



**Limited Jurisdiction Court Update
Arizona Magistrates Association**

Legislative Review

55th Legislature, First Regular Session

Ch 35, HB2484: Animal Fighting Paraphernalia; Offense

Enacts a new offense, Ownership, possession, purchase, sale, transfer or manufacture of animal fighting paraphernalia;

It is unlawful to knowingly own, possess, purchase, sell, transfer or manufacture animal fighting paraphernalia for the purpose of engaging in, promoting or facilitating animal fighting or cockfighting. Violation is Class 1 Misdemeanor. Defines "Animal fighting paraphernalia".

Section amended: § 13-2910.05

Section added: § 13-2910.10

Ch 73, HB2066: Arrest Procedures; Magistrates

If the offense a person is arrested for was committed in another county, the arrested person may be taken before either the nearest or most accessible magistrate in the county in which the arrest occurs or a magistrate in the county where the offense was committed. If a private person makes an arrest, the person arrested must be taken to the most accessible magistrate in the county where the arrest occurred or delivered the person to a peace officer.

If the person being arrested is bailable the officer making the arrest, upon request, shall take the person to the most accessible magistrate or other official who has the authority to admit to bail for the offense and who shall admit the person arrested to bail. The magistrate or other official who admits the person arrested to bail shall order the person arrested to appear in the court that issued the warrant.

Sections amended: §§ 13-3898, 13-3900, 13-3963, 13-3964

Ch 74, HB2075: Sentencing; Judgment of Guilt; Fingerprints

Provides flexibility as to when a person convicted of an enumerated offense be fingerprinted, removing the specific requirement that the person be fingerprinted at sentencing and in open court.

Section amended: § 13-607



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Ch 112, HB2425: Motor Carriers; Violations; Penalties

A commercial vehicle equipment violation is classified as a civil traffic violation unless the violation results in an out-of-service order. The driver of a commercial motor vehicle who violates or fails to comply with statutes or rules regulating motor carriers is responsible for a civil traffic violation and is subject to a civil penalty of up to \$500, unless the violation requires issuance of an out-of-service order.

Sections amended: §§ 28-5240, 28-5241

Sections repealed: § 28-5245

Ch 148, SB1407: DUI; Incarceration Credits; Calculation

A person receiving credit for time served in a DUI case toward a mandatory term of incarceration must serve at least eight consecutive hours for each day of credit.

Section added: § 28-1446

Ch 159, HB2067: Criminal Conviction; Set Aside; Applicability

If the court grants an application to set aside the judgment of guilt, the court's order is required to include a certificate of second chance if the person has not previously received a certificate and the person was convicted of a misdemeanor, of a Class 4, 5, or 6 felony and at least two years have elapsed since the person fulfilled the conditions of probation or sentence, or of a Class 2 or 3 felony and at least five years have elapsed since the person fulfilled the conditions of probation or sentence. The state or victim can object within thirty days of the application being filed.

A certificate of second chance releases the person from all barriers to obtain an occupational license if the person is otherwise qualified, with some exceptions, and releases an employer from liability for negligently hiring the person and a person or entity from liability for providing housing to the person if the liability is based on the existence of the person's prior criminal offense.

Section amended: § 13-905



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Ch 172, HB2579: Limited Jurisdiction Courts; Judgment Assignment

The prevailing party in a small claims action is authorized to assign a monetary judgment to another person that is licensed in Arizona to collect debts. That person may appear in the small claims court as the prevailing party only for the purpose of enforcing the judgment. A person that is assigned a judgment for collection does not represent the prevailing party but is treated by the justice court as the prevailing party for all actions that relate to enforcing the judgment.

Section amended: § 22-512

Ch 189, SB1551: Driver License Suspensions; Restrictions

A judge may mitigate a mandatory fine if the defendant meets the requirements of § 13-825 (hardship), except for a DUI fine.

The court can no longer suspend or restrict a driving privilege for failure to pay a civil traffic violation except for commercial driver license holders.

The CDL exception is repealed in HB 2143.

The Arizona Department of Transportation is required to rescind the suspension or restriction and reinstate the person's driving privilege if the suspension resulted from not paying a civil penalty imposed for a civil traffic violation (Repealed and re-enacted in session law in HB 2143. See HB 2143 for exact wording including an inadvertent drafting error).

A person who drives a vehicle in violation of a restriction imposed pursuant to § 28-1601 (Failure to pay civil penalty) or § 28-3308 (Mandatory suspension; failure to appear) commits a civil traffic violation.

Sections amended: §§ 13-825, 28-1601, 28-1603, 28-3480, 28-3482

Ch 209, SB1249: Conviction; Set Aside; Traffic Violations

Most traffic violations are no longer excluded from statute allowing a person convicted of a criminal offense to apply to the court to have the judgment of guilt set aside on fulfillment of the conditions of probation or sentence and discharge by the court.

Section amended: § 13-905



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Ch 243, SB1322: Eviction Proceedings; Virtual Appearances

In a special detainer or forcible detainer proceeding upon written notice to the court, any party, including an attorney or witness, must be permitted to participate at the initial appearance by telephone or video conference. If the court continues a contested matter to a later date, the court may require all parties, attorneys and witnesses to participate in person.

Section added: § 22-2061

Ch 258, HB2158: Protective Orders; Central Repository; Notification

The Supreme Court rather than the individual court enters an injunction against harassment and an order of protection into the Supreme Court's central repository.

Removes the requirement that, while an emergency order of protection is in effect (maximum of 72 hours), a party granted the use and exclusive possession of the parties' shared residence notify the court within five days after moving out of the residence.

Sections amended: §§12 -1809, 12-1810, 13-3602, 13-3624

Ch 273, SB1412: Probation; Prisoners; Protective Orders

For the purpose of injunctions against harassment, the definition of "harassment" is expanded to include any contact if the person is the victim of a specified list of crimes committed by the defendant. The list of crimes includes a conviction for an offense, whether completed or preparatory, that is: a dangerous offense, a serious offense or violent or aggravated felony, any offense in listed in Title 13 Chapter 14 or 35.1.

On petition of the victim and before the court terminates the period of probation or intensive probation early, the court is required to determine whether to prohibit the defendant from contacting the victim, and if necessary, issue an injunction against harassment against the defendant. The injunction must be served on the before probation is terminated. The Board of Executive Clemency, on request of the victim must order a person placed on community supervision to not contact the victim. The board may also inform the victim of the ability to obtain an Injunction Against Harassment.

Sections amended: §§ 12-18089, 13-901, 31-411.01



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Ch 288, HB2110: Civil Penalties; Mitigation; Restitution

Permits the court to order community restitution in a location of its choosing in lieu of a monetary penalty that is imposed for a civil traffic violation except for the time payment fee. Both the violator and the judge must agree to substitute community restitution. Standardizes the rate at which community service is credited for civil traffic, adult and juvenile offenses as Arizona's minimum wage (now \$12.15) rounded up to the nearest dollar(\$13.00).

Sections amended: §§ 8-341, 13-824, 28-1603

Section added: § 28-1604

Ch 306, HB2170: Writs of Garnishment; Attorney Fees

Accrued attorney fees, including fees for garnishment, if allowed by a judgment or contract, are added to the amount that may be included in a writ of garnishment.

Section amended: 12-1572

Ch 335, HB2143: ADOT Revisions

In pertinent part, repeals the provision authorizing the court to suspend or restrict a commercial driver license if the driver fails to pay a civil traffic violation. Moves the requirement for ADOT to rescind the suspension or restriction and reinstate the person's driving privilege. If, before the effective date of the legislation, a person's driving privilege is suspended or revoked pursuant to § 28-1608 from statute to session law. Note, there is a drafting error in the session law. Instead of referring to a revoked license, the session law should have referred to a restricted license. Further, §§ 28-3305, 28-3480 and 28-3482 need to be conformed.

A person is permanently disqualified from obtaining a CDL if he person is convicted of any of the following offenses or an offense committed in another jurisdiction that if committed in this state would be a violation of any of the following offenses and a commercial motor vehicle was used in the commission of the offense:



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- Sex trafficking pursuant to section 13-1307,
- Trafficking of persons for forced labor or services pursuant to § 13-1308,
- Child sex trafficking pursuant to section 13-3212.

Sections amended: §§ 28-364, 28-365, 28-413, 28-455, 28-456, 28-1150, 28-1601, 28-2055, 28-2058, 28-2091, 28-2095, 25-2098, 28-3225, 28-3215, 27-4805, 28-7143, 28-7314, 28-7315, 32-2351

Ch 366, HB2483: Animal Ownership; Possession; Prohibition

It is unlawful for a person who has been convicted of any of the enumerated offenses to own, possess, adopt, foster, reside with or intentionally contact, care for or have custody of any animal in the person's household. Sets forth the time for which the prohibition stays in place. Requires the animal to be transferred within 30 days after the prohibition order is issued.

A person may apply after the time set forth in the statute to have the person's right to possess an animal restored. The court must require the person to complete a psychiatric or psychological examination and undergo counseling, if necessary, before restoring the person's right to possess an animal. The court may terminate or reduce the prohibition time period on a finding that:

- The applicant does not present a danger to self, the animal's immediate family and the public,
- The applicant has the ability to properly care for all animals in the applicant's possession, and
- The applicant has successfully completed all classes or counseling that was ordered by the sentencing court.

Allows a convicted person who lives in a household with an animal that is owned, possessed, adopted or fostered by another person in the household to apply to the court for a "good cause exception".

Defines "animal" and "household".

Section added: § 13-2910.10

Ch 370, HB2831: Failure; Appear; Surety; Notice; Rules

If a defendant released on an appearance bond fails to appear for a required court appearance and the court issues a warrant for the defendant's arrest, the court is required



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to provide notice of the defendant's failure to appear to the surety and the bail bond agent who is responsible for the defendant's appearance. Notice must be sent by email if one was provided. The time in which the court must notify the surety and agent is established by the Rules of Criminal Procedure.

Delayed effective date: Effective January 1, 2022

Section added: §13-3973

Ch 385, SB1832: Restricted license; DUI; Suspension Report

The permitted locations to which the court may allow a person to drive on a restricted license is expanded to include between the person's residence, place of employment or school and the office of the person's probation officer for scheduled appointments, including an appointment that is required to fulfill a condition or requirement that is imposed on the person by this state or a political subdivision of this state, to transport a dependent person between the person's residence and the person's employment, school or medical appointment and between a person's residence and court-ordered screening, education or treatment for scheduled appointments.

A prior conviction for aggressive driving can be alleged to enhance the sentence for reckless driving. The penalty for reckless driving, aggressive driving, or racing on highways when the person has a previous violation of any of these or driving under the influence violation within the previous 24 months is modified to require the Arizona Department of Transportation (ADOT) to suspend instead of revoked the person's driving privilege for one year. After 45 days of the suspension period, a person whose driving privilege is suspended may apply to ADOT for a restricted driver license that allows the person to operate a motor vehicle subject to restrictions listed in §28-144.

Changes to the Administrative per se law, notably, if a breath test is administered, a law enforcement agency is required to forward the certified report to ADOT within 30 days after the arrest occurs, and if a sample of blood, urine or other bodily substance is obtained, the law enforcement agency is required to forward the certified report to ADOT within 30 days after the date the report of the analysis is provided to the agency. If not submitted the test result is inadmissible in an implied consent hearing unless the DUI resulted in death or serious physical injury.

ADOT is no longer mandated to revoke the driver license of a person convicted of a second or subsequent charge of reckless driving, racing on highways, a combination of



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DUI and reckless driving, DUI and racing on highways, or reckless driving and racing on highways, if they do not arise out of the same event.

Traffic Survival School (not Defensive Driving School) courses of instruction must consist of at least eight hours of instruction. The school must include information relating to aggressive driving. It must be offered and completed in person and not online unless the governor declares a state of emergency. However, ADOT may grant a onetime waiver of the in-person requirement if the person demonstrates that completing the course in person would impose a substantial burden on the person.

Sections amended: §§ 28-144, 28-693, 28-694, 28-708, 28-1385, 28-1397, 28-1401, 28-3304, 28-3315, 28-3412, 28-3413

Ch 392, SB1843: Vehicle Speed Limits

The portion of the violation of "Excessive speeds" that makes it a violation (Class 3 Misdemeanor) to drive over eighty-five mph is changed to exceed the posted limit by more than twenty miles per hour.

The maximum speed limit on a public highway in Arizona is at least thirty miles per hour instead of fifty-five miles per hour in an area outside of an "urbanized area" (defined in § 28-704), or 40 miles per hour in an urbanized area, a person is prohibited from driving a motor vehicle at a speed in excess of the posted speed limit on that highway. If the speed at which the person is alleged to have driven, or the speed at which the court finds the person drove is not more than ten miles per hour is in excess of the posted speed limit, the offense is may be designated as the waste of a finite resource, is a civil traffic violation and subject to subsection (B), that prescribes limited consequences. It is unclear as to who designates the offense, it could probably be the officer by the citation or the court.

Creates a new subsection (C), that is almost, but not completely identical to subsection (A). Subsection (C) states, the maximum speed limit on a public highway in Arizona is at least thirty mph in an area outside of an "urbanized area" (defined in § 28-704), or 40 mph in an urbanized area, a person is prohibited from driving a motor vehicle at a speed in excess of the posted speed limit on that highway. If the speed at which the person is alleged to have driven, or the speed at which the court finds the person drove is more than ten miles per hour more than the posted speed limit, the offense is a civil traffic violation.



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Subsection (A) deals with not more than 10 miles an hour, Subsection C deals with violations more than 10 miles an hour.

Sections amended: §§28-701.02, 28-702.01

Ch 433, SB1533: Obstructing highways; racing; assessment; impoundment

Enacts an additional assessment, in addition to any other penalty assessment provided by law, a penalty assessment shall be levied in an amount of \$1,000 on every fine, penalty and forfeiture imposed and collected by the courts for a violation of section 28-708, Racing on the highway. Money is earmarked for the new drag racing prevention enforcement fund.

The classification of Obstructing a public highway by recklessly interfering with the passage of any highway or public thoroughfare by creating an unreasonable inconvenience or hazard is increased from a Class 3 to a Class 2 Misdemeanor, a Class 1 Misdemeanor for a second or subsequent offense.

The drag racing prevention enforcement fund is established. Monies in the fund are used to prevent racing on streets and highways in this state and to enforce section 28-708.

A person who knowingly aids or abets another person in the commission of a Reckless driving or a Racing on the Highway is guilty of a class 2 misdemeanor, except that a second or subsequent violation within a period of twenty-four months is a class 1 misdemeanor.

A peace officer must remove and either impound or immobilize a motor vehicle if person is driving a vehicle in violation of section 28-693 (Reckless Driving), 28-708 (Racing on the Highway) or 13-2907 (Obstructing a highway or thoroughfare) and the officer reasonably believes that allowing the person to continue driving the vehicle would expose other persons to the risk of serious bodily injury or death. The vehicle must be removed or impounded for seven days.

A person must have a valid driver license to retrieve a vehicle impounded for any reason.



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Sections amended: §§ 13-2906, 26-693, 28-708, 28-3512, 28-3514

Sections added: §§ 12-116.0, 28-603