

1 Section 1. 13-2506. Failure to appear in the second degree;  
2 classification

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

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

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

13 B. Failure to appear in the second degree PURSUANT TO SUBSECTION A,  
14 PARAGRAPH 1 OF THIS SECTION is a class 1 misdemeanor. FAILURE TO APPEAR  
15 IN THE SECOND DEGREE PURSUANT TO SUBSECTION B OF THIS SECTION IS A CLASS  
16 2 MISDEMEANOR.

17 Section 2. 13-3903. Notice to appear and complaint

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

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

26 C. If a person is arrested for a misdemeanor offense or a petty offense  
27 and the offense is listed in section 41-1750, subsection C, the person  
28 shall not be released pursuant to this section until the person provides  
29 a right index fingerprint to the arresting agency. The arresting agency  
30 shall provide to the arrested person a mandatory fingerprint compliance  
31 form that includes instructions on reporting for ten-print  
32 fingerprinting, including available times and locations for reporting  
33 for ten-print fingerprinting.

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

- 1 1. The time specified in the notice to appear is at least five days after  
2 arrest.
- 3 2. The place specified in the notice shall be the court specified in  
4 section 13-3898.
- 5 3. The arrested person, in order to secure release as provided in this  
6 section, shall give his written promise so to appear in court by signing  
7 at least one copy of the written notice and complaint prepared by the  
8 arresting officer. The officer shall deliver a copy of the notice and  
9 complaint to the person promising to appear. Thereupon, the officer shall  
10 forthwith release the person arrested from custody.
- 11 4. The officer, as soon as practical, shall deliver the original notice  
12 and complaint to the magistrate specified therein. Thereupon, the  
13 magistrate shall promptly file the notice and complaint and enter it  
14 into the docket of the court.
- 15 E. The Arizona traffic ticket and complaint may be utilized not only for  
16 the purposes provided by Arizona supreme court rule, but to satisfy the  
17 requirements of this section.
- 18 F. When a person has given ~~his~~ A written promise to appear in court upon  
19 a designated date pursuant to this section, and thereafter fails to  
20 appear, personally or by counsel, on or before that date, the court clerk  
21 or other court staff shall file a complaint, in writing, under oath,  
22 ~~setting forth the offense of knowingly violating a written promise to~~  
23 ~~appear in court in accordance with section 13-3904, and the magistrate~~  
24 ~~shall issue a warrant of arrest thereon.~~ CHARGING THE DEFENDANT WITH A  
25 VIOLATION OF SECTION 13-2506, SUBSECTION B. A COPY OF THE COMPLAINT SHALL  
26 BE FOWARDED TO THE PROSECUTOR.
- 27 G. IF WITHIN ONE YEAR OF THE FILING OF THE COMPLAINT, THE PROSECUTOR  
28 DOES NOT COMMENCE PROSECUTION OR NOTIFY THE COURT OF AN INTENT TO  
29 PROSECUTE THE COMPLAINT FILED PURSUANT TO SUBSECTION F, THE COMPLAINT  
30 SHALL BE DISMISSED.
- 31 H. IF THE PERSON HAS NOT BEEN PREVIOUSLY ARRAIGNED upon ~~such~~ A person's  
32 appearance in court for arraignment on the charge of violating section  
33 ~~13-3904~~ 13-2506, SUBSECTION B, the court shall also arraign the person  
34 on the charge stated in the notice to appear and complaint for which the  
35 person had previously promised to appear.
- 36 G I. This section does not affect a peace officer's authority to conduct  
37 an otherwise lawful search incident to his arrest even though the  
38 arrested person is released before being taken to the police station or  
39 before a magistrate pursuant to this section.

40 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, 2015.
- 12/3/14@3:09pm