

COMMITTEE ON PUBLIC SAFETY AND HUMAN SERVICES

SENATE AMENDMENTS TO S.B. 1559

(Reference to printed bill)

1 Strike everything after the enacting clause and insert:

2 "Section 1. Section 8-241, Arizona Revised Statutes, is amended to
3 read:

4 8-241. Fees on disposition

5 A. Notwithstanding section 8-243, the juvenile court shall order the
6 parent of a juvenile to pay a fee of not less than fifty dollars a month for
7 the supervision of the juvenile unless, after determining the inability of
8 the parent to pay the fee, the court orders payment of a lesser amount.

9 B. If:

10 1. The department of economic security is the supervising agency, all
11 monies assessed pursuant to this section shall be ordered to be paid and used
12 as provided in section 8-243.01.

13 2. The juvenile probation office is the supervising agency, all monies
14 assessed pursuant to this section shall be ordered to be paid to the clerk of
15 the superior court. The clerk of the superior court shall pay all monies
16 collected from this fee to the county treasurer for deposit in the juvenile
17 probation fund to be used as provided in section 12-268. Any amount greater
18 than forty dollars of the fee assessed pursuant to this subsection shall only
19 be used to supplement monies currently used for the salaries of juvenile
20 probation and surveillance officers and for support of programs and services
21 of the superior court juvenile probation departments.

22 3. The department of juvenile corrections is the supervising agency,
23 all monies assessed pursuant to this section shall be ordered to be paid to
24 the department of juvenile corrections and shall be used to fund work
25 restitution programs for juveniles.

26 4. A person or another state agency or state institution is
27 responsible for supervision, all monies assessed pursuant to this section

1 shall be deposited, pursuant to sections 35-146 and 35-147, in the state
2 general fund.

3 C. IF THE JUVENILE WAS ADOPTED OR PLACED IN PERMANENT GUARDIANSHIP
4 AFTER THE JUVENILE WAS DETERMINED BY THE COURT TO BE A DEPENDENT CHILD, THE
5 JUVENILE COURT SHALL CONSIDER THE TOTALITY OF THE CHILD'S CIRCUMSTANCES AND
6 THE NATURE OF THE DEPENDENCY. THE JUVENILE COURT MAY WAIVE ALL OR PART OF THE
7 FEE PRESCRIBED BY SUBSECTION A OF THIS SECTION IF THE JUVENILE COURT
8 DETERMINES EXTENUATING CIRCUMSTANCES EXIST.

9 Sec. 2. Section 8-243, Arizona Revised Statutes, is amended to read:

10 8-243. Liability of parents to bear expense; exception

11 A. The supreme court shall administer the activities, including
12 providing the cost of services, for children who are referred to the juvenile
13 court as incorrigible or delinquent and who are placed in foster care other
14 than in a state institution or who require shelter care or treatment. If the
15 juvenile court places a referred child in foster care or orders a referred
16 child to participate in treatment or an education program or if a probation
17 officer requires a child to comply with a program pursuant to section 8-321,
18 subsection F, the juvenile court shall inquire into the ability of the child
19 or the child's parent to bear the charge or expense of the foster care,
20 treatment, education program or program required pursuant to section 8-321,
21 subsection F. If the court is satisfied that the child or the child's parent
22 can bear the charge or expense or any portion of the charge or expense, the
23 juvenile court may fix the amount of the payment and shall direct the child
24 or parent to pay the amount monthly to the clerk of the court until the child
25 is discharged from foster care, treatment, an education program or a program
26 required pursuant to section 8-321, subsection F. The clerk of the court
27 shall transmit monies collected monthly to the supreme court for deposit in
28 the juvenile probation services fund to reimburse the cost of services
29 incurred under sections 8-321 and 8-322. Monies collected for this purpose
30 are exempt from section 41-2421, subsection C.

31 B. If the juvenile court awards or commits a child to the department
32 of juvenile corrections or other state department or institution, the

1 juvenile court shall inquire into the ability of the child, the child's
2 estate, parent or guardian or the person who has custody of the child to bear
3 the charge, expense and maintenance including the medical, dental and mental
4 health care of the child while the child is committed to the custody of the
5 department of juvenile corrections or other public or private institution or
6 agency, or private person or persons. If the court is satisfied that the
7 child, the child's estate, parent or guardian or the person who has custody
8 of the child can bear the charges, expense and maintenance or any portion of
9 them, the juvenile court shall fix the amount thereof and direct that the
10 child, the child's estate, parent or guardian or the person who has custody
11 of the child pay the amount monthly to the department of juvenile corrections
12 or other public or private institution or agency, or private person or
13 persons to which the child is awarded or committed. The department of
14 juvenile corrections or other public or private institution or agency or
15 private person or persons shall acknowledge the receipt of the monies. The
16 department of juvenile corrections shall retain and utilize the money it
17 receives to fund work restitution programs for juveniles. Except as provided
18 in section 8-243.01, other state institutions or agencies shall deposit,
19 pursuant to sections 35-146 and 35-147, the money in the state general
20 fund. The juvenile court shall transmit a copy of its orders concerning
21 payment along with its order of commitment.

22 C. If the juvenile court awards or commits a child to a juvenile
23 detention facility, the juvenile court shall inquire into the ability of the
24 child, the child's estate, parent or guardian or the person who has custody
25 of the child to bear the charge, expense and maintenance including food,
26 clothing, shelter and supervision of the child while the child is detained in
27 a juvenile detention facility. If the juvenile court is satisfied that the
28 child, the child's estate, parent or guardian or the person who has custody
29 of the child can bear the charges, expense and maintenance or any portion of
30 them, the juvenile court may fix the amount of the payment and direct that
31 the child, the child's estate, parent or guardian or the person who has
32 custody of the child pay the amount monthly to the juvenile court. The

1 assessment is collectible as a civil judgment. The juvenile court shall
2 acknowledge the receipt of the monies and shall transmit the monies monthly
3 to the county treasurer for deposit in the county general fund. The juvenile
4 court shall transmit a copy of its orders concerning payment along with its
5 order of commitment.

6 D. Subsection C of this section does not apply to foster parents and
7 group homes.

8 E. IF THE JUVENILE WAS ADOPTED OR PLACED IN PERMANENT GUARDIANSHIP
9 AFTER THE JUVENILE WAS DETERMINED BY THE COURT TO BE A DEPENDENT CHILD, THE
10 JUVENILE COURT SHALL CONSIDER THE TOTALITY OF THE CHILD'S CIRCUMSTANCES AND
11 THE NATURE OF THE DEPENDENCY. THE JUVENILE COURT MAY WAIVE ALL OR PART OF THE
12 CHARGES, EXPENSE AND MAINTENANCE PRESCRIBED BY THIS SECTION IF THE JUVENILE
13 COURT DETERMINES EXTENUATING CIRCUMSTANCES EXIST.

14 Sec. 3. Section 8-321, Arizona Revised Statutes, is amended to read:

15 8-321. Referrals; diversions; conditions; community based
16 alternative programs

17 A. Except as provided in subsection B of this section, before a
18 petition is filed or an admission or adjudication hearing is held, the county
19 attorney may divert the prosecution of a juvenile who is accused of
20 committing a delinquent act or a child who is accused of committing an
21 incorrigible act to a community based alternative program or to a diversion
22 program administered by the juvenile court.

23 B. A juvenile is not eligible for diversion if any of the following
24 applies:

25 1. The juvenile committed a dangerous offense as defined in section
26 13-105.

27 2. The juvenile is a chronic felony offender as defined in section
28 13-501.

29 3. The juvenile committed an offense that is listed in section 13-501.

30 4. The juvenile is alleged to have committed a violation of section
31 28-1381, 28-1382 or 28-1383.

1 5. The juvenile is alleged to have committed an offense involving the
2 purchase, possession or consumption of spirituous liquor or a violation of
3 title 13, chapter 34 and the juvenile has previously participated in a
4 community based alternative program or a diversion program administered by
5 the juvenile court at least two times within twenty-four months before the
6 date of the commission of the alleged offense.

7 C. Except as provided in section 8-323, the county attorney has sole
8 discretion to decide whether to divert or defer prosecution of a juvenile
9 offender. The county attorney may designate the offenses that shall be
10 retained by the juvenile court for diversion or that shall be referred
11 directly to a community based alternative program that is authorized by the
12 county attorney.

13 D. The county attorney or the juvenile court in cooperation with the
14 county attorney may establish community based alternative programs.

15 E. Except for offenses that the county attorney designates as eligible
16 for diversion or referral to a community based alternative program, on
17 receipt of a referral alleging the commission of an offense, the juvenile
18 probation officer shall submit the referral to the county attorney to
19 determine if a petition should be filed.

20 F. If the county attorney diverts the prosecution of a juvenile to the
21 juvenile court, the juvenile probation officer shall conduct a personal
22 interview with the alleged juvenile offender. At least one of the juvenile's
23 parents or guardians shall attend the interview. The probation officer may
24 waive the requirement for the attendance of the parent or guardian for good
25 cause. If the juvenile acknowledges responsibility for the delinquent or
26 incorrigible act, the juvenile probation officer shall require that the
27 juvenile comply with one or more of the following conditions:

- 28 1. Participation in unpaid community restitution work.
- 29 2. Participation in a counseling program that is approved by the court
30 and that is designed to strengthen family relationships and to prevent
31 repetitive juvenile delinquency.

1 3. Participation in an education program that is approved by the court
2 and that has as its goal the prevention of further delinquent behavior.

3 4. Participation in an education program that is approved by the court
4 and that is designed to deal with ancillary problems experienced by the
5 juvenile, such as alcohol or drug abuse.

6 5. Participation in a nonresidential program of rehabilitation or
7 supervision that is offered by the court or offered by a community youth
8 serving agency and approved by the court.

9 6. Payment of restitution to the victim of the delinquent act.

10 7. Payment of a monetary assessment.

11 G. If the juvenile successfully complies with the conditions set forth
12 by the probation officer, the county attorney shall not file a petition in
13 juvenile court and the program's resolution shall not be used against the
14 juvenile in any further proceeding and is not an adjudication of
15 incorrigibility or delinquency. The resolution of the program is not a
16 conviction of crime, does not impose any civil disabilities ordinarily
17 resulting from a conviction and does not disqualify the juvenile in any civil
18 service application or appointment.

19 H. In order to participate in a community based alternative program
20 the juvenile who is referred to a program shall admit responsibility for the
21 essential elements of the accusation and shall cooperate with the program in
22 all of its proceedings.

23 I. All of the following apply to each community based alternative
24 program that is established pursuant to this section:

25 1. The juvenile's participation is voluntary.

26 2. The victim's participation is voluntary.

27 3. The community based alternative program shall ensure that the
28 victim, the juvenile's parent or guardian and any other persons who are
29 directly affected by an offense have the right to participate.

30 4. The participants shall agree to the consequences imposed on the
31 juvenile or the juvenile's parent or guardian.

32 5. The meetings and records shall be open to the public.

1 J. After holding a meeting the participants in the community based
2 alternative program may agree on any legally reasonable consequences that the
3 participants determine are necessary to fully and fairly resolve the matter
4 except confinement.

5 K. The participants shall determine consequences within thirty days
6 after referral to the community based alternative program, and the juvenile
7 shall complete the consequences within ninety days after the matter is
8 referred to the community based alternative program. The county attorney or
9 the juvenile probation officer may extend the time in which to complete the
10 consequences for good cause. If the community based alternative program
11 involves a school, the deadlines for determination and completion of
12 consequences shall be thirty and ninety school days, respectively.

13 L. The community based alternative program, the juvenile, the
14 juvenile's parent or guardian and the victim may sign a written contract in
15 which the parties agree to the program's resolution of the matter and in
16 which the juvenile's parent or guardian agrees to ensure that the juvenile
17 complies with the contract. The contract may provide that the parent or
18 guardian shall post a bond payable to this state to secure the performance of
19 any consequence imposed on the juvenile pursuant to subsection J of this
20 section.

21 M. If the juvenile successfully completes the consequences, the county
22 attorney shall not file a petition in juvenile court and the program's
23 resolution shall not be used against the juvenile in any further proceeding
24 and is not an adjudication of incorrigibility or delinquency. The resolution
25 of the program is not a conviction of crime, does not impose any civil
26 disabilities ordinarily resulting from a conviction and does not disqualify
27 the juvenile in any civil service application or appointment.

28 N. The county attorney or juvenile court shall assess the parent of a
29 juvenile who is diverted pursuant to subsection A of this section a fee of
30 fifty dollars unless, after determining the inability of the parent to pay
31 the fee, the county attorney or juvenile court assesses a lesser amount. IF
32 THE JUVENILE WAS ADOPTED OR PLACED IN PERMANENT GUARDIANSHIP AFTER THE

1 JUVENILE WAS DETERMINED BY THE COURT TO BE A DEPENDENT CHILD, THE COUNTY
2 ATTORNEY OR JUVENILE COURT SHALL CONSIDER THE TOTALITY OF THE CHILD'S
3 CIRCUMSTANCES AND THE NATURE OF THE DEPENDENCY. THE COUNTY ATTORNEY OR
4 JUVENILE COURT MAY WAIVE ALL OR PART OF THE FEE PRESCRIBED BY THIS SUBSECTION
5 IF THE COUNTY ATTORNEY OR JUVENILE COURT DETERMINES EXTENUATING CIRCUMSTANCES
6 EXIST. All monies assessed pursuant to this subsection shall be used for the
7 administration and support of community based alternative programs or
8 juvenile court diversion programs. Any amount greater than forty dollars of
9 the fee assessed pursuant to this subsection shall only be used to supplement
10 monies currently used for the salaries of juvenile probation and surveillance
11 officers and for support of programs and services of the superior court
12 juvenile probation departments. The clerk of the superior court shall pay
13 all monies collected from this assessment to the county treasurer for deposit
14 in the juvenile probation fund, to be utilized as provided in section 12-268,
15 and the county attorney shall pay all monies collected from this assessment
16 into the county attorney juvenile diversion fund established by section
17 11-537.

18 0. The supreme court shall annually establish an average cost per
19 juvenile for providing diversion services in each county, based on the monies
20 appropriated for diversion pursuant to section 8-322, excluding the cost of
21 juvenile intake services provided by the juvenile court, and the number of
22 juveniles diverted the previous year. On the county attorney's certification
23 to the supreme court of the number of juveniles diverted to a county attorney
24 community based alternative program each quarter, the annual average cost per
25 juvenile for each juvenile diverted shall be reimbursed to the county
26 attorney juvenile diversion fund established by section 11-537 out of monies
27 appropriated to the supreme court for diversion programs.

28 P. If the juvenile does not acknowledge responsibility for the
29 offense, or fails to comply with the consequences set by the community based
30 alternative program, the case shall be submitted to the county attorney for
31 review.

1 Q. After reviewing a referral, if the county attorney declines
2 prosecution, the county attorney may return the case to the juvenile
3 probation department for further action as provided in subsection F of this
4 section."
5 Amend title to conform

2/14/11
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