

Failure to appear; classification

1 Section 1. Section 13-2506, Arizona Revised Statutes is amended to read:

2 **13-2506. Failure to appear in the second degree; classification**

3 A. A person commits failure to appear in the second degree if **EITHER HAVING BEEN:**

4 **1. ~~Having been~~ Required by law to appear in connection with any misdemeanor or petty**
5 **offense, such person knowingly fails to appear as required, regardless of the disposition of**
6 **the charge requiring the appearance.**

7 **2. GIVEN A WRITTEN PROMISE TO APPEAR IN COURT OR BEING PERSONALLY**
8 **SERVED WITH A WRITTEN NOTICE TO APPEAR UPON A DESIGNATED DATE**
9 **PURSUANT TO SECTION 13-3903, AND THEREAFTER FAILS TO APPEAR,**
10 **PERSONALLY OR BY COUNSEL.**

11 **B. Failure to appear in the second degree PURSUANT TO SUBSECTION A, PARAGRAPH**
12 **1 OF THIS SECTION is a class 1 misdemeanor. FAILURE TO APPEAR IN THE SECOND**
13 **DEGREE PURSUANT TO SUBSECTION B OF THIS SECTION IS A CLASS 2**
14 **MISDEMEANOR.**

15 Section 2. Section 13-3903, Arizona Revised Statutes is amended to read:

16 **13-3903. Notice to appear and complaint**

17 A. In any case in which a person is arrested for a misdemeanor offense or a petty offense, the
18 arresting officer may release the arrested person from custody in lieu of taking the person to
19 a law enforcement facility by use of the procedure prescribed in this section.

20 B. At any time after taking a person arrested for a misdemeanor offense or a petty offense
21 to a law enforcement facility, the arresting officer, instead of taking the person to a
22 magistrate, may release the person from further custody by use of the procedure prescribed
23 in this section.

24 C. If a person is arrested for a misdemeanor offense or a petty offense and the offense is listed
25 in section 41-1750, subsection C, the person shall not be released pursuant to this section
26 until the person provides either a fingerprint or a two fingerprint biometric-based identifier
27 to the arresting agency. The arresting agency shall provide to the arrested person a
28 mandatory fingerprint compliance form that includes instructions on reporting **TO THE**
29 **ARRESTING AGENCY** for ten-print fingerprinting, including available times and locations
30 for reporting for ten-print fingerprinting.

1 **D. In any case in which a person is arrested for a misdemeanor offense or a petty offense, the**
2 **arresting officer may prepare in quadruplicate a written notice to appear and complaint,**
3 **containing the name and address of the person, the offense charged, and the time and place**
4 **where and when the person shall appear in court, provided:**

5 **1. The time specified in the notice to appear is at least five days after arrest.**

6 **2. The place specified in the notice shall be the court specified in section 13-3898.**

7 **3. The arrested person, in order to secure release as provided in this section, shall give his**
8 **written promise so to appear in court by signing at least one copy of the written notice and**
9 **complaint prepared by the arresting officer. The officer shall deliver a copy of the notice and**
10 **complaint to the person promising to appear. Thereupon, the officer shall forthwith release**
11 **the person arrested from custody.**

12 **4. The officer, as soon as practical, shall deliver the original notice and complaint to the**
13 **magistrate specified therein. Thereupon, the magistrate shall promptly file the notice and**
14 **complaint and enter it into the docket of the court.**

15 **E. The Arizona traffic ticket and complaint may be utilized not only for the purposes**
16 **provided by Arizona supreme court rule, but to satisfy the requirements of this section.**

17 **F. When a person has given his A written promise to appear in court on a designated date**
18 **pursuant to this section, and thereafter fails to appear, personally or by counsel, on or before**
19 **that date, the court clerk or other court staff shall file a complaint, in writing, under oath,**
20 ~~**setting forth the offense of knowingly violating a written promise to appear in court in**~~
21 ~~**accordance with section 13-3904, and the magistrate shall issue a warrant of arrest thereon.**~~

22 **CHARGING THE DEFENDANT WITH A VIOLATION OF SECTION 13-2506,**
23 **SUBSECTION B.**

24 **G. IF THE PERSON HAS NOT BEEN PREVIOUSLY ARRAIGNED** upon ~~**such**~~ **A** person's
25 appearance in court for arraignment on the charge of violating section ~~**13-3904**~~ **13-2506,**
26 **SUBSECTION B,** the court shall also arraign the person on the charge stated in the notice
27 to appear and complaint for which the person had previously promised to appear.

28 **G H. This section does not affect a peace officer's authority to conduct an otherwise lawful**
29 **search incident to his arrest even though the arrested person is released before being taken**
30 **to the police station or before a magistrate pursuant to this section.**

31 **Section 3. Repeal**

- 1 **Section 13-3904, Arizona Revised Statutes is repealed**
- 2 **Section 4. Delayed Effective Date**
- 3 **This act is effective from and after December 31, 2016.**