



Criminal Code Sentencing Provisions

2023-2024

Effective 10/30/2023

*Unless otherwise indicated



GENERAL CRIMES SENTENCING RANGES

| NON-DANGEROUS OFFENSES – § 13-702, § 13-902 | | | | | | |
|---|---------------------------|-----|-----|-----|------|-----------|
| Class | First Offense – 13-702(D) | | | | | |
| | MIT | MIN | P | MAX | AGG | Probation |
| 2 | 3 | 4 | 5 | 10 | 12.5 | 7 |
| 3 | 2 | 2.5 | 3.5 | 7 | 8.75 | 5 |
| 4 | 1 | 1.5 | 2.5 | 3 | 3.75 | 4 |
| 5 | .5 | .75 | 1.5 | 2 | 2.5 | 3 |
| 6 | .33 | .5 | 1 | 1.5 | 2 | 3 |

Probation eligible*

*Except for drug offenses in which the amount exceeds the statutory threshold pursuant to § 13-3405(C), 13-3407(D), (E), and (F).

| NON-DANGEROUS OFFENSES – REPETITIVE OFFENSES – § 13-703 | | | | | | |
|---|------|-----|-------|------|-------|------------------------------|
| CATEGORY <u>ONE</u> – § 13-703 (H) | | | | | | |
| Class | MIT* | MIN | P | MAX | AGG* | NOT Probation Eligible |
| 2 | 3 | 4 | 5 | 10 | 12.5 | |
| 3 | 2 | 2.5 | 3.5 | 7 | 8.75 | |
| 4 | 1 | 1.5 | 2.5 | 3 | 3.75 | |
| 5 | .5 | .75 | 1.5 | 2 | 2.5 | |
| 6 | .25 | .5 | 1 | 1.5 | 2 | |
| CATEGORY <u>TWO</u> – § 13-703(I) | | | | | | |
| Class | MIT* | MIN | P | MAX | AGG* | NOT Probation Eligible |
| 2 | 4.5 | 6 | 9.25 | 18.5 | 23 | |
| 3 | 3.25 | 4.5 | 6.5 | 13 | 16.25 | |
| 4 | 2.25 | 3 | 4.5 | 6 | 7.5 | |
| 5 | 1 | 1.5 | 2.25 | 3 | 3.75 | |
| 6 | .75 | 1 | 1.75 | 2.25 | 2.75 | |
| CATEGORY <u>THREE</u> – § 13-703(J) | | | | | | |
| Class | MIT* | MIN | P | MAX | AGG* | NOT Probation Eligible |
| 2 | 10.5 | 14 | 15.75 | 28 | 35 | |
| 3 | 7.5 | 10 | 11.25 | 20 | 25 | |
| 4 | 6 | 8 | 10 | 12 | 15 | |
| 5 | 3 | 4 | 5 | 6 | 7.5 | |
| 6 | 2.25 | 3 | 3.75 | 4.5 | 5.75 | |

*Two or more mitigating or aggravating factors, as applicable. § 13-702.

| DANGEROUS OFFENSES – REPETITIVE OFFENSES – § 13-704 | | | | | | | | | |
|--|---------------------------|------|-----|---------------------------------------|-------|-----|--|------|-----|
| Class | First Offense § 13-704(A) | | | One Historical Prior § 13-704(B), (D) | | | Two Historical Priors § 13-704(C), (E) | | |
| | MIN | P | MAX | MIN | P | MAX | MIN | P | MAX |
| 2 | 7 | 10.5 | 21 | 14 | 15.75 | 28 | 21 | 28 | 35 |
| 3 | 5 | 7.5 | 15 | 10 | 11.25 | 20 | 15 | 20 | 25 |
| 4 | 4 | 6 | 8 | 8 | 10 | 12 | 12 | 14 | 16 |
| 5 | 2 | 3 | 4 | 4 | 5 | 6 | 6 | 7 | 8 |
| 6 | 1.5 | 2.25 | 3 | 3 | 3.75 | 4.5 | 4.5 | 5.25 | 6 |

| DANGEROUS OFFENSES – REPETITIVE OFFENSES – § 13-704(F) | | | | | | |
|---|--------------------------|-----|---------------|---|-----|---------------|
| Class | Second Dangerous Offense | | | Third and Subsequent Dangerous Offenses | | |
| | MIN | MAX | INCREASED MAX | MIN | MAX | INCREASED MAX |
| 2 | 10.5 | 21 | 26.25 | 15.75 | 28 | 35 |
| 3 | 7.5 | 15 | 18.75 | 11.25 | 20 | 25 |
| 4 | 6 | 8 | 10 | 10 | 12 | 15 |
| 5 | 3 | 4 | 5 | 5 | 6 | 7.5 |
| 6 | 2.25 | 3 | 3.75 | 3.75 | 4.5 | 5.6 |

DANGEROUS CRIMES AGAINST CHILDREN

| DANGEROUS CRIMES AGAINST CHILDREN – § 13-705 | | | | | | | | | |
|---|---------------|---------------------|-----|---------------------|---------------------|-----|----------------------|---------|-----|
| Subsection (§ 13-705) | First Offense | | | One Predicate Prior | | | Two Predicate Priors | | |
| | MIN | P | MAX | MIN | P | MAX | MIN | P | MAX |
| A | | LIFE | | | LIFE | | | LIFE | |
| B | | LIFE/35 | | | LIFE/35 | | | LIFE/35 | |
| C | 13 | LIFE/35 or 20 | 27 | 13 | LIFE/35 or 20 | 27 | | LIFE | |
| 2355 D | 25 | LIFE/35 or 30 | 35 | | | | | LIFE | |
| E | 13 | 20 | 27 | 23 | 30 | 37 | | LIFE | |

| | | | | | | | | | |
|--------|-----|----|-----|----|----|-----|--|------|--|
| F | 10 | 17 | 24 | 21 | 28 | 35 | | LIFE | |
| 2696 H | 39 | 60 | 81 | 69 | 90 | 111 | | LIFE | |
| G | 5 | 10 | 15 | 8 | 15 | 22 | | N/A | |
| H | 2.5 | 5 | 7.5 | 8 | 15 | 22 | | N/A | |

Probation eligible

A prison sentence imposed for a conviction of sexual abuse may be served concurrently with other sentences if the offense involved only one victim. The sentence imposed for any other dangerous crime against children in the first or second degree shall be consecutive to any other sentence imposed at any time including child molestation and sexual abuse of the same victim. A.R.S. § 13-705(P).

FINES AND PENALTIES FOR FELONIES AND MISDEMEANORS – SURCHARGES

| |
|--|
| FINES FOR FELONIES § 13-801, § 13-803 |
| Up to \$150,000 per charge (persons; up to \$1,000,000 per charge (enterprises). |

| PENALTIES FOR MISDEMEANORS § 13-707, 13-802, 13-902 | | | | |
|--|--------------|-------------------------|------------------------------|-----------|
| Class | Jail-Maximum | Fines Before Surcharges | | Probation |
| 1 | 6 months | Up to \$2,500 (persons) | Up to \$20,000 (enterprises) | 3 years |
| 2 | 4 months | Up to \$750 (persons) | Up to \$10,000 (enterprises) | 2 years |
| 3 | 30 days | Up to \$500 (persons) | Up to \$2,000 (enterprises) | 1 year |
| Petty Offense | No jail | Up to \$300 (persons) | Up to \$1,000 (enterprises) | N/A |

Probation eligible

A person convicted of a misdemeanor may be sentenced to community restitution pursuant to § 13-717 (A) or education or treatment pursuant to § 13-717 (B). § 13-603 (E) (7).

A.R.S. § 13-707(B) provides that a person convicted of the same misdemeanor or petty offense within two years of the date of the present offense shall be sentenced for the next higher class of offense for which the person currently stands convicted. Except for misdemeanor offenses

prosecuted in a justice or municipal court, the presumptive fine imposed on an enterprise must be the median of the allowable range for the violation involved. With specified exceptions, the amount of the fine must be reduced by 25% if the enterprise had an effective program to prevent and detect violations of law when the offense was committed. Whether or not there is a program, five times the maximum allowable fine may be charged under circumstances prescribed in § 13-823.

A.R.S. § 12-114 - \$9 surcharge on any fee charged by a court authorized diversion program for a civil or criminal traffic offense.

| | | | | |
|--|-----------------------------|--|-------------------------------|--|
| Surcharges added to all fines, penalties, and forfeitures | § 12-116.01 (Surcharges) | § 12-116.02 (Additional Surcharges) | § 16-954 (Clean Elections) | § 16-976 (Clean Elections – Voters’ Right to Know Act Prop 211) |
| | 55%* | 13% | 10% | 1%** |

**Applicable to violations committed on or after January 1, 2019.*

Surcharges are applied to the base fine, civil penalty or forfeiture and not to other surcharges.

60% is applicable to violations committed from January 1, 2012 – December 31, 2018.

61% is applicable to violations committed from September 19, 2007 – December 31, 2011.

57% is applicable to violations committed from August 22, 2002 – September 18, 2007.

** Effective December 5, 2022 upon canvass of the general election

PENALTY ASSESSMENTS

§ 12-114.01 – Probation:

\$5 assessment applicable to violations committed on or after August 22, 2002. \$10 assessment applicable to violations committed statewide on or after September 21, 2006. \$20 assessment applicable to violations committed in Maricopa County on or after July 1, 2008, and applicable statewide for violations committed on or after November 24, 2009. The probation assessment does not apply to local ordinance parking violations.

§ 12-116.04 – Moving Violations; Assessments:

\$13 assessment applicable to every conviction or finding of responsibility to which the surcharge is applicable. Note that the assessment is broader than the title indicates. Effective July 20, 2011.

§ 12-116.05 – Protected Address:

\$50 assessment applicable to every conviction for an offense in Title 13, Chapter 14 or 35.1, § 13-2923 or a Domestic Violence offense pursuant to section § 13-3601. Effective January 1, 2012.

§ 12-116.06 – Family Offenses:

\$50 assessment applicable to every conviction for a violation of § 13-2921, 13-2921.01, 13-2923 or an offense listed in Title 13, Chapter 36. Effective July 20, 2011.

§ 12-116.07 – DCAC & Sexual Assault:

\$500 assessment applicable to every conviction or finding of delinquency for a Dangerous Crime Against Children or Sexual Assault (does not apply to juveniles). This assessment shall not be waived. Effective January 1, 2012. (Formerly §13-824).

§ 12-116.08 – Victim Funds*:

\$9 assessment applicable to every conviction or finding of responsibility to which the surcharge is applicable. This assessment cannot be mitigated. Effective January 1, 2019.

§ 12-116.09 – Victim’s Rights Enforcement Fund:

\$2 assessment applicable to every conviction or finding of responsibility to which the surcharge is applicable. Effective January 1st, 2015.

§ 12-116.10 – Police Equipment Fund:

\$4 assessment applicable to every civil penalty imposed and collected for a civil traffic violation and fine, penalty or forfeiture for a criminal violation of the motor vehicle (Title 28) statutes or for any local ordinance relating to the stopping, standing or operation of a vehicle. Effective January 1, 2019.

§12-116.11 – Drag Racing Prevention Enforcement:

\$1,000 assessment applicable to every fine, penalty and forfeiture imposed and collected by the courts for a violation § 28-708 (Racing on Highways). Effective September 29, 2021.

**Former § 12-116.08 \$15 assessment applicable to each conviction for a violation of Title 13, Chapter 34. Effective from August 2, 2012 – August 5, 2016.*

ADDITIONAL FEES

MONTHLY PROBATION FEE: When granting probation to an adult the court, as a condition of probation, shall assess a monthly fee of not less than \$65 (\$50 for offenses committed prior to May 2, 2009) unless, after determining the inability of the probationer to pay the fee, the court assesses a lesser fee. For intensive probation the fee is \$75 (\$50 for offenses committed prior to November 24, 2009). In justice and municipal courts, the fee shall only be assessed when the person is placed on supervised probation. A.R.S. §13-901.

TIME PAYMENT FEE: In addition to any other assessment authorized by law, except in juvenile cases, a fee of \$20 shall be assessed on each person who pays a court ordered penalty, fine or

sanction on a time payment basis, including parking penalties, and restitution. A judge may not waive or suspend a time payment fee. A.R.S. §12-116.

JUVENILE FEES, PENALTIES AND ASSESSMENTS

From the passage of Laws 2023, Chapter 162, the following monetary obligations can no longer apply to any juvenile case:

- Diversion/community based alternative program fees or costs
- \$500 dangerous crimes against children and sexual assault assessment
- Rehabilitative, incorrigibility, or minor consumption monetary assessment
- Probation supervision fees
- \$25 victims' rights fund implementation fee
- Detention or Corrections costs
- \$25 public defender or court-appointed counsel administrative assessment
- Juvenile restitution orders in favor of the state
- Family counseling program costs
- Counseling, education, screening or treatment costs (including drug & alcohol)
- Time payment fee

See the juvenile offense and cost types matrix below for eligibility:

| SB1197: Juvenile Offenses and Eligible Cost Types Matrix | | | | | | | | | | | | | | | | | | | | | | | | | | |
|---|---|-----------------------------------|---------------------------------------|---------------|-------------------------------|------------------------------|---------------------------|----------------------------|--------------------------------|--|--|--------------------------------|---|-------------------------------|-------------------------------|--|------------------|---|---|--|--|--------------------|---------------------------------|--|---------------------------|---|
| Directions: Matrix should only be used as a guide for a case where a juvenile is dispositioned, deferred, or completing a diversion program as a juvenile. All local cost types created from a local ordinance or order will need to be reviewed on a case by case basis to determine if eligible on a juvenile case. | | | | | | | | | | | | | | | | | | | | | | | | | | |
| Offense | Diversion/Community Based Alternative Program (8-321) | Defensive Driving School (12-114) | Base Fine/Monetary Assessment/Penalty | 68% Surcharge | 10% Clean Elections Surcharge | 1% Clean Elections Surcharge | \$20 Probation Assessment | \$13 Additional Assessment | \$9 Victims' Rights Assessment | \$2 Victims' Rights Enforcement Assessment | \$4 Peace Officer Training Equipment Fund Assessment | Prison Construction Assessment | Public Safety Equipment Fund Assessment | DUI Abatement Fund Assessment | \$1000 Drag Racing Assessment | Dangerous Crime Against Children and Sexual Assault Assessment | Supervision Fees | \$25 Victims' Rights Fund Implementation Fee (Repealed) | Detention, Corrections, Foster Care Costs | \$25 Public Defender/Court-Appointed Counsel Administrative Assessment | Juvenile Restitution Order in Favor of the State | Victim Restitution | Family Counseling Program Costs | Counseling, Education, Screening, Treatment Costs (Including Drug & Alcohol) | Time Payment Fee (12-116) | |
| Civil Traffic | N/A | Y | Y | Y | Y | Y | Y | Y | Y | Y | Y | N/A | N/A | N/A | N/A | N/A | N/A | N/A | N/A | N/A | N/A | N/A | N/A | N/A | N/A | N |
| Criminal Traffic (Title 28 Non-Felony and Non-DUI) | N | Y | Y | Y | Y | Y | N | Y | Y | Y | Y | N/A | N/A | N/A | Y | N/A | N | N | N | N | N | Y | N | N | N | N |
| DUI | N/A | N/A | Y | Y | Y | Y | N | Y | Y | Y | Y | Y | Y | Y | N/A | N/A | N | N | N | N | N | Y | N | N | N | N |
| Criminal Traffic (Title 28 Felony and Non-DUI) | N | N/A | Y | N | N | N | N | N | N | N | N | N/A | N/A | N/A | N | N/A | N | N | N | N | N | Y | N | N | N | N |
| Civil Marijuana | N | N/A | Y | N/A | N/A | N/A | N/A | N/A | N/A | N/A | N/A | N/A | N/A | N/A | N/A | N/A | N | N | N | N | N | Y | N | N | N | N |
| Local ordinance | N | N/A | Y | N | N | N | N | N | N | N | N | N/A | N/A | N/A | N/A | N/A | N | N | N | N | N | Y | N | N | N | N |
| Petty Offense, Status Offense (Non-Traffic) | N | N/A | Y | N | N | N | N | N | N | N | N | N/A | N/A | N/A | N/A | N/A | N | N | N | N | N | Y | N | N | N | N |
| Misdemeanor (Non-Traffic) | N | N/A | Y | N | N | N | N | N | N | N | N | N/A | N/A | N/A | N/A | N | N | N | N | N | N | Y | N | N | N | N |
| Felony (Non-Traffic) | N | N/A | Y | N | N | N | N | N | N | N | N | N/A | N/A | N/A | N/A | N | N | N | N | N | N | Y | N | N | N | N |

PROBATION

General Crimes: Persons with outstanding restitution payments are subject to an extension in their probationary period of up to five years for a felony and up to two years for a misdemeanor. If a person is released pursuant to § 31-233(B) and community supervision is waived pursuant to § 13-603(K), the court shall extend the period of probation by the amount of time the director of the state department of corrections approves the inmate's temporary release.

DUI: For a conviction of a DUI offense pursuant to § 28-1381 or extreme DUI offense pursuant to § 28-1382, the term of probation is up to five years and for a conviction of an aggravated DUI offense pursuant to § 28-1383, up to ten years. A.R.S. § 13-902(B).

Lifetime Probation: For a conviction of committing or attempting to commit any felony offense pursuant to Title 13, Chapter 14 or Chapter 35.1, or § 13-2308.01, § 13-2923, § 13-3212, § 13-3623 or § 13-3824(A), if the underlying offense was a felony and probation is available, the term shall be the maximum allowed for that class felony and, at the discretion of the court, may be for life. A.R.S. § 13-902(E), (F).

PROBATION: EARNED AND WORK TIME CREDIT – § 13-924

The court may adjust the period of a probationer's supervised probation on the recommendation of an adult probation officer for earned time credit of twenty days for every thirty days that a probationer complies with all statutory requirements or work time credit of 30 days for every 30 days a probationer is engaged in eligible employment. The probationer must be current on court ordered restitution and in compliance with all other non-monetary terms of probation and exhibiting positive progression toward the goals and treatment in the probationer's case plan. These credit provisions do not apply to a probationer who is on lifetime probation, probation for any class 2 or 3 felony, on probation exclusively for a misdemeanor offense or a person required to register pursuant to § 13-3821.

RELEASE

If a person is sentenced to a term of imprisonment, the court at the time of sentencing shall impose on the convicted person a term of community supervision equal to one day for every seven days of the sentence or sentences imposed. A.R.S. §13-603 (I).

A person may earn release credits of one day for every six days served, unless prohibited by statute. Commutation is possible, unless otherwise provided by law. A.R.S. §41-1604.07.

A person convicted of a violent crime as defined in A.R.S. §13-901.03 committed while the person is under the influence of marijuana, a dangerous drug or a narcotic drug is not eligible for release or probation until the entire sentence has been served. A.R.S. §41-1604.15.

MITIGATION AND COMMUNITY RESTITUTION

The court may mitigate a fine, except a mandatory fine for DUI, and may mitigate a civil penalty assessed for a violation of Title 28, Chapters 3, 5, 7 and 9.

If a mandatory fine is imposed the court may mitigate the surcharge, except for the 10% Clean Elections Surcharge and an additional 1% Clean Elections Surcharge (A.R.S. § 16-976). The surcharge imposed is based on the mitigated fine or civil penalty. Factors to be considered are enumerated in statute. A.R.S. §§ 13-825, 28-1603.

A.R.S. §13-824 provides that the court may order a defendant to perform community restitution in lieu of payment of all or part of any criminal case monetary obligation, except an assessment imposed pursuant to A.R.S. §§ 12-116, 12-116.05, 12- 116.06, 12-116.07, 12-116.08 and 12-116.09 and surcharge imposed and collected pursuant to section 16-954 (A) if the court finds the defendant is unable to pay all or part of the fine, fee, assessment or incarceration cost. The amount of community restitution is credited at the state minimum wage per hour rounded up to the nearest dollar toward the monetary obligation.

A.R.S. §28-1604 provides that the court may order a defendant with the defendant's consent to perform community restitution in lieu of payment of all or part of any civil traffic violation monetary obligation, except an assessment imposed pursuant to A.R.S. §12-116. The amount of community restitution is credited at \$13 per hour toward the monetary obligation.

FIRST- AND SECOND-DEGREE MURDER – § 13-751, 13-752

1st Degree Murder: Sentence of death or imprisonment for life or natural life, as determined in accordance with the procedures provided in § 13-752. Note, a natural life sentence is only available if the offense is committed by a person over eighteen years of age or the person is convicted of felony murder. A person under eighteen years of age who is sentenced to life is eligible for parole after serving the minimum sentence regardless of whether the crime was committed on or before January 1, 1994.

A person who is sentenced to natural life is not eligible for commutation, parole, work furlough, work release, or release from confinement on any basis. If the person is sentenced to life, the person shall not be released on any basis until having served 25 calendar years if the murdered person was 15 or more years of age and 35 calendar years if the murdered person was under 15 years of age. A.R.S. § 13-751.

2nd Degree Murder: Except as provided in § 13-706(A) or § 13-705, imprisonment for 16 calendar years with a possible increase to 25 years or decrease to 10 years for aggravating or mitigating circumstances. Except as provided in § 13-704(A) or § 13-705, a person previously convicted of second-degree murder or a class 2 or 3 felony involving a dangerous offense shall be imprisoned for 20 calendar years with a possible increase to 29 years or decrease to 15 years for aggravating or mitigating circumstances. A.R.S. § 13-710.

SERIOUS, VIOLENT OR AGGRAVATED OFFENSE – § 13-706

A person who is at least eighteen years of age or who has been tried as an adult and who is convicted of a serious offense except a drug offense, first degree murder or any dangerous crimes against children as defined in § 13- 705, whether a completed or preparatory offense, and who has previously been convicted of two or more serious offenses not committed on the same occasion shall be sentenced to life imprisonment and is not eligible for suspension of sentence, probation, pardon or release from confinement on any basis, except as specifically authorized by § 31-233(A) or (B), until the person has served at least twenty-five years or the sentence is commuted.

Unless a longer term of imprisonment or death is the prescribed penalty and notwithstanding any provision that establishes a shorter term of imprisonment, a person who has been convicted of committing or attempting or conspiring to commit any violent or aggravated felony and who has previously been convicted on separate occasions of two or more violent or aggravated felonies not committed on the same occasion shall be sentenced to imprisonment for life and is not eligible for suspension of sentence, probation, pardon or release on any basis except that the person may be eligible for commutation after the person has served at least thirty-five years.

SEXUAL ASSAULT – § 13-406

A person convicted of sexual assault is sentenced pursuant to A.R.S. - §13-1406, which contains specific sentencing changes.

LIFETIME INJUNCTION - § 13-719

Upon an eligible victim or prosecutor's request at the time of sentencing, or upon a victim's request via petition for eligible offenses, a judge must grant a lifetime injunction prohibiting a defendant from contacting a victim. Eligible offenses include a conviction for any of the following offenses, whether completed or preparatory: a dangerous offense that is a felony (§ 13-105), a serious offense or violent or aggravated felony (§ 13-706), a felony sexual offense or offense involving the sexual exploitation of children (Title 13, Chapters 14 or 35.1). The validity of a lifetime injunction is not affected by set aside (§ 13-905) or record sealing (§ 13-911).

DOMESTIC VIOLENCE OFFENSES – § 13-3601

Pursuant to § 13-3601.01, the judge must order a person convicted of a misdemeanor domestic violence offense to complete a domestic violence offender treatment program, unless the person previously has completed a program as ordered and the judge deems alternative sanctions to be more appropriate. On conviction of a misdemeanor domestic violence offense, if a person within a period of 60 months has previously been convicted of a domestic violence offense, as defined in § 13-3601, or is convicted in another jurisdiction of an act that if committed in this state would be a domestic violence offense, the judge may order the person to be placed on supervised probation and the person may be incarcerated as a condition of probation.

If the person is incarcerated and is either employed or a student, the judge may provide in the sentence that the person may continue the employment or studies for not more than 12 hours a day nor more than five days a week and be allowed out of jail only long enough to complete the actual hours of employment or studies. The person must spend the remaining day, days or parts of days in jail until the sentence is served. Pursuant to § 13-3601.02 if a person is guilty of aggravated domestic violence the person must serve not less than four months in jail. If a person is convicted of aggravated domestic violence and has been convicted of three or more prior domestic violence offenses within 84 months the person must serve at least eight months in jail. For purposes of these sections, previous convictions of domestic violence offenses apply only to convictions for offenses committed on or after January 1, 1999. Pursuant to § 13-3601(L) the maximum sentence otherwise authorized shall be increased by up to two years if a person is convicted of a felony domestic violence offense against a pregnant victim knowing the victim was pregnant.

OFFENSES COMMITTED WHILE RELEASED FROM CONFINEMENT – § 13-708

A person who is convicted of any felony involving a dangerous offense that is committed while the person is on probation for a conviction of a felony or parole, work furlough, community

supervision or any other release or has escaped from confinement for conviction of a felony shall be sentenced pursuant to § 13-708(A).

A person who is convicted of a dangerous offense that is committed while the person is on release or has escaped from confinement for a conviction of a serious offense, an offense resulting in serious physical injury or an offense involving the use or exhibition of a deadly weapon or dangerous instrument shall be sentenced pursuant to § 13- 708(B).

A person who is convicted of any felony that is not included in § 13-708(A) or (B) and that is committed while the person is on probation for a conviction of a felony or parole, work furlough, community supervision or any other release or has escaped from confinement for a conviction of a felony shall be sentenced pursuant to § 13-708(C).

A person who is convicted of any felony that is committed while the person is released on bond or on the person's own recognizance on a separate felony or while the person is escaped from pre-conviction custody for a separate felony shall be sentenced pursuant to § 13-708(D).

A sentence imposed pursuant to subsection §13-708 (A), (B) or (C) revokes the convicted person's release and shall be consecutive to any other sentence from which the convicted person had been temporarily released or had escaped, unless the sentence from which the convicted person had been paroled or placed on probation was imposed by a jurisdiction other than this state.

JUVENILE OFFENDERS § 8-202, 13-501, 13-504

If the state files a notice of intent to retain jurisdiction the juvenile court must retain jurisdiction over a juvenile who is at least seventeen years of age and who has been adjudicated a delinquent juvenile until the juvenile reaches nineteen years of age, jurisdiction is terminated by order of the court or the juvenile is discharged from the jurisdiction of the Department of Juvenile Corrections. A.R.S. §8-202. A notice to extend jurisdiction may be filed up until the adjudication hearing or the juvenile admits the allegation in the petition.

On the motion of a juvenile or on the court's own motion, if a juvenile is being prosecuted in the same manner as an adult pursuant to section §13-501 (B), the court, shall hold a hearing to determine if jurisdiction of the criminal prosecution should be transferred to the juvenile court. A.R.S. § 13-504.

A juvenile convicted in adult court as a chronic felony offender pursuant to § 13-501 (A) or (B) and placed on probation must be sentenced to a term of incarceration in the county jail, not to exceed one year. A.R.S. § 13- 608.

DRUG OFFENSE SENTENCING RANGES

| DRUG THRESHOLD AMOUNTS § 13-3401(36) | |
|---|--|
| Drug | Threshold Amount |
| Amphetamine & Methamphetamine | 9 grams (including in liquid suspension) |
| Cocaine | 9 grams (power form) 750 milligrams (rock form) |
| LSD | 1/2 milliliter (liquid form) 50 dosage units (blotter form) |
| Marijuana | 2 pounds |
| PCP | 4 grams or 50 milliliters |
| Fentanyl and Fentanyl Mimetic Substances* | 9 grams |

**Created by HB2253; effective on general effective date*

For any combination consisting solely of the drugs listed above, the threshold is an amount equal to or in excess of the threshold amount as determined by the application of A.R.S. § 13-3420. For any drug not listed above, or any combination of drugs not listed above, the threshold is an amount with a value of at least \$1,000. Unless otherwise provided by statute, penalty provisions for a specific drug offense are found in the statute in Title 13, Chapter 34 defining that offense. Note: Probation is required for persons convicted of possession or use of a controlled substance or drug paraphernalia. A.R.S. §13-901.01.

| DRUG OFFENSES – MULTIPLE OFFENSES – § 13-3419 | | | | | | | | | | |
|---|----------------|-----|-----|-----|------|-------------------------------|-----|-----|-----|------|
| Below Statutory Threshold Amounts – § 13-419(A)(1),(2) | | | | | | | | | | |
| Class | Second Offense | | | | | Third and Subsequent Offenses | | | | |
| | MIT | MIN | P | MAX | AGG | MIT | MIN | P | MAX | AGG |
| 2 | 3 | 4 | 5 | 10 | 12.5 | 3 | 4 | 5 | 10 | 12.5 |
| 3 | 1.8 | 2.5 | 3.5 | 7 | 8.7 | 1.8 | 2.5 | 3.5 | 7 | 8.7 |
| 4 | 1.1 | 1.5 | 2.5 | 3 | 3.7 | 1.1 | 1.5 | 2.5 | 3 | 3.7 |
| 5 | .5 | .75 | 1.5 | 2 | 3.5 | .5 | .75 | 1.5 | 2 | 3.5 |

Probation eligible

| DRUG OFFENSES – MULTIPLE OFFENSES – § 13-3419 | | | | | | | | | | |
|--|----------------|-----|-----|-----|------|-------------------------------|-----|-----|------|--|
| Equals or Exceeds Statutory Threshold Amounts – § 13-3419(A)(3),(4) | | | | | | | | | | |
| Class | Second Offense | | | | | Third and Subsequent Offenses | | | | |
| | MIT | MIN | P | MAX | AGG | MIN | P | MAX | AGG | |
| 2 | 3 | 4 | 5 | 10 | 12.5 | 4 | 5 | 10 | 12.5 | |
| 3 | 1.8 | 2.5 | 3.5 | 7 | 8.7 | 2.5 | 3.5 | 7 | 8.7 | |

| | | | | | | | | | |
|---|-----|-----|-----|---|-----|-----|-----|---|-----|
| 4 | 1.1 | 1.5 | 2.5 | 3 | 3.7 | 1.5 | 2.5 | 3 | 3.7 |
| 5 | 5 | .75 | 1.5 | 2 | 2.5 | .75 | 1.5 | 2 | 2.5 |

PERSONAL POSSESSION & USE OF DRUGS

A person convicted of a first or second offense for the personal possession or use of a controlled substance as defined in § 36-2501 must be placed on probation unless the person is also convicted of a violent offense defined in § 13-901.03. Incarceration may not be imposed as an initial condition of probation for a first offense. If a person convicted of a first offense is found to be in violation of probation by committing an offense listed in Title 13, Chapter 34 or 34.1 or an act in violation of an order of the court related to drug treatment, the person may be incarcerated upon reinstatement of probation. Participation in an appropriate drug treatment or education program is a required condition of probation and each person enrolled in a program shall pay for participation in the program to the extent of the person's financial ability. A person convicted of a second offense may be incarcerated as a term of probation.

POSSESSION OF MARIJUANA AND DRUG PARAPHERNALIA (Prop 207)

| For Persons of All Ages, it is Unlawful to... § 36-2853(A), (C), (D) |
|---|
| <ul style="list-style-type: none"> ○ Violation – Petty Offense: Possess greater than one ounce of marijuana but not more than two-and-a-half ounces (no more than twelve-and-a-half grams of which can be concentrate). |
| <ul style="list-style-type: none"> ○ Class 4-6 Felony (§ 13-3405): Possess more than two-and-a-half ounces or greater than twelve-and-a-half grams of concentrate. |
| <ul style="list-style-type: none"> ○ Violation – Petty Offense: Smoke marijuana in a public space or open space. |
| <ul style="list-style-type: none"> ○ First Violation – Petty Offense. Second – Class 3 misdemeanor: Be an unlicensed person who cultivates marijuana plants where they are visible from public view. |

| For Persons at least 21 years of age, it is <u>lawful</u> to... | For persons under 21 years of age, it is unlawful to... § 36-2853 (B), (E), (F) |
|--|--|
| Possess, consume, purchase, process, manufacture by mechanical, or transport: <ul style="list-style-type: none"> ○ One ounce or less of marijuana (no more than five grams of which can be marijuana concentrate). | Possess, consume, transport or transfer without remuneration: <ul style="list-style-type: none"> ○ One ounce or less of marijuana (no more than five grams of which can be marijuana concentrate). |
| Possess, transport, cultivate or process: | Penalties (B): |

| | |
|--|---|
| <ul style="list-style-type: none"> Up to six marijuana plants for personal use at their primary residence, provided: <ul style="list-style-type: none"> No more than 12 plants are produced at a single residence where two or more individuals who are at least 21 reside. Cultivation occurs in an enclosed area with a lock or other security device to prevent minors' access. Cultivation occurs where the marijuana plants are not visible from public view | <ul style="list-style-type: none"> First Violation – Civil Penalty: <ul style="list-style-type: none"> No more than \$100 to the Smart and Safe Arizona fund Court has discretion to order up to four hours of drug education or counseling. Second Violation – Petty Offense <ul style="list-style-type: none"> Court has discretion to order up to eight hours of drug education or counseling Third or Subsequent Violation – Class 1 Misdemeanor |
| <p>Transfer:</p> <ul style="list-style-type: none"> One ounce or less of Marijuana (no more than five grams of which can be marijuana concentrate) to persons 21 or older without remuneration or public advertisement <p>Up to six marijuana plants to an individual who is 21 or older without remuneration or public advertisement</p> | <p>Misrepresent their age to induce a person to sell or transfer marijuana (E):</p> <ul style="list-style-type: none"> First Violation – Petty Offense Second or Subsequent Violation – Class 1 Misdemeanor <p>Solicit another to purchase marijuana (F):</p> <ul style="list-style-type: none"> First Violation – Petty Offense Second or Subsequent Violation – Class 3 Misdemeanor |
| <p>Assist another who is 21 or older with any of the activities listed above</p> | <p>Acquire, possess, manufacture, use, purchase, sell, or transport paraphernalia related to marijuana (B):</p> <ul style="list-style-type: none"> Violation – Civil Penalty |
| <p>Acquire, possess, manufacture, use, purchase, sell, or transport paraphernalia related to marijuana</p> | |

DRIVING UNDER THE INFLUENCE – Title 28, Chapter 4

| Additional Penalty Assessments Applicable to Driving, Boating, and Operating an Aircraft Under the Influence | Dollar Amount | \$250 | \$500 | \$1,000 | \$1,250 | \$1,500 |
|--|---|---|---|--|--|---------|
| Statute | § 28-1382(D)(3), (E)(3) § 28-1383 (J)(2) | § 5-395.01(L)* § 5-395.01(M)** § 28-1381(I)(4)* | § 5-397(D)(4)* § 5-397(D)(5)** § 28-1382(D)(6)* | § 5-395.01(L)* § 5-395.01(M)* § 5-397(F)(4)* | § 5-396(I)* § 5-393(J)** § 28-1393(J)(4)* § 28-1383(J)(5)** | |

| | | | | | | |
|---|--|--|--|----------------------|--|---|
| (not subject to any surcharge) | | | § 28- 1381(l)(5)** § 28- 8284(D)(4)* § 28- 8284(D)(5)** § 28- 8286(6)* § 28- 8286(7)* | § 28- 1382(D)(7)* | § 5- 397(F)(5)** § 28- 1381(K)(5)* § 28- 1381(K)(6)** § 28- 1382(F)(6)* § 28- 1382(F)(7)** § 28- 8287(A)(6)* § 28- 8287(A)(7)** | § 28- 8288(A)(5)* § 28- 8288(A)(6)** |
|---|--|--|--|----------------------|--|---|

**Applicable to all violations committed on or after March 13, 2004*

***Applicable to all violations committed on or after August 12, 2005*

Arizona Supreme Court
Administrative Office of the Courts
 1501 W. Washington • Phoenix, Arizona 85007-3231