



# Initial Appearances and Arraignments

September 6, 2023

**Charles Adornetto**  
Judicial Education Officer  
Maricopa County Justice Courts



1

1

## What Type of Proceeding Are You Doing?

- “Pure” IA or combined IA/Arraignment?
- At the jail?
- Public defender present?
- Prosecutor present?
- Recording?
- Setting it to an arraignment or a PTC or a preliminary hearing?
- Taking a plea?
- Victims’ rights complied with?

2

2

## “Pure” Initial Appearance

- (Setting it to an arraignment or preliminary hearing)
- Rule 4
- Determine probable cause
- Ascertain true name and address
- Advise of charges
- Advise of rights
- Determine release conditions
- Order fingerprints and/or DNA
- Set next court date
- (Appoint attorney; set bond review date; bond eligibility hearing)

3

3

## IA—Rule 4.2(a)

- Magistrate must:
- (Magistrate: includes JPs and municipal judges, 1.4(c))
- **1** Determine true name and address; amend charges to correct name; advise person to promptly notify court of any change of address
- Get phone number and email too
- **2** Inform of charges and, if possible, give a copy
- **3** Inform defendant of right to counsel and right to remain silent
- **4** Determine if probable cause and, if not, release from custody
- (PC= believe offense occurred and defendant committed it, 2.4(a))

4

4

## IA—Rule 4.2(a)

- Magistrate must:
- **5** Appoint counsel if defendant requests and is eligible for counsel
- (Eligibility for misdemeanors= may result in jail time and for limited purpose of determining release conditions at or following the IA if detained, **6.1(b)(1)**.) (Pet 21-0051 added “if defendant is detained on bond at the IA”)
- **6** Permit and consider oral or written comments from victims re: release conditions
- **7** If eligible for bail, consider release conditions per 7.2(a)

5

5

## Right to Release

- **7.2(a)(2) Right to Release.** Except as these rules otherwise provide, any defendant charged with an offense bailable as a matter of right must be released pending and during trial on the defendant's own recognizance with only the mandatory conditions of release required under Rule 7.3(a), unless the court determines that additional conditions are reasonably necessary to assure the defendant's appearance or protect the victim, any other person, or the community from risk of harm by the defendant. If the court makes such a determination, it must impose the least onerous conditions of release set forth in Rule 7.3(c).

6

6

## Determining Amount of Bond

- 7.2(a)(3): When determining amount of bond, must consider

### 13-3967(B):

- 1 View of victim;
- 2 Nature and circumstances of the charge;
- 3 Prior serious or violent arrests or convictions;
- 4 Evidence that def is danger to community;
- 5 Results of risk or lethality assessment;
- 6 Weight of evidence against the accused;
- 7 Def's family ties, employment, resources, character, mental condition

7

7

## Determining Amount of Bond

- 7.2(a)(3): When determining amount of bond, must consider

### 13-3967(B):

- 8 Results of any drug test;
- 9-10 Whether using any illegal drugs and/or meth;
- 11 Length of residence in the community;
- 12 Record of arrests and convictions;
- 13 Record of FTAs;
- 14 Whether in US illegally (????)
- 15 Whether defendant lives in state or elsewhere.

8

8

## Warrants/FTAs

- Review a warrant to determine if it is a pre or post-adjudication FTA

Type of Warrant	Type of FTA
13-2506(A)(2) Def. is charged with Failure to Appear in the 2 <sup>nd</sup> Degree, a class 2 misdemeanor	ATTC arraignments when all the information on the ATTC is filled out correctly with defendant's signature
Rule 3.1(d)	ATTC Arraignments when 13-2506(A)(2) does not apply
Rule 3.1(d)	PTCs, NJTs, JTs and Sentencing
Rule 3.1(c) (PC was found)	Long Form Complaint Arraignments
Rule 26.12(c)(3)	OSCs for Post-adjudication compliance OSCs for Failure to Pay
Rule 27.6	Probation Violation Arraignments and subsequent PTCs and PVHs

9

9

## IA—Rule 7.4 Conditions of Release

- At IA, court must issue an order containing conditions of release and inform def of consequences for violating a condition and may immediately issue an arrest warrant for violation
- Later review of conditions must comply with victims' rights and give opposing party opportunity to respond
- (New) No later than 10 days after IA, court must determine whether to amend conditions for def in custody on bond and may hold oral argument or evidentiary hearing.
- (New) State has BOP to prove by POE that a bond is necessary in accord with 13-3967(B)

10

10

## IA—Rule 7.3 Conditions of Release

- 4 mandatory conditions: appear for all court proceedings; not commit criminal offense; not leave state w/o permission; diligently pursue an appeal
- Must order the defendant not to contact a victim if such an order is reasonable and necessary to protect a victim from physical harm, harassment, intimidation, or abuse
- Can impose other non-monetary conditions
- Can require a cash bond; secured appearance bond; a deposit bond; or an unsecured appearance bond.

11

11

## Animal Cruelty

- HB 2372, effective Sept 24, 2022
- If a judicial officer orders the release of a person who is currently serving a term of probation for a violation of animal cruelty and who is charged with a new violation of animal cruelty, on the person's own recognizance or on the execution of bail, the judicial officer is required to impose a condition of release that prohibits the person from possessing or having contact with any animal.
- Added to 7.3(b)(3) by Pet R22-0029

12

12

## IA—Rule 4.2(a)—Not Bail Eligible

- **8** Determine if not eligible for bail:
  - **A**. Def committed capital offense or any felony while def was on pretrial release for a separate felony (7.2(b)(1)) or
  - **B**. Can't ensure safety per 7.2(b)(3) (probably typo, meant 2)
    - **A** Is it a "dangerous offense" per 13-105
    - **B** Weight of evidence
    - **C** History and characteristics of Def
    - **D** Seriousness of danger to victim and community
    - **E** Recommendation of PTS and risk assessment
    - **F** Victim statement
    - **G** Anything else relevant

13

13

## Not Eligible for Bail?

- **7.2(b)(2)** Not eligible for bail per **Const. Art 2, Sec. 22(A)(3)**, def charged with felony and court finds all 3:
  - **A** Proof evident or presumption great def committed felony;
  - **B** Clear and convincing evidence def poses a substantial danger to victim or community or if state files certification def engaged in conduct constituting a dangerous crime against children or terrorism; and
  - **C** No condition or combination of release conditions will reasonably assure safety of victim or community

14

14

## Not Eligible for Bail?

- **Note! Const. Art 2, Sec. 22(A)(3)**, also includes no bail “For serious felony offenses as prescribed by the legislature if the person charged has entered or remained in the United States illegally and if the proof is evident or the presumption great as to the present charge.”
- (also in 13-3961)
- Probably unconstitutional
- **4.2(a)(9)**, if not eligible for bail, must schedule a bail eligibility hearing in Superior Court per 7.2(b)(4)

15

15

## IA—Rule 4.2(a)

- Magistrate must:
- **10** Order a 10-print fingerprint if the defendant is charged with a felony offense, a violation of A.R.S. §§ 13-1401 et seq. or A.R.S. §§ 28-1301 et seq., a domestic violence offense as defined in A.R.S. § 13-3601, or an offense listed in A.R.S. §§ 32-2422(A)(4), 32-2441(A)(4), 32-2612(A)(4), 32-2622(A)(4), 41-1758.03(B) or (C), or 41-1758.07(B) or (C); and
- The defendant does not present a completed mandatory fingerprint compliance form to the court, or if the court has not received the process control number

16

16



## IA—Rule 4.2(a)

- Magistrate must:
  - **11** Order the arresting agency to secure a sample of buccal cells or other bodily substances for DNA testing if:
    - (A) the defendant is in-custody and was arrested for an offense listed in A.R.S. § 13-610(O)(3) (any offense in chapter 11 of this title, a violation of section 13-1402, 13-1403, 13-1404, 13-1405, 13-1406, 13-1410, 13-1411, 13-1417, 13-1507, 13-1508, 13-3208, 13-3214, 13-3555 or 13-3608 or a violation of any serious offense as defined in section 13-706 that is a dangerous offense) and
    - (B) the court has not received proof of compliance with A.R.S. § 13-610(K).

17

17

## IA—Rule 4.2(b) (Felony)

- Magistrate must:
  - **1** Inform def of right to a preliminary hearing and how to waive
  - **2** Unless waived, set the time for a preliminary hearing

18

18

## Appearance on Petition to Revoke

- New Rule 27.6(b), added by Pet 22-0003
- When the probationer appears in court under Rule 27.7 or Rule 27.8, the court must make a release determination as follows:
- **(2)** *in a limited jurisdiction court*, by ordering release conditions under Rule 7.3(a) and (c) that will reasonably assure the probationer's appearance and protect the victim, any other person, or the community. If the court determines that the probationer in all reasonable probability will receive a sentence of incarceration, or if additional conditions under Rule 7.3(c) will not assure the probationer's appearance or protect the victim, another person, or the community, the court may order that the probationer be held in custody.

19

19

## IA: Scheduling

- Set a preliminary hearing within 10 days for in custody and 20 days for out of custody
- Set an arraignment within 10 days for in custody and 30 days for out of custody
- If not eligible for bail, must schedule a bail eligibility hearing in Superior Court per 7.2(b)(4)
- In some courts, you may set a 48 hour review if no felony long form so that defendant may be released if no long form timely filed, or a 10 day review date for defs bonded on misdemeanors

20

20

# IA: Scheduling

If doing it yourself, prepare a chart in advance. For example:

**Month 2022**

Sunday	Monday	Tuesday	Wednesday	Thursday	Friday	Saturday

Bonded Misd or Misd Warrant: 1<sup>st</sup> Tues @ 1:30: \_\_\_\_\_

Bonded Felony Long Form 48 hr review: Sat/Sun: 1<sup>st</sup> Weds @ 9:00: \_\_\_\_\_ (Mon hol +1)  
Mon:  : 1<sup>st</sup> Thurs @ 9:00: \_\_\_\_\_

OR Misd: 2<sup>nd</sup> Tues @ 1:30: \_\_\_\_\_

Bonded Felony PH: 10 days: Sat: 2<sup>nd</sup> Tues @ 11:00: \_\_\_\_\_  
Sun: 2<sup>nd</sup> Weds @ 11:00: \_\_\_\_\_  
Mon: 2<sup>nd</sup> Thurs @ 11:00: \_\_\_\_\_

OR Felony PH 20: days: Sat: 3<sup>rd</sup> Fri @ 11:00: \_\_\_\_\_  
Sun/Mon: 4<sup>th</sup> Mon @ 11:00: \_\_\_\_\_

21

21

## Blended IA/Arraignment

- Misdemeanors only!
- Taking a plea or setting it to PTC
- Everything from Rule 4 and now add Rule 14
- Additional rights must be read (including jury trial)
- If taking COP, now must comply with Rules 4, 14 and 17
- And, of course 39 (victims' rights)

22

22

## Arraignments—Rule 14

- The purpose of an arraignment is to formally advise defendants of the charges against them and their legal rights, to assure they are provided counsel if applicable, to enter a plea, and to set a trial date or a later court date.
- May be held in conjunction with IA
- In LJ courts, may be waived with written NG plea; and/or may now be conducted telephonically

23

## Telephonic Arraignments—Relatively New

- R-21-0024, effective January 1, 2022
- Adds Rule 14(c):
- **(c) Exception for Limited Jurisdiction Courts.** A limited jurisdiction court may conduct a telephonic arraignment for misdemeanor offenses and for civil traffic offenses that are charged on the same complaint as misdemeanor offenses. For purposes of this rule, “telephonic” includes voice-only communications between the court and the parties.

24

24

## Arraignments—Rule 14.4

- Court must:
  - (a) enter the defendant's plea of not guilty, unless the defendant pleads guilty or no contest and the court accepts the plea;
  - (b) decide motions concerning release conditions under Rule 7;
  - (c,d) set and written notice of date for trial or PTC and other important deadlines

25

## Arraignments—Rule 14.4

- (e) inform the defendant of the following:
  - (1) the right to counsel and the right to court-appointed counsel if eligible;
  - (2) the right to jury trial, if applicable;
  - (3) the right to be present at all future proceedings;
  - (4) the failure to appear at future proceedings may result in the defendant being charged with a new offense and the court issuing an arrest warrant;
  - (5) all proceedings may be held in the defendant's absence, other than sentencing; and
  - (6) the defendant may lose the right to a direct appeal if the defendant's absence from sentencing causes sentencing to occur more than 90 days after any conviction;

26

## Arraignments—Rule 14.4

- Court must:
- (f) appoint counsel if applicable;
- (g) order a summoned defendant to be 10-print fingerprinted no later than 20 calendar days by the appropriate law enforcement agency at a designated time and place if:
  - the defendant is charged with a felony; sex offense; DUI or DV offense
  - And doesn't have proof it has already been done

27

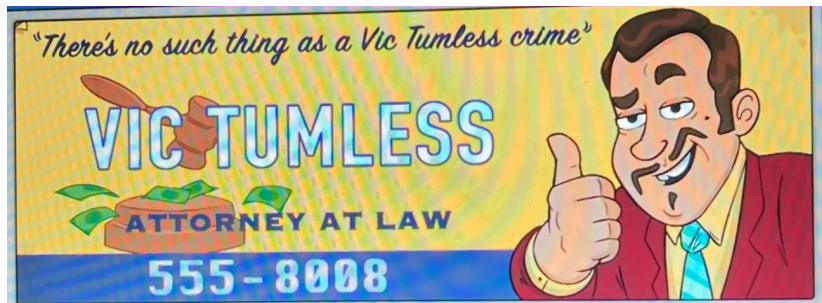
## Right to Jury Trial

- Shoplifting/Theft
  - Reckless Driving
  - Aggressive Driving (Maricopa County)
  - DUI/OUI
  - Resisting Arrest
  - Unlawful Imprisonment
  - Indecent exposure
  - Prostitution?
  - Allegation of Sexual Motivation
- And a new one...**  
 Causing death by a moving violation, § 28-672  
 (Not necessarily for serious physical injury)  
Bridgeman v. Certa, 251 Ariz. 471 (Az. App. 2021)

28

## Arraignments Without Prosecutor Present— When to Accept Guilty Pleas

- Ensure state has waived presence
- DO NOT PROCEED:
- Victim cases
- DUI or Reckless
- If defendant insistent, can note on record defendant wishes to enter guilty plea and set to Acceptance of Plea proceeding with Notice to State



29

## Arraignments— When to Accept Guilty Pleas

- If no plea agreement, Def must plead guilty to everything
- Combined civil and criminal traffic complaints:
- As Def must plead guilty/responsible to all charges, so may be to their benefit to go to PTC
- 17.1(c): A plea of no contest may be accepted only after the court gives due consideration to parties' views (so can't accept w/o prosecutor)

30

## CHANGE OF PLEA

Judge must inform the defendant of maximum and minimum possible penalties.

Maximums:

Offense	Jail	Fine	Probation
Class 1 misd.	6 mos.	\$2,500	3 yrs. *5 DUI
Class 2 misd.	4 mos.	\$750	2 yrs.
Class 3 misd.	30 days	\$500	1 yr.
Petty offense		\$300	

31

## Changes of Plea---Rule 17

- Def must be in person except
- 17.1(f)(1) Telephonic Pleas
- 17.1(f)(2) Plea by mail—no victims and no jail (unless already incarcerated)
- 17.2 Court must address defendant personally, inform defendant, and ensure defendant understands everything in the COP form!

32



## Changes of Plea—Rule 17 (Relatively NEW)

- 17.1(f)(1) Telephonic pleas may be audio-only; visual; or ODR
- 17.1(f)(1)(A) Discretionary for any misdemeanor offense (eliminates 100 mile and medical requirements)
- 17.1(f)(1)(B) Written form must be substantially to Form 28 and may be ODR
- 17.1(f)(1)(B)(i) May plead to amended charges in plea
- 17.1(f)(1)(B)(ii) May accept driver license or photo ID with name and birthdate instead of FP (except see C below)
- 17.1(f)(1)(B)(iii) Must return any other form prosecutor deems necessary
- 17.1(f)(1)(C)(i) Still require FP for 13-607(A) offenses
- 17.1(f)(1)(C)(ii) May defer acceptance of plea if no FP until get it

33

## Changes of Plea—Rule 17 (NEW)

- 17.1(f)(1)(C)(iii) “In extraordinary circumstances, instead of requiring” FP, may permit another method, including “allowing the defendant to use a notary public to witness the defendant’s signature on the form.”
- 17.1(f)(1)(D) Court must hold telephonic with parties and advise may be used for prior conviction
- 17.1(f)(1)(E) May sentence telephonically
- 17.1(f)(1)(F) Victims’ rights continue to apply and victim may participate

34

## Minimum Penalties

- Suspended sentence.
- DUI (see chart)
- 2nd Reckless.
- Domestic Violence.
- Contracting without a license.
- Possession of Marijuana 13-3405.
- Possession of Prescription Drug 13-3406.
- Equine tripping 13-2910.09.
- Furnishing tobacco to minor
- Prostitution 13-3214
- Street Racing

35

## Victim/Restitution Cases

- Ensure Victims' Rights have been complied with prior to taking pleas on victim cases!
- If necessary, set to a pretrial conference or a change of plea setting.
- If possible restitution, plea **no longer** must include a restitution cap
- Plea can identify period of time court will retain jurisdiction for victim to assert possible restitution claim

36

# Attachments

- Arraignment Packet
- Sample Criminal Cheat Sheet
- Sample Civil Traffic Cheat Sheet
- DUI Sentence Chart
- Victim Crimes

37

37

# Questions?

---



38

38

## IA/ Arraignment Checklists

### Arraignments

#### Rule 14.4

- Determine true name and address; amend charges to correct name; advise defendant to promptly notify court of any change of address. **BP: Get phone number and email too.**
- Formally advise defendant of charges. **BP: Give minimums and maximums.**

Offense	Jail	Fine	Probation
Class 1 misd.	6 mos.	\$2,500	3 yrs. *5 DUI
Class 2 misd.	4 mos.	\$750	2 yrs.
Class 3 misd.	30 days	\$500	1 yr.
Petty offense		\$300	

#### (Some) Mandatory Minimums:

DUI—jail; counsel; fine; interlock; license suspension: **see chart**

Reckless Driving 2<sup>nd</sup> Offense: 20 days jail

Domestic Violence: Counseling and \$100 assessments

Contracting w/o License: \$1000 (may be concurrent with restitution)

Possession Prescription Drug: \$1000

Street Racing

Equine tripping 13-2910.09.

Furnishing tobacco to minor

Prostitution 13-3214

- Inform the defendant of the following rights:
  - (1) the right to counsel and the right to court-appointed counsel if eligible; **(see below)**
  - (2) the right to jury trial, if applicable;
    - Shoplifting/Theft
    - Reckless Driving
    - Aggressive Driving (Maricopa County)
    - DUI/OUI
    - Resisting Arrest
    - Unlawful Imprisonment

- Indecent exposure
- Allegation of Sexual Motivation
- Contempt (if >\$300 or >6 mos. jail)
- Causing death by a moving violation, § 28-672

(3) the right to be present at all future proceedings;

(4) the failure to appear at future proceedings may result in the defendant being charged with a new offense and the court issuing an arrest warrant;

(5) all proceedings may be held in the defendant's absence, other than sentencing; and

(6) the defendant may lose the right to a direct appeal if the defendant's absence from sentencing causes sentencing to occur more than 90 days after any conviction;

- Obtain written waiver of counsel or
  - appoint attorney if: in interests of justice (Rule 11) or
  - indigent (complete financial affidavit) and qualifies because of substantial likelihood of jail (DUI) or held on bond or for limited purpose of determining release conditions.
- Enter the defendant's plea of not guilty, unless the defendant pleads guilty or no contest (to all charges) and the court accepts the plea. (Cannot accept no contest plea without prosecutor input. Rule 17.1(c))
- Do not accept guilty plea without state and/or victim input if:
  - Victim case (see list)
  - DUI or Reckless
  - BP: If defendant insistent, can note on record defendant wishes to enter guilty plea and set to Acceptance of Plea proceeding with Notice to State.
- Order 10 print fingerprints and/or DNA. See chart.
- Determine release conditions. Inform def of consequences for violating a condition and may immediately issue an arrest warrant for violation.
- Set next court date. Advise that failure to appear may result in a warrant.

## Initial Appearance (Jail Court)

### Rule 4.2(a)

- Determine true name and address; amend charges to correct name; advise person to promptly notify court of any change of address. **BP: Get phone number and email too.**
- Inform of charges and, if possible, give a copy. **BP: Give minimums and maximums.**

Offense	Jail	Fine	Probation
Class 1 misd.	6 mos.	\$2,500	3 yrs. *5 DUI
Class 2 misd.	4 mos.	\$750	2 yrs.
Class 3 misd.	30 days	\$500	1 yr.
Petty offense		\$300	

### (Some) Mandatory Minimums:

DUI—jail; counsel; fine; interlock; license suspension: see chart

Reckless Driving 2<sup>nd</sup> Offense: 20 days jail

Domestic Violence: Counseling and assessments

Contracting w/o License: \$1000 (may be concurrent with restitution)

Possession Prescription Drug: \$1000

Street Racing

Equine tripping 13-2910.09.

Furnishing tobacco to minor

Prostitution 13-3214

- Inform defendant of right to counsel and right to remain silent.
- Determine if probable cause and, if not, release from custody. **(PC= believe offense occurred and defendant committed it, 2.4(a)).**
- Appoint counsel if defendant requests and is eligible for counsel:
  - any felony or
  - in interests of justice (Rule 11) or
  - indigent (complete financial affidavit) and qualifies because of substantial likelihood of jail (DUI) or held on bond or for limited purpose of determining release conditions.

- Permit and consider oral or written comments from victims re: release conditions.
- If eligible for bail, consider release conditions per 7.2(a). 7.2(a)(3): When determining amount of bond, must consider 13-3967(B).
- Inform def of consequences for violating a condition and may immediately issue an arrest warrant for violation.
- Order 10 print fingerprints and/or DNA. See chart.
- Felony: Inform def of right to a preliminary hearing and how to waive. Unless waived, set the time for a preliminary hearing.
- Set next court date. Advise that failure to appear may result in a warrant.

#### Warrants

Type of Warrant	Type of FTA
13-2506(A)(2) Def. is charged with Failure to Appear in the 2 <sup>nd</sup> Degree, a class 2 misdemeanor	ATTC arraignments when all the information on the ATTC is filled out correctly with defendant's signature
Rule 3.1(d)	ATTC Arraignments when 13-2506(A)(2) does not apply
Rule 3.1(d)	PTC's, NJT's, JT's and Sentencing
Rule 3.1(c) (PC was found)	Long Form Complaint Arraignments
Rule 26.12(c)(3)	OSC's for Post-adjudication compliance OSC's for Failure to Pay
Rule 27.6	Probation Violation Arraignments and subsequent PTC's and PVH's

#### Attachments:

10 print/DNA chart  
 DUI minimums  
 Victim list  
 Civil traffic

Arizona Revised Statutes

Statute	Description	Severity & Mandatory Min	Related Information
13-1201	Endangerment	1M	DV 13-3601, 10-Print
13-1202A1, 2	Threatening & Intimidating	1M	DV 13-3601, 10-Print
13-1203A1	Assault - Intentional or knowingly	1M	DV 13-3601, 10-Print
13-1203A1	Assault - Reckless	2M	DV 13-3601, 10-Print
13-1203A2	Assault	2M	DV 13-3601, 10-Print
13-1203A3	Assault	3M	DV 13-3601, 10-Print
13-1215	Hazing (NEW 2022)	2M	10-Print
13-1303	Unlawful imprisonment (JURY TRIAL)	1M	DV13-3601, 10-Print ONLY on DV cases
13-1402	Indecent Exposure (JURY TRIAL)	1M	<b>13-610L DNA</b> , 10-Print
13-1403	Public Sexual Indecency (JURY TRIAL)	1M	<b>13-610L DNA</b> , 10-Print
13-1406.01A	Sexual Assault Spouse (JURY TRIAL)	1M	<b>13-610L DNA</b> , 10-Print
13-1502	Trespass	3M	DV 13-3601, 10-Print
13-1503	Trespass - nonresidential or fenced commercial yard	2M	DV 13-3601, 10-Print
13-1504	Trespass - fenced residential yard or yard looking in...	1M	DV 13-3601, 10-Print
13-1505	Possession of Burlargy Tools	1M	10-Print
13-1602	Criminal Damage	2M less than \$250 1M \$250 or more	DV13-3601, 10-Print ONLY on DV cases
13-1603	Reckless Littering	1M or 2M	NO 10-Print
13-1702	Reckless Burning	1M	NO 10-Print
13-1802	Theft (JURY TRIAL)	1M	10-Print
13-1803	Unlawful use of a means of transportation (JURY TRIAL)	1M	10-Print
13-1805	Shoplifting (JURY TRIAL)	1M	10-Print
13-1806	Failure to return rented property (JURY TRIAL)	1M	10-Print
13-2105A1	Fraudulent Use of a Credit Card	1M	10-Print
13-2402A1	Obstructing Gov Operations	1M	NO 10-Print
13-2406	Impersonating a Public Servant (JURY TRIAL)	1M	10-Print
13-2412	Refusing to provide truthful name when lawfully detained	2M	NO 10-Print
13-2413A	Crime Scene Interference (NEW 2022)	2M	NO 10-Print
13-2508	Resisting Arrest (JURY TRIAL)	1M (Class 6 felony)	NO 10-Print * Passive Resistance is may or may not be Jury Trial Eligible
13-2810	Interfering with Judicial Proc	1M	DV13-3601, 10-Print ONLY on DV cases
13-2904	Disorderly Conduct	1M	DV 13-3601, 10-Print
13-2906	Obstructing a highway	A1 = 2M A2 = 3M A3 = 1M	NO 10-Print
13-2907.01	False Information	1M	10-Print
13-2908	Criminal Nuisance	3M	NO 10-Print
13-2910	Cruelty to Animals	1M	10-Print, Eff. 9-24-22, on prob fir prior 13-2910 + new charge = release order must include "NO CONTACT with any ANIMAL"
13-2916	Use of Electronic Comm to terrify	1M	10-Print



Arizona Revised Statutes

13-3102A...	Misconduct Involv. weapons	1M	10-Print
13-3208	Keeping or Residing in house of Prostitution	1M	<b>13-610L DNA</b> , 10-Print
13-3214	Prostitution	1M - 15 days jail, 2 - 30 days jail, 3 - 60 days	<b>13-610L DNA</b> , 10-Print
13-3406A1	Poss prescription drug w/o presc	1M \$1000 minimum	10-Print
13-3415	Poss Drug Paraphernalia	1M Prob and Counseling If reject prob, sent to jail or t/s	10-Print 13-901.01 Probation
13-3555	Portraying adult as a minor	1M	<b>13-610L DNA</b> , 10-Print
13-3613A	Contributing to the delinquency of a Minor (JURY TRIAL only if state alleges sexual motivation ARS 13-118)	1M	10-Print
13-3619	Tobacco	1M	10-Print
13-3622		Petty: Min \$100, Max \$300	NO 10-Print
13-3623	Child or Vulnerable adult abuse	1M	10-Print
13-3704	Adding poison to food/drink	1M	10-Print
13-3728(C)	Catalytic Converter (NEW 2022)	1M	NO 10-Print
28-622	Failure to Obey Police	2M	NO 10-Print
28-662	Leaving the scene	2M	NO 10-Print
28-663A1, 2	Failure to give PII and Reg, DL	3M	NO 10-Print
28-663A3	Failure to assist injured person	1M	NO 10-Print
28-664	Leaving scene - unattended veh	3M	NO 10-Print
28-665	Leaving the scene - fixture	3M	NO 10-Print
28-672	Causing serious physical injury or death (JURY TRIAL - if death allegation)	1M, TSS May order Com Rest 90 day susp injury or 180 caused death Restitution not to exceed \$100,000	NO 10-Print
28-693	Reckless Driving (JURY TRIAL)	2M 1M prior or 13-1102, 3-1103A1, 28-708, 28-1381, 28-1382 or 28-1383 within a period of 24 months not less than twenty days in jail. department shall revoke driving privilege	NO 10-Print
28-695	Aggressive Driving (Jury Eligible - Maricopa County Sup and Justice Courts only)	TSS 2nd Offense - 1 yr suspension	NO 10-Print
28-1464	Interlock	1M	NO 10-Print
28-1522A1	Injuring or preventing operation of a vehicle	3M	NO 10-Print
28-1595B	Failure to provide DL or true identity	2M	NO 10-Print
28-2322	Exp Out of State Registration	2M	NO 10-Print
28-2531B	Fictitious plates	2M	NO 10-Print
28-3473	Driving while DL suspended	1M	NO 10-Print
28-3480	Restriction on DL	2M	NO 10-Print
28-3478	Unlawful use of DL	2M	NO 10-Print
28-7056A	Dumping trash on highways	3M	NO 10-Print

Arizona Revised Statutes

Statute	Description	First Offense	Second offense
28-1381A1	DUI .08 or higher (JURY TRIAL)	10/9 susp upon Screening Treatment, HD eligible after 1 day \$250 fine, \$500 Prison fund, \$500 Public Safety Equipment fund TSS, IID	10-Print 90/60 susp upon Screening Treatment (30 Consecutive), HD eligible after 6 days \$500 fine, \$1250 Prison Fund, \$1250 Public Safety Equip fund, 30 hours Com Service, IID (alc only) **DL Revoked 1 year, TSS
28-1382A1	DUI .15 or higher (JURY TRIAL)  * CIID must monitor compliance ARS 28-1382(I)  Home Detention ARS 11-251.15(J), Must serve 20% of jail first, Bourne v McClennen 235 Ariz. 423 (App 2014)	30/21 susp if CIID 1 yr* Screening Treatment HD eligible after 2 days (6 if no CIID) (9 = 2 Jail, 7 HD) \$250 fine plus s/c \$250 Abatement Fund \$1000 Prison fund \$1000 Public Safety Equipment fund TSS, IID	10-Print 120 (60 consecutive), Screening Treatment, HD eligible after 24 days \$500 fine plus s/c \$250 Abatement Fund, \$1250 Prison fund, \$1250 Public Safety Equipment fund, 30 hours community service, DL revoked 1 year IID 1 year after Rev TSS
28-1382A2	DUI .20 or higher (JURY TRIAL)	45/31 susp if CIID 1 yr* Screening Treatment, HD eligible after 3 days ( 9 if no CIID) (14 = 3 jail, 11 HD), \$500 fine plus s/c \$250 Abatement Fund \$1000 Prison fund, \$1000 Public Safety Equipment fund 30 hours community service, IID 18 months, TSS	10-Print 180 (90 consecutive) Screening Treatment HD eligible after 36 days \$1000 fine plus s/c \$250 Abatement Fund \$1250 Prison Fund \$1250 Public Safety Equip fund 30 hours community service DL revoked 1 year 2 yers IID
28-8280	Reckless flying (JURY TRIAL)	1M	NO 10-Print
28-8282A1	DUI Flying (JURY TRIAL)	1M	10-Print
Statute	Description	Mandatory Min	Related Statutes
4-241L	False ID to purchase liquor	1M \$250 minimum	NO 10-Print
4-241N	False ID to gain access to licensed estab.	1M \$250 minimum	NO 10-Print
4-244(9)	Underage possession or consup	1M 2nd offese: MVD will suspend for 2 years or until 18 if ordered by the court	NO 10-print, 4-246(B) penalties (D) suspend DL up to 180 days 2nd offese: MVD will suspend for 2 years or until 18 if ordered by court
4-244(20)	Adults consume alcohol in public	2M	4-246(A) penalties, NO 10-print
4-244(34)	Underage driving w/ alcohol in body	1M	4-246(B) penalties, NO 10-print
4-244 (41)	Underage w/ alcohol in body	2M	4-246(A) penalties, NO 10-print
4-251	Open container in vehicle	2M	NO 10-print
\$2 Victims' Rights Enforcement (VRE) Assessment, effective 1-1-15 pursuant to A.R.S. § 12-116.09			
\$9 Victims' Rights (VR) (Compensation and Assistance Fund) Assessment, effective 1-1-19 pursuant to A.R.S. § 12-116.08			
\$13 Equipment Assessment, effective 7-20-11 pursuant to A.R.S. § 12-116.04			
\$20 Probation Assessment increase, effective 7-1-08 pursuant to A.R.S. § 12-269C			

Arizona Revised Statutes

\$7 FARE Fee pursuant to Arizona Supreme Court Administrative Order 2003-79		
\$4 Peace Officer Training Equipment Assessment, effective 1-1-19 pursuant to A.R.S. § 12-116.08 (Traffic Offenses Only)		
\$50 DV Shelter Fund Assessment, effective 2014 pursuant to A.R.S. § 12-116.06 (Title 13 Chapter 36 (DV) and 13-2921, 13-2921.01 or 13-2923 cases)		
Petty: \$300		
<b>Effective 1/1/2023 DOVS Per the Rule changes, the charges that require 10-print fingerprinting now include any misdemeanor from:</b>		
i. Title 13, Chapter 12 (Assault/Threats and related)		
ii. Title 13, Chapter 14 (Sexual Offenses)		
iii. Title 13, Chapter 15 (Trespassing except 13-1509 dealing with carrying an Alien registration card)		
iv. Title 13, Chapter 18 (Theft/Shoplifting)		
v. Title 13, Chapter 20 (Forgery and related)		
vi. Title 13, Chapter 21 (Credit Card Fraud)		
vii. Title 13, Chapter 22 (Business and Commercial Frauds)		
viii. Title 13, Chapter 23 (Organized Crime, Fraud, and Terrorism)		
ix. Title 13, Chapter 32 (Prostitution)		
x. Title 13, Chapter 34 (Drug Offenses)		
xi. Title 13, Chapter 34.1 (Imitation Substance or Drug Offenses)		
xii. Any DV offense		
xiii. A.R.S. 13-1604 (Aggravated Criminal Damage)		
xiv. A.R.S. 13-2406 (Impersonating a Public Servant)		
xv. A.R.S. 13-2904 (Disorderly Conduct)		
xvi. A.R.S. 13-2907 to 13-2907.05 (False Reporting)		
xvii. A.R.S. 13-2910 (Animal Cruelty)		
xviii. A.R.S. 13-2916 (Use of an Electronic Communication to Terrify, etc.)		
xix. A.R.S. 13-3102 to 3104 (Weapons Misconduct)		
xx. A.R.S. 13-3513 (Sale/Distribution of Material Harmful to Minors)		
xxi. A.R.S. 13-3555 (Portraying Adult as a Minor)		
xxii. A.R.S. 13-3558 (Admitting Minors to Public Displays of Sexual Conduct)		
xxiii. A.R.S. 13-3613 (Contributing to the Delinquency of a Minor)		
xxiv. A.R.S. 13-3619 (Child Neglect)		
xxv. A.R.S. 13-3623 (Child of Vulnerable Adult Abuse)		
xxvi. A.R.S. 13-3704 (Adding Poison to Food/Drink)		
xxvii. A.R.S. 46-215 (Welfare Fraud)		
xxviii. Any offense from Title 28, Chapter 4 (DUI).		
<b>Notable exceptions that still do not require 10-print fingerprinting include</b>		
all city code offenses, all Title 28 offenses other than DUI, all title 4 offenses,		
A.R.S. 13-1303 (Unlawful Imprisonment) unless DV		
A.R.S. 13-1602 (Criminal Damage) unless DV		A.R.S. 13-1603 (Criminal Littering)
A.R.S. 13-1702 (Reckless Burning)		A.R.S. 13-2402 (Obstructing Governmental Operations)
A.R.S. 13-2412 (Refusal to Provide Name)		A.R.S. 13-2506 or 13-3904 (FTA)
A.R.S. 13-2508 (Resisting Arrest)		A.R.S. 13-2810 (Interfering with Judicial Proceedings) unless DV
A.R.S. 13-2906 (Obstructing a Public Highway or Thoroughfare)		
and others that we do not see as often but that do not fall under the chapters or statutes noted above in (a)		

## DUI SENTENCING CHART Mandatory Minimums

### **FIRST OFFENSE 28-1381a1 28-1381A2, 28-1381A3**

10 jail /9 suspended  
**HD eligible after 1 day**  
Alcohol Screening Treatment  
\$250 plus s/c  
\$500 DOC fund  
\$500 DPS fund  
Interlock device 1 year (not drugs)  
MVD will suspend  
\*\*If they have not already done so

### **FIRST OFFENSE EXTREME 28-1382a1**

30 days jail/(21 suspend if CIID\* 1 yr)  
**HD eligible after 2 days (6 if no CIID)**  
Alcohol Screening Treatment  
\$250 plus s/c  
\$250 DUI abatement  
\$1000 DOC fund  
\$1000 DPS fund  
Interlock 1 year  
MVD will suspend  
\*\*If they have not already done so

### **FIRST OFFENSE SUPER EXTREME 28-1382A2**

45 days jail/(31 suspend if CIID 1 yr\*)  
**HD eligible after 3 days (9 if no CIID)**  
Alcohol Screening Treatment  
\$500 plus s/c  
\$250 DUI abatement  
\$1000 DOC fund  
\$1000 DPS fund  
MVD will suspend  
\*\*If they have not already done so  
Interlock for 18 mos

### **SECOND OFFENSE 28-1381A1 28-1381A2, 28-1381A3**

90 jail /60 suspended  
**HD eligible after 6 days**  
Alcohol Screening Treatment  
\$500 plus s/c  
\$1250 DOC fund  
\$1250 DPS fund  
Revocation 1 year  
Interlock for 1 year after that  
30 hours community service rest.

### **SECOND OFFENSE EXTREME 28-1382A1**

120 days jail  
**HD eligible after 24 days**  
Alcohol Screening Treatment  
\$500 plus s/c  
\$250 DUI abatement  
\$1250 DOC fund  
\$1250 DPS fund  
Revocation 1 year  
Interlock 1 year after that  
30 hours community service rest.

### **2nd OFF. SUPER EXTREME 28-1382A2**

180 days jail  
**HD eligible after 36 days**  
Alcohol Screening Treatment  
\$1000 plus s/c  
\$ 250 DUI abatement  
\$1250 DOC fund  
\$1250 DPS fund  
Revocation of DL  
2 yrs interlock  
30 hours community service rest.

Certified Ignition Interlock Device, monitor compliance per ARS 28-1382(I); 28-1461(D)(4).

Home Detention: ARS §§ 9-499.07(N), 11-251.15(J); Bourne v. McLennen, 235 Ariz. 423 (App. 2014).

Work/school release, up to 12 hours a day, six days a week maximum ARS § 28-1387(C), “unless the court finds good cause to not allow the release and places those findings on the record”

ARS § 28-1446: A person who receives time served credit towards a mandatory term of incarceration for a violation of this chapter must serve at least eight consecutive hours for each day of credit.

# Victim Cases

## Title 4

4-244.33 Under 21 Years of Age Driving w/ Spirituous Liquor in Body (Class 1 Misdemeanor) and the defendant caused damage to property or injury to person.

## Title 13

13-1201 Endangerment  
13-1202 Threatening / Intimidating  
13-1203 Assault  
13-1303 Unlawful Imprisonment  
13-1402 Indecent Exposure  
13-1403 Public Sexual Indecency  
13-1502 Trespass  
13-1503 Trespass  
13-1504 Trespass  
13-1602 Criminal Damage  
13-1702 Reckless Burning  
13-1703 Arson of Property  
13-1706 Burning of Wildlands  
13-2913A Violation of Fire Ban  
13-1802 Theft  
13-1805 & 13-1806 Shoplifting  
13-2105 Fraudulent use of a Credit Card  
13-2508 Resisting Arrest  
13-2810 Violation of an Order of Protection or Injunction Against Harassment  
13-2904 Disorderly Conduct  
13-2915 Preventing Use of Telephone in an Emergency  
13-2916 Phone threats or Obscene Phone calls  
13-2921 Harassment  
13-3613 contributing to the Delinquency of a minor  
13-3619 Child Neglect (Send letter to the responsible adult, not the offender)

## Title 28

28-662 Leaving the Scene of an Accident-Damage to driven vehicle  
28-663 Leaving the Scene of an Accident-Failure to Leave Information  
28-663(A)(3) Failure to Render Reasonable Assistance  
28-664 Leaving the Scene-Unattended Vehicle  
28-665 Striking Fixture Along the Highway.  
28-693 Reckless Driving IF ACCIDENT or other drivers affected  
28-695 Aggressive Driving  
28-701.02 Criminal Speeding IF ACCIDENT  
28-672 Causing Serious Physical Injury or Death by a moving violation  
  
28-1381 Driving while impaired and driving w/ BA of 0.08 or Greater causing an ACCIDENT  
28-1382 Extreme DUI causing an ACCIDENT.

## Title 32

32-1151 Contracting Without a license

**Criminal Maximums:**

1: 2500, 6 mos, 3 years (5 DUI)

2: 750, 4 mos, 2 years

3: 500, 1 mo, 1 year

Petty offense: \$300

Juveniles: 8-323F5: Not &gt; 150 + sur or 500+sc if specific statute

**Mandatory Minimums:**

DUI—jail; counsel; fine; interlock; license suspension: see chart

Reckless Driving 2<sup>nd</sup> Offense: 20 days jail

Domestic Violence: Counseling and assessments

Contracting w/o License: \$1000 (may be concurrent with restitution)

Possession Prescription Drug: \$1000

Street Racing: \$1000

**Jury eligible:**

DUI

Indecent exposure §13-1402

Allegation of Sexual Motivation §13-118

Shoplifting/Theft §13-1802, 1805

Reckless Driving §28-693A

Aggressive Driving §28-695

Resisting Arrest §13-2508

Unlawful Imprisonment §13-1303

Causing Death by Moving Violation 28-672(A)(8)

Contempt (if &gt;\$300 or &gt;6 mos. jail) (R.Cr.P.33.4)

**Common Misdemeanors**

4-241(N) Fake ID c2

4-244.9 Min consum/poss c1

4-244.20 Pub consum c2

4-244.34 Minor DUI c1

4-244.41, Minor alc in body c2

4-251(A) Alc vehicle c2

13-1203 Assault : A1 is c1; A2 is c2; A3 is c3

13-1502 A1 Trespass c3

13-1503 Trespass c2

13-1504 Trespass c1

13-1602 Crim damage c1 (damage 250-999; c2 &lt; 250)

13-2412A Fail Name c2

13-2506 FTA: A1 is c1; A2 is c2

13-2906 Obstruct Thorough: A1 is c2; A2 is c3; A3 is c1

13-2907 False Info c1

28-662, 664 and 665 H&amp;R c1

28-693 Reckless drive c2 jury (2<sup>nd</sup> offense mandatory jail and c1)

28-701.02 Crim speed c3

28-1464 Interlock c1

28-3478 Unlawful use license c2;

28-3480 Drive vio restriction c2; dismiss if reinstated; A2 (glasses) is civil

## Civil Traffic

7/19/22

### MVD Codes

10 Plea guilty/resp; sentence suspended  
11 Plea guilty/resp; sentence imposed  
12 Bail forfeited  
13 Guilty/resp CDL; may do DDS  
20 Judgment guilty/resp; sentence suspended  
21 Judgment guilty/resp; sentence imposed  
22 Judgment guilty/resp; bail applied  
30 Acquitted  
43 Dismissed on Mo of Def or Ct  
44 Dismissed on Mo of Pros  
45 Dismissed on request of officer  
50 Restricted License for FTP criminal  
51 FTP Criminal Violation; license suspended  
55 Civil default; license suspended  
56 FTA criminal; warrant issued; license suspended  
57 FTA criminal; no warrant; license suspended  
58 FTA; default entered; 28-1596  
59 Judgment set aside  
76 Set aside 13-905

### Mandatory Fines

28-694 Wrong way (\$500) (also TSS)  
28-737 HOV (\$200)  
28-797(E) & (G) School Cross  
28-2533(A) Registration (\$300)  
28-4139(A) Suspended Plates (\$250)

### May Dismiss at Arraignment (28-1560--Class 3 Misd to illegally cancel a traffic citation)

28-2532(A)A Registration now current; may suspend if not owner of vehicle  
28-3169(A) (No license while driving) Proof of license on date vio  
28-3482 (Violation of Restriction) Proof of reinstatement  
28-4135(B) & (C) Proof of insurance **on** date vio (can be on phone: 28-4135B) **(not A)**

### May Reduce at Arraignment

28-4135 Proof of 6 mos insurance **after** date vio  
and Motor Vehicle Record- no vios in 2 years or 1 in last 3 years (See 28-4137)

**R17-4-404. Driver Point Assessment; Traffic Survival Schools**

- B.** Actions after point assessment. Under A.R.S. § 28-3306(A)(3), if a driver accumulates 8 or more points in a 12-month period, the Department shall:
  - 1. Order the driver to successfully complete the curriculum of a licensed TSS; or
  - 2. Suspend the driver's Arizona driver license or driving privilege.
- C.** Traffic survival school order of assignment. The Department or the private entity under contract with the Department shall send a dated order of assignment to traffic survival school, as prescribed under A.R.S. § 28-3318, to a driver who accumulates 8 to 12 points in a 12-month period, and who did not complete a traffic survival school course in the previous 24-month period.
- D.** Suspension for failure to complete traffic survival school. The Department or the private entity under contract with the Department shall mail a driver a 6-month order of suspension, as prescribed under A.R.S. § 28-3318, if the driver failed to establish completion of traffic survival school in accordance with subsection (C).
- E.** Suspension for accumulation of excessive points. The Department shall mail an order of suspension as prescribed under A.R.S. § 28-3318 to a driver who accumulates an excessive amount of points. The order of suspension shall:
  - 1. Specify the length of the suspension as follows:
    - a. A 3-month suspension for accumulation of 8 to 12 points in a 12-month period if a traffic survival school course was successfully completed in the previous 24-month period;
    - b. A 3-month suspension for accumulation of 13 to 17 points in a 12-month period;
    - c. A 6 month suspension for accumulation of 18 to 23 points in a 12-month period; and
    - d. A 12-month suspension for accumulation of 24 or more points in a 36-month period;

<b>Violation</b>	<b>Points</b>
A.R.S. § 28-1381 DUI; 28-1382 Extreme DUI; 28-1383 Aggravated DUI	8
28-693 Reckless Driving	8
28-708 Racing	8
28-695 Aggressive Driving	8
A.R.S. §§ 28-662, 28-663, 28-664, or 28-665, relating to a driver's duties after an accident	6
A.R.S. § 28-672(A), accident causing death to another person	6
A.R.S. § 28-672(A), accident causing serious physical injury to another person	4
A.R.S. § 28-701, reasonable and prudent speed	3
A.R.S. § 28-644(A)(2), driving over, across, or parking in any part of a gore area	3
Any other traffic regulation that governs a vehicle moving under its own power	2