

Judiciary Committee

Senator Jonathan Paton, Chairman



Christina Estes-Werther, Research Analyst

Dakotah Pratt-Hewitt, Assistant Analyst

Monica Pineda, Intern

JUDICIARY COMMITTEE

LEGISLATION ENACTED

~~sex offender registration; study committee~~ (NOW: sex offenders; probation; monitoring) (S.B. 1011)
– Chapter 125 E

An emergency measure, effective July 13, 2009, that establishes a 22-member Federal Sex Offender Registration Notification Act Study Committee (Committee) to examine the effectiveness of Arizona’s current sex offender laws, the standards set forth by the Adam Walsh Act (Act) and the impact on Arizona of adopting the federal standards of the Act. Requires the Committee to report its findings and recommendations to the Governor and the Legislature by December 31, 2009 and repeals the Committee on January 1, 2011. Narrows the requirement of global position system (GPS) or electronic monitoring to a registered level three sex offender serving a term of probation and specifies that the requirement does not preclude any other probationer from being subject to monitoring. Clarifies that the monthly probation fee is not subject to any surcharge.

organized retail theft (S.B. 1059) – Chapter 127

SEE PUBLIC SAFETY & HUMAN SERVICES COMMITTEE.

~~election law amendments~~ (NOW: amendments; election law) (S.B. 1074) – Chapter 149

Changes election law as follows: 1) expands by one week the time between a primary election and a general election and specifies that the change of the primary election date shall not invalidate petitions lawfully printed or circulated before the effective date of this act; 2) specifies county recorder requirements relating to precinct register data and requires early voter data to be included on the precinct lists; 3) bans restrictions on lawful distribution of a copy of the precinct list and establishes timeframes for the distribution of the precinct lists to a county or state chairman before an election; 4) changes early ballot delivery and distribution requirements and exempts the elections officer and the board of supervisors from having to mail a sample ballot to a registered voter who is on the permanent early voting list; 5) changes the hand count location and specifies that the hand count is not subject to live video requirements, but allows, subject to recording restrictions and removal procedures, the party representatives to record the hand count; 6) allows the cancellation of an election for a school district or community college board and specifies requirements relating to the appointment process, recall procedures if the election is cancelled and the filing deadline for a write-in candidate for a community college board office; 7) extends the deadlines for canvassing and filing of a school bond election; and 8) corrects a conflicting enactment with regard to the removal of petition signatures by repealing Laws 2008, Chapter 273.

domestic violence; dating relationships (S.B. 1088) – Chapter 129

Expands the definition of domestic violence to include a current or previous romantic or sexual relationship determined by specified factors. Allows the act to be cited as “Kaity’s Law.”

elections; special districts; technical correction (NOW: secretary of state; elections; filing) (S.B. 1091) – Chapter 114 RFEIR

Changes election law as follows: 1) establishes a separate filing deadline for nomination petitions for independent presidential candidates; 2) changes petition circulator requirements for independent presidential candidates and initiative and referendum; 3) classifies petition signature fraud as a class 1 misdemeanor; 4) classifies engaging and participating in a pattern of petition signature fraud as a class 4 felony, subject to additional penalties and establishes requirements for the Secretary of State (SOS) to maintain an online list of convicted persons; 5) specifies that personal monies from a candidate or an individual who designates an exploratory committee is not subject to contribution limitations and removes related contribution limit exemptions and requirements; 6) decreases, by five days, the period of time for challenges or appeals relating to the county recorder's failure or refusal to certify signatures for an initiative and referendum petition or the SOS's failure to file the petition or proposal or transmit the facsimiles; 7) specifies eligible voters for referendum petitions against municipal actions; 8) states that the statewide database is a matter of statewide concern and restricts modification or regulation by a political subdivision; 9) changes, from daily to real time, the timing for electronic transmittal of voter registration information from the county recorders to the SOS; 10) requires, through electronic means or pamphlet form, the SOS and the county, city and town clerks to provide specified materials to each applicant who files an initiative and referendum; 11) allows the SOS to refuse to perform a service or refuse a filing under certain circumstances; 12) allows, by ordinance, a city that holds nonpartisan elections for a mayoral candidate or other office nominated by a city at large to provide for a minimum requirement of 1,000 signatures; and 13) removes requirements relating to ballot removal for poll list comparison, ballot destruction of excess ballots and the free delivery of a precinct list by the county recorder to the Arizona Legislative Council.

Transfers the Arizona State Library, Archives and Public Records (ASLAPR) from the Legislative Branch to the SOS and makes numerous changes to the function of the advisory board, the waiver of a rental payment for the use of library space and requirements relating to the sale or lease of state property by July 1, 2010 with proceeds deposited in the capital outlay stabilization fund. Allows the SOS to purchase a voice over internet protocol system for use by the Department of State (Department) to replace the existing telephone system and specifies exemptions relating to Department employees and ASLAPR purchases and contracts for goods and services.

Portions of the bill concerning conforming changes in the Citizen's Clean Election Act relating to contribution limitations are subject to the requirements for enactment for initiatives and referendums (Proposition 105), which requires the affirmative vote of at least three-fourths of the members of each house of the Legislature.

domestic violence; child custody (S.B. 1106) – Chapter 57

Expands the factors the court considers when determining custody to include whether there has been domestic violence or child abuse and exempts the court from having to consider which parent is more likely to allow the child contact with the other parent if there is a court determination that a parent is acting in good faith to protect the child from domestic violence or child abuse. Removes, in a paternity determination, the court's ability to issue a temporary order regarding custody and parenting time based on whether there is other clear and convincing evidence as determined by a court.

handguns; restaurants; posting (NOW: restaurants; handguns; posting) (S.B. 1113) – Chapter 175

Firearms in Establishments

Allows, under specified circumstances, a person to carry a concealed handgun into the licensed premises of an on-sale retailer (an establishment that sells alcohol for consumption on or off the premises). Establishes requirements for the posting of signs prohibiting firearms and creates, under certain conditions, an affirmative defense for a person who carries a firearm into an establishment that has posted a sign prohibiting firearms. Creates new penalties for the possession of a firearm while on the licensed premises of an on-sale retailer if the possessor consumes alcohol or the licensee has posted a sign prohibiting firearms. Changes existing violations involving the possession of a firearm on the licensed premises of an on-sale retailer by exempting a licensee or employee from specified actions and removing, with certain exemptions, the requirement that a person knows possession is prohibited.

Misconduct Involving Weapons

Increases, from a class 3 to a class 2 felony, misconduct involving weapons that furthers or knowingly facilitates any act of terrorism. Makes changes to concealed carry weapons permit requirements for reserve officers and exempts, from a violation of misconduct involving weapons, specified law enforcement officers who carry a concealed deadly weapon without a permit.

animals; fighting (S.B. 1115) - Chapter 151

Expands, to all animals except for animals trained to protect livestock from predators, the offenses that currently apply to dog fighting, presence at a dog fight and theft of a dog for the purpose of fighting. Specifies inspection requirements for a person operating a kennel. Requires the Department of Agriculture to establish a registry of equine rescue facilities that meet certain requirements and specifies registration terms, including the adoption of rules and collection of fees. Classifies, as a class 1 misdemeanor, the offense of knowingly or intentionally tripping an equine for sport or entertainment, excluding certain activities or events.

city elections; nonpartisan primaries; districts (S.B. 1123) – Chapter 176

Prohibits, in a city or town election, any indication on the ballot of the source of the candidacy or support of the candidate. Specifies voter eligibility for any city or town council members elected by district, ward, precinct or other geographical designation in a primary, general, runoff or other election. Specifies that elections conducted by charter cities are a matter of statewide concern.

global position systems; committee extension (S.B. 1139) – Chapter 152

Extends the Joint Legislative Study Committee on Global Position System Monitoring to October 1, 2011.

mental health services; court-ordered treatment (S.B. 1152) – Chapter 153

Changes procedures for court-ordered treatment as follows: 1) exempts, from the spousal privilege, communication in a mental health hearing relating to the matters at issue in the hearing; 2) requires the court to order a hearing within six business days after a petition is filed; 3) allows the court to continue a hearing, subject to certain conditions and allows the patient to request an

additional hearing if the patient is involuntarily hospitalized during the continuation period; 4) specifies requirements relating to the calculation of time by a defendant subject to a treatment order, proof of service for notice of hearing, the entry of stipulations on behalf of the patient and the waiver of the patient's presence if the patient chooses not to attend the hearing; 5) allows, subject to certain conditions, the admission of statements as evidence and a physician's affidavit as testimony; and 6) removes outdated language relating to the alienation of affections brought by a husband or wife.

federal monies; report (NOW: storage; firearms; motor vehicles) (S.B. 1168) – Chapter 177

SEE APPROPRIATIONS COMMITTEE.

weapons; peace officers; posse; reserves (S.B. 1242) – Chapter 182 E

SEE GOVERNMENT COMMITTEE.

justification; defensive display of firearm (S.B. 1243) – Chapter 183

Justifies, with exceptions, the defensive display of a firearm by a person against another, when and to the extent a reasonable person would believe that physical force is immediately necessary to protect himself against use or attempted use of unlawful physical or deadly force. Specifies that there is no requirement for the defensive display of a firearm before the use of physical force or threatened use of physical force by a person who is otherwise justified in the use or threatened use of physical force.

felony murder; drive by shooting (S.B. 1253) – Chapter 130

Expands the felony murder classification to include a drive by shooting.

anti-marital fact privilege; exception (S.B. 1254) – Chapter 155 E

An emergency measure, effective July 13, 2009, that allows a spouse to be examined as a witness for or against the other in a prosecution involving certain criminal offenses if, during the investigation and before testifying, the testifying spouse voluntarily makes a statement relating to the events that gave rise to the prosecution. Allows the act to be cited as "Heather's Law."

human trafficking; violation (NOW: violation; human trafficking) (S.B. 1281) – Chapter 185

Changes the classification of sex trafficking by: 1) criminalizing the engagement of a person in any sexually-explicit performance; 2) requiring deception, instead of fraud, as the means a person uses to intentionally cause an adult to engage in sex trafficking; and 3) expanding to include the trafficking of a person, subject to certain requirements, with the knowledge that the other person will engage in any prostitution or sexually-explicit performance. Changes the classification of trafficking of persons for forced labor or services by expanding the definition and exempting ordinary household chores and reasonable disciplinary measures between a parent and child.

smuggling; definitions (NOW: smuggling; classification; definitions) (S.B. 1282) – Chapter 186

Classifies, as a class 3 felony subject to early release restrictions, human smuggling that involves the use or threatened use of deadly physical force.

DUI; juvenile adjudication (PREV NOW: juvenile adjudication; DUI) (NOW: juvenile; adjudication; diversion) (S.B. 1420) – Chapter 189

SEE APPROPRIATIONS COMMITTEE.

applicability; self-defense (S.B. 1449) – Chapter 190 W/O

SEE PUBLIC SAFETY & HUMAN SERVICES COMMITTEE.

cold case reporting; victim reports (NOW: cold case register; victim report) (S.B. 1459) – Chapter 132

Requires a law enforcement agency to: 1) establish and maintain a cold case register for a period of three years, unless extended by request; 2) provide victim notice of the register, agency contact information and any new developments or reviews of the cold case; 3) encourage registrants to contact the law enforcement agency with new information related to the cold case; 4) give priority to any cold case that is associated with a name in the register unless there is a compelling reason to give priority to an unregistered cold case; and 5) include supplements to the police report when providing victim notice. Specifies that the cold case register is not a public record and is exempt from public records requirements.

local elections; signature requirements (H.B. 2048) – Chapter 16

Allows, by ordinance, a city that holds nonpartisan elections for a mayoral candidate or other office nominated by a city at large to provide that the minimum number of signatures be 1,000 signatures or five percent of the vote in the city, whichever is less, but not more than ten percent of the vote in the city.

criminal sentencing (H.B. 2315) – Chapter 82 E

An emergency measure, effective July 10, 2009, that changes, from years to calendar years, the sentences for a person convicted of specified drug offenses involving methamphetamine and second degree murder and requires that the minimum term is the presumptive term for a person convicted of a dangerous offense. Reorganizes into a chart format specified sentences for a person convicted of multiple drug offenses.

fiduciaries (H.B. 2317) – Chapter 138

Prohibits a person whose license as a fiduciary has been suspended or revoked to serve as an agent in any capacity, unless the person is reinstated and in good standing or is related to the principal by blood, adoption or marriage. Changes, from certified to licensed, the Arizona Supreme Court's appointment of a fiduciary and lists the fiduciaries subject to the appointment.

partial-birth abortions; definition (H.B. 2400/S.B. 1138) – Chapter 170

SEE PUBLIC SAFETY & HUMAN SERVICES COMMITTEE.

reckless driving; prior convictions (H.B. 2530) – Chapter 121

Requires, in applying the 24-month provision to prior convictions, the dates of the commission of the offense to be the determining factor, irrespective of the sequence in which the offenses were committed.

prohibited possessors; persistently, acutely disabled (H.B. 2532) – Chapter 145

Expands the definition of a *prohibited possessor* to include a person found to be persistently or acutely disabled or gravely disabled and whose right to possess a firearm has not been restored. Allows a person with a mental disorder who was subject to a treatment order to request the court to restore the person's right to possess a firearm and establishes a hearing process, which includes the application requirements, burden of proof and evidentiary requirements. Specifies that a finding that the person no longer suffers from the mental disorder only restores the person's right to possess a firearm and requires the court to grant access to the person's name, date of birth, social security number and date of commitment to comply with background checks and permit issuance. Restricts a security guard applicant from receiving an agency license if the applicant is found to be persistently or acutely disabled or gravely disabled.

smuggling; use of weapon; classification (H.B. 2569) – Chapter 146

Classifies, as a class 2 felony, human smuggling if it involves the use of a deadly weapon or dangerous instrument.

civil liability; affirmative defenses (H.B. 2610) – Chapter 123

SEE PUBLIC SAFETY & HUMAN SERVICES COMMITTEE.

~~voter identification; military identification~~ (NOW: voter identification; valid forms) (H.B. 2627) – Chapter 173 E - RFEIR

An emergency measure, effective July 13, 2009, subject to the requirements for enactment for initiatives and referendums (Proposition 105), which requires the affirmative vote of at least three-fourths of the members of each house of the Legislature, that codifies the acceptable forms of identification for a voter to obtain a regular ballot. Expands, subject to certain requirements, the acceptable forms of identification to include a photographic identification, a U.S. military identification card, a U.S. passport or any mailing that is "Official Election Material" and specifies that identification is deemed valid unless it can be determined on its face that it has expired. Specifies that an elector without acceptable identification is only eligible to vote a provisional ballot or a conditional provisional ballot. Corrects a dual enactment with regard to the procedure for obtaining a ballot by repealing Laws 2003, Chapter 260.