~shall report to the board monthly whether or not~~  
36 ~~restitution has been paid for that month by the prisoner,~~ ON REQUEST,  
37 SHALL MAKE THE PRISONER'S RESTITUTION PAYMENT HISTORY AVAILABLE TO THE  
38 BOARD, VICTIM, VICTIM'S ATTORNEY AND DEPARTMENT WITHOUT COST.

39 F. The board shall not disclose the address of the victim or the  
40 victim's immediate family to any party without the written consent of the  
41 victim or the victim's family.

42 G. For the purposes of this section, "serious offense" includes any  
43 of the following:

- 1           1. A serious offense as defined in section 13-706, subsection F,  
2 paragraph 1, subdivision (a), (b), (c), (d), (e), (g), (h), (i), (j)  
3 or (k).
- 4           2. A dangerous crime against children as defined in section  
5 13-705. The citation of section 13-705 is not a necessary element for a  
6 serious offense designation.
- 7           3. A conviction under a prior criminal code for any offense that  
8 possesses reasonably equivalent offense elements as the offense elements  
9 that are listed under section 13-705, subsection P, paragraph 1 or section  
10 13-706, subsection F, paragraph 1.

**APPROVED BY THE GOVERNOR MARCH 14, 2017.**

**FILED IN THE OFFICE OF THE SECRETARY OF STATE MARCH 14, 2017.**

Passed the House March 9, 20 17,

Passed the Senate February 9, 20 17,

by the following vote: 59 Ayes,

by the following vote: 29 Ayes,

0 Nays, 1 Not Voting

0 Nays, 1 Not Voting

[Signature]  
Speaker of the House  
[Signature]  
Chief Clerk of the House

[Signature]  
President of the Senate  
[Signature]  
Secretary of the Senate

EXECUTIVE DEPARTMENT OF ARIZONA  
OFFICE OF GOVERNOR

This Bill was received by the Governor this

14 day of March, 20 17,

at 1:43 o'clock P. M.

[Signature]  
Secretary to the Governor

Approved this 14<sup>th</sup> day of

March, 20 17,

at 3:23 o'clock P. M.

[Signature]  
Governor of Arizona

EXECUTIVE DEPARTMENT OF ARIZONA  
OFFICE OF SECRETARY OF STATE

This Bill was received by the Secretary of State

this 14 day of March, 20 17,

at 5:19 o'clock P. M.

[Signature]  
Secretary of State

S.B. 1066