

# **Judiciary Committee**

**Senator Jonathan Paton, Chairman**  
Resigned February 22, 2010

**Senator Chuck Gray, Chairman**  
Appointed March 3, 2010



**Garth Kamp, Research Analyst**  
**Dakotah Pratt-Hewitt, Assistant Analyst**  
**Brian Chafey, Intern**

# JUDICIARY COMMITTEE

## LEGISLATION ENACTED

criminal justice commission; rules (S.B. 1025) – Chapter 184

SEE APPROPRIATIONS COMMITTEE.

victims' rights; disclosure of information (S.B. 1055) – Chapter 233

Allows a crime victim advocate to disclose information to a court in furtherance of a crime victim's rights upon the verbal or written consent of a crime victim.

sentencing; guilty except insane (S.B. 1056) – Chapter 234

Applies sex offender registration, community notification and internet sex offender website requirements to persons adjudicated guilty except insane (GEI), or not guilty by reason of insanity in another jurisdiction, for certain sex offenses and requires that persons adjudicated GEI for specified offenses, but no longer in need of treatment, be transferred to the Arizona Department of Corrections for the remainder of their sentence.

human trafficking; definition (S.B. 1059/H.B. 2673) – Chapter 76

Modifies the statutory definitions of sex trafficking and trafficking of persons for forced labor or services.

~~sentencing; prior convictions; methamphetamine.~~ (NOW: permissible raffles) (S.B. 1062) – Chapter 235

Subject to certain restrictions, allows a nonprofit booster club, civic or political club or a political organization to conduct raffles.

~~technical correction; prostitution; employment~~ (NOW: boxing; mixed martial arts; rules) (S.B. 1076) – Chapter 269

Changes the name of the Arizona State Boxing Commission to the Arizona State Boxing and Mixed Martial Arts (MMA) Commission. Modifies the rules governing MMA and establishes alcohol and drug testing, including punitive measures for violations, for event contestants.

~~technical correction; change of venue~~ (NOW: trial court appointments; nonattorney member) (S.B. 1081) – Chapter 237

Prescribes guidelines and timeframes for filling vacancies for nonattorney members on a commission on trial court appointments.

~~technical correction; children~~ (NOW: concealed weapons; permit) (S.B. 1108/H.B. 2347) – Chapter 59

SEE APPROPRIATIONS COMMITTEE.

## **JUDICIARY COMMITTEE (Cont'd.)**

### drug offenses; definitions (S.B. 1144) – Chapter 203

Adds certain substances to the statutory definition of dangerous drugs and modifies the definition of vapor releasing substance containing a toxic substance.

### state preemption; knives (S.B. 1153) – Chapter 204

Establishes that state law preempts local ordinances and rules regarding the regulation and manufacturing of knives and knife making components. Makes certain allowances for political subdivisions in the regulation of employees acting within the scope of their employment and school district governing boards regarding weapons enforcement policies on school grounds.

### admissibility of expert opinion testimony... (S.B. 1189) – Chapter 302

SEE HEALTHCARE & MEDICAL LIABILITY REFORM COMMITTEE.

### state capital postconviction public defender (S.B. 1204) – Chapter 109

Allows the state capital postconviction public defender to sponsor or fund general training for private attorneys on postconviction relief cases. Prohibits the state capital postconviction public defender from representing persons who are not assigned by the Supreme Court.

### eminent domain; relocation assistance (S.B. 1366) – Chapter 308

Requires acquiring agencies who displace persons under the power of eminent domain to adopt relocation assistance rules and regulations that do not conflict with Arizona law and that provide, at a minimum, the level of relocation assistance prescribed under federal law.

### secretary of state; elections; lobbyists (S.B. 1393) – Chapter 209 E

An emergency measure, effective April 28, 2010, that changes election law as follows: 1) updates data storage to an electronic format for registration forms and signature rosters and removes the prohibition on the destruction of original voter registration forms; 2) clarifies an overseas voter registration form deadline and clarifies active voter status in certain circumstances; 3) instructs political committees that make expenditures in ballot proposition elections on petition serial number filing requirements; 4) specifies campaign finance report filing format requirements and establishes that local filing officers suspend political committees that fail to file three consecutive campaign finance reports; 5) exempts individuals from contribution limitations to independent expenditure committees; 6) modifies \$500 threshold exemption committee requirements, including reporting, termination and, effective November 3, 2010, specified disclosure requirements; 7) repeals statutory language addressing legislative apportionment; 8) directs the Secretary of State (SOS), effective November 3, 2010, to remove signatures that are circulated by a circulator in certain circumstances; 9) states that the SOS is not authorized to refuse election filings; 10) changes the registration deadlines for principals, public bodies and lobbyists to coincide with the beginning of the legislative session; 11) modifies the ballot numbering system and uses the 2008 general election as the baseline year for modification; and 12) exempts the May 18, 2010 special statewide election from the numbering system change.

## **JUDICIARY COMMITTEE (Cont'd.)**

### petitions; post office box addresses (S.B. 1422) – Chapter 284

Allows a properly registered voter to sign a nominating petition using a post office box address under certain circumstances.

### ~~admissibility of expert opinion testimony~~ (NOW: aggravated assault; peace officer (H.B. 2062) – Chapter 97

Increases, from a class 6 to a class 5 felony, the aggravated assault of a peace officer and increases, from a class 5 to a class 4 felony, aggravated assault that results in physical injury to the peace officer. Allows the act to be cited as the “Lieutenant Eric Shuhandler Act.”

### marriage licenses; reproduction (H.B. 2112) – Chapter 33

Moves the statute regarding the production of an abstract of marriage from the courts and civil procedures statutes to the marriage licensure, ceremony and records statutes and requires the abstract to include the bride’s legal name prior to the marriage. Modifies certain court clerk record keeping requirements.

### theft by extortion; tax liens (H.B. 2236) – Chapter 226

Classifies, as a class 4 felony, the taking or withholding of an action regarding an alleged claim of easement or other right of access to an adjoining property if the claimant’s property interest is the result of a tax lien purchase or foreclosure and the fair market value of the claimant’s property meets certain threshold requirements.

### sexual offenses; probation; sentencing (H.B. 2238) – Chapter 255

Establishes special sentencing provisions for persons convicted of felony indecent exposure or public sexual indecency who have at least two historical prior felony convictions for violations involving these acts with a minor under 15 years of age. Classifies felony indecent exposure and public sexual indecency to a minor under 15 years of age as sexually violent offenses. Modifies child prostitution classifications, defenses, certain terms of probation and sentencing.

Enables a court to require a defendant on lifetime probation who has served one year in jail as a term of that probation to serve an additional term not to exceed one year, under certain circumstances, if the defendant’s probation is revoked and subsequently reinstated.

### Arizona manufactured firearms; regulation (H.B. 2307/S.B. 1098) – Chapter 18

Beginning October 1, 2010, excludes a personal firearm, firearm accessory or ammunition manufactured commercially or privately in Arizona and remaining within state borders from federal law or federal regulation, including registration. Specifies manufacturing materials and parts requirements to qualify for the federal regulation exemption and requires firearms manufactured and sold in Arizona to have “Made in Arizona” clearly stamped on the firearm. Specifies certain exceptions to the exemptions from federal regulation.

## **JUDICIARY COMMITTEE (Cont'd.)**

### probate proceedings; burden of proof (H.B. 2326) – Chapter 133

Establishes the burden of proof in probate proceedings as the preponderance of the evidence and establishes guidelines regarding the validity of governing instruments.

### costs; superior court; document preparation (NOW: document preparation costs; award) (H.B. 2334) – Chapter 134

Permits a court to award the cost of document preparation by a certified legal document preparer to the prevailing party in a legal action. Directs the party seeking recovery to file a sworn affidavit of costs with the court.

### mediation agreements; privileged communications (H.B. 2429) – Chapter 193

Adds an exception to the confidentiality requirement of the mediation process when it is necessary to enforce or obtain approval of a signed agreement reached by the parties in a mediation. Provides a mechanism that allows a party to request that all or a portion of an agreement remain confidential.

### revised uniform arbitration act (H.B. 2430) – Chapter 139

Updates Arizona's arbitration statutes and codifies provisions of the Revised Uniform Arbitration Act. Outlines rules and procedures for arbitrators and arbitration proceedings.

### repetitive offenders; probation; marijuana offenses (H.B. 2435) – Chapter 194

Makes technical and clarifying changes to Arizona's sentencing statutes with regard to: 1) repetitive offenders, 2) court assessed probation fees and fines, 3) Global Positioning System monitoring, and 4) marijuana production felony classifications. Corrects a defective enactment related to probation.

### public defender; duties; reimbursement (H.B. 2470) – Chapter 195

SEE GOVERNMENT INSTITUTIONS COMMITTEE.

### sexually violent persons; commitment (H.B. 2493) – Chapter 103

Allows, subject to certain procedural requirements, a sexually violent person confined in this state to be retrieved by another state or federal jurisdiction if the person has a pending sentence of imprisonment in that jurisdiction.

### firearms; regulation; state preemption. (H.B. 2543/S.B. 1168) – Chapter 19

Prohibits a political subdivision from: 1) enacting any rule or ordinance relating to firearms that is more prohibitive or carries a greater penalty than any penalty prescribed in state law; 2) requiring the licensing or registration of ammunition or related accessories; 3) enacting rules or ordinances that limit the possession of firearms in parks or preserves to persons possessing a concealed carry weapons permit; and 4) prohibiting the ownership, purchase, sale or transfer of ammunition or related accessories.

## **JUDICIARY COMMITTEE (Cont'd.)**

Modifies certain statutory provisions regarding land use.

### free exercise of religion (H.B. 2596) – Chapter 323

Prohibits a governmental entity from imposing or implementing a land use regulation, regardless of a compelling governmental interest, that does the following: 1) imposes an unreasonable burden on a person's exercise of religion, with specified exceptions; 2) treats a religious assembly or institution on less than equal terms with a nonreligious assembly or institution; 3) discriminates against an assembly or institution on the basis of religion; or 4) completely excludes or unreasonably limits religious assemblies, institutions or structures within a jurisdiction. Allows a city or town governing body to approve an exemption from distance restrictions for a church or charter school located in an entertainment district with certain limitations based on population.

### ~~misconduct involving weapons; retired officers~~ (NOW: self-defense; political subdivisions; weapon records (H.B. 2629) – Chapter 327

Prohibits a political subdivision from requiring or maintaining any permanent or temporary record, including lists, logs or databases of the following: 1) any person who leaves a weapon in temporary storage at any public establishment or event, unless government issued identification is required to establish ownership of the weapon; 2) any person who purchases, sells or transfers firearms unless the transaction involves a federally licensed firearms dealer or occurs in the course of a law enforcement investigation; or 3) descriptions, including serial numbers, of weapons left in temporary storage at any public establishment or event. Allows the operator of a public establishment or sponsor of a public event to require a person to provide government issued identification (ID) or a reasonable copy of government issued ID to establish ownership of the weapon with certain restrictions.

Specifies that, in a situation where a person is justified in threatening or using deadly physical force against another, the person has no duty to retreat prior to threatening or using the force, provided the person is in a place they are legally permitted to be and not engaged in unlawful activity.

### initiatives; review; title; signature collection (H.B. 2647) – Chapter 95

Permits a political committee to submit proposed initiative or referendum language to the Arizona Legislative Council for review. Establishes an affirmative defense to petition signature fraud in a certain instance. Makes changes to ballot measure forms.

### notice; claim of unconstitutionality; parties (H.B. 2774) – Chapter 105

Specifies that service of a notice that contains a pleading, motion or document claiming a state enactment is unconstitutional does not compel the Attorney General, Speaker of the House of Representatives or the President of the Senate to intervene as a party, or allow them to be named as a defendant, in a proceeding regarding the claim.

## **JUDICIARY COMMITTEE (Cont'd.)**

campaign finance; independent expenditures (H.B. 2788/S.B.1444) – Chapter 4 E

An emergency measure, effective April 1, 2010, that establishes registration and notification requirements for corporations, limited liability companies and labor organizations that make independent expenditures to candidate campaigns in specified aggregate amounts. Outlines certain registration and notification timelines and prescribes penalties for violations to independent expenditure requirements, including the Secretary of State's duties before, on or after November 27, 2012, concerning reasonable cause determinations for violations. Specifies disclosure requirements regarding expenditures made for literature and advertisements.

### **LEGISLATION VETOED**

ballot measures; numbering system (S.B. 1267/H.B. 2438) – VETOED

An emergency measure changing the numbering system for ballot measures by requiring assignment from the last number used in the 2008 general election until all one hundred numbers in that series have been used.

The Governor indicates in her veto letter that the law may be interpreted to apply to the May 18, 2010 special election, which would possibly require renumbering Proposition 100 as Proposition 106 because the last number used for constitutional measures in the 2008 election was Proposition 105.

## **EIGHTH SPECIAL SESSION**

### **LEGISLATION ENACTED**

health care; choice; litigation; authorization. (S.B. 1001/H.B. 2002) – Chapter 1 (Eighth Special Session)

Retroactive to March 23, 2010, makes certain declarations regarding a person's choice in health care services and authorizes the Governor, Speaker of the House of Representatives and the President of the Senate to direct counsel to initiate a legal proceeding or appear on their respective behalf to enforce legislation related to health care services.

### **MEMORIALS**

health care reform (S.C.M. 1001/H.C.M. 2001) – (Eighth Special Session)

Urges the United States Congress to introduce and enact legislation that repeals the *Patient Protection and Affordable Health Care Act* and the *Health Care and Education Reconciliation Act of 2010*.

**JUDICIARY COMMITTEE (Cont'd.)**