

REFERENCE TITLE: **bailable offenses; bond source hearing**

State of Arizona
Senate
Forty-eighth Legislature
First Regular Session
2007

SB 1535

Introduced by
Senator Gray C

AN ACT

AMENDING SECTION 13-3967, ARIZONA REVISED STATUTES; RELATING TO BAIL.

(TEXT OF BILL BEGINS ON NEXT PAGE)

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

2 Section 1. Section 13-3967, Arizona Revised Statutes, is amended to
3 read:

4 13-3967. Release on bailable offenses before trial: definition

5 A. At ~~his~~ AN appearance before a judicial officer, any person who is
6 charged with a public offense that is bailable as a matter of right shall be
7 ordered released pending trial on ~~his~~ THE PERSON'S own recognizance or on the
8 execution of bail in an amount specified by the judicial officer.

9 B. In determining the method of release or the amount of bail, the
10 judicial officer, on the basis of available information, shall take into
11 account all of the following:

- 12 1. The views of the victim.
- 13 2. The nature and circumstances of the offense charged.
- 14 3. The weight of evidence against the accused.
- 15 4. The accused's family ties, employment, financial resources,
16 character and mental condition.
- 17 5. The results of any drug test submitted to the court.
- 18 6. Whether the accused is using any substance if its possession or use
19 is illegal pursuant to chapter 34 of this title.
- 20 7. Whether the accused violated section 13-3407, subsection A,
21 paragraph 2, 3, 4 or 7 involving methamphetamine or section 13-3407.01.
- 22 8. The length of residence in the community.
- 23 9. The accused's record of arrests and convictions.
- 24 10. The accused's record of appearance at court proceedings or of
25 flight to avoid prosecution or failure to appear at court proceedings.
- 26 11. Whether the accused has entered or remained in the United States
27 illegally.
- 28 12. Whether the accused's residence is in this state, in another state
29 or outside the United States.

30 C. IN CONSIDERING THE CONDITIONS OF RELEASE UNDER SUBSECTION B OF THIS
31 SECTION, THE JUDICIAL OFFICER, ON THE OFFICER'S OWN MOTION OR ON THE MOTION
32 OF THE STATE, MAY CONDITION RELEASE ON BAIL FOR ANY CHARGE INVOLVING A CLASS
33 1, 2, 3 OR 4 FELONY ON AN INQUIRY INTO THE SOURCE OF THE PROPERTY TO BE
34 DEPOSITED AS SECURITY. IF THE STATE REQUESTS AN INQUIRY, THE REQUEST SHALL
35 BE SUPPORTED BY A SHOWING THAT A PREPONDERANCE OF THE EVIDENCE SUPPORTS A
36 FINDING THAT THE PROPERTY IS THE PRODUCT OF CRIMINAL ACTIVITY. IF AN INQUIRY
37 IS ORDERED, A HEARING SHALL BE HELD AS SOON AS PRACTICABLE AFTER A BOND IS
38 POSTED. AT THE HEARING, THE DEFENDANT SHALL PROVE BY A PREPONDERANCE OF THE
39 EVIDENCE THAT THE SOURCE OF THE PROPERTY DEPOSITED AS SECURITY FOR THE BOND
40 IS NOT THE PROJECT OF CRIMINAL ACTIVITY.

41 ~~C.~~ D. If a judicial officer orders the release of a defendant who is
42 charged with a felony either on ~~his~~ THE DEFENDANT'S own recognizance or on
43 bail, the judicial officer shall condition the defendant's release on the
44 defendant's good behavior while so released. On a showing of probable cause
45 that the defendant committed any offense during the period of release, a

1 judicial officer may revoke the defendant's release pursuant to section
2 13-3968.

3 ~~D~~ E. After providing notice to the victim pursuant to section
4 13-4406, a judicial officer may impose any of the following conditions on a
5 person who is released on ~~his~~ THE PERSON'S own recognizance or on bail:

6 1. Place the person in the custody of a designated person or
7 organization agreeing to supervise ~~him~~ THE PERSON.

8 2. Place restrictions on the person's travel, associates or place of
9 abode during the period of release.

10 3. Require the deposit with the clerk of the court of cash or other
11 security, such deposit to be returned on the performance of the conditions of
12 release.

13 4. Prohibit the person from possessing any dangerous weapon or
14 engaging in certain described activities or indulging in intoxicating liquors
15 or certain drugs.

16 5. Require the person to report regularly to and remain under the
17 supervision of an officer of the court.

18 6. Impose any other conditions deemed reasonably necessary to assure
19 appearance as required including a condition requiring that the person return
20 to custody after specified hours.

21 ~~E~~ F. In addition to any of the conditions a judicial officer may
22 impose pursuant to subsection ~~D~~ E of this section, the judicial officer
23 shall impose both of the following conditions on a person who is charged with
24 a felony violation of chapter 14 or 35.1 of this title and who is released on
25 ~~his~~ THE PERSON'S own recognizance or on bail:

26 1. Electronic monitoring where available.

27 2. A condition prohibiting the person from having any contact with the
28 victim.

29 ~~F~~ G. The judicial officer who authorizes the release of the person
30 charged on ~~his~~ THE PERSON'S own recognizance or on bail shall do all of the
31 following:

32 1. Issue an appropriate order containing statements of the conditions
33 imposed.

34 2. Inform the person of the penalties that apply to any violation of
35 the conditions of release.

36 3. Advise the person that a warrant for ~~his~~ THE PERSON'S arrest may be
37 issued immediately on any violation of the conditions of release.

38 ~~G~~ H. At any time after providing notice to the victim pursuant to
39 section 13-4406, the judicial officer who orders the release of a person on
40 any condition specified in this section or the court in which a prosecution
41 is pending may amend the order to employ additional or different conditions
42 of release, including either an increase or reduction in the amount of bail.
43 On application, the defendant shall be entitled to have the conditions of
44 release reviewed by the judicial officer who imposed them or by the court in

1 which the prosecution is pending. Reasonable notice of the application shall
2 be given to the county attorney and the victim.

3 ~~H~~ I. Any information that is stated or offered in connection with
4 any order pursuant to this section need not conform to the rules pertaining
5 to admissibility of evidence in a court of law.

6 ~~I~~ J. This section does not prevent the disposition of any case or
7 class of cases by forfeiture of bail or collateral security if such
8 disposition is authorized by the court.

9 ~~J~~ K. A judicial officer who orders the release of a juvenile who has
10 been transferred to the criminal division of the superior court pursuant to
11 section 8-327 or who has been charged as an adult pursuant to section 13-501
12 shall notify the appropriate school district on the release of the juvenile
13 from custody.

14 ~~K~~ L. For the purposes of this section and section 13-3968, "judicial
15 officer" means any person or court authorized pursuant to the constitution or
16 laws of this state to bail or otherwise release a person before trial or
17 sentencing or pending appeal.