

Public Safety & Human Services Committee

Senator Linda Gray, Chairman



**Amber O'Dell, Research Analyst
Kendra Kovarik, Intern**

PUBLIC SAFETY & HUMAN SERVICES COMMITTEE

LEGISLATION ENACTED

juvenile prosecutions; adult court; age (S.B. 1009) – Chapter 183

Requires a criminal prosecution brought against a juvenile in the same manner as an adult to be based on the age of the juvenile at the time the alleged offense is committed. Specifies that the juvenile court does not have jurisdiction over anyone who is 18 years of age or older.

photo enforcement procedures; justice courts (S.B. 1018) – Chapter 266

Modifies photo enforcement statutes by prohibiting a system from being placed within 600 feet of a posted speed limit change except in school crossing zones and requiring speed limit signs to be placed in a specified location within the photo enforcement zone. Prohibits a state photo enforcement complaint from being filed in court before the person is served and allows, instead of requires, the Department of Public Safety to contract for state photo enforcement. As session law requires photo enforcement citations to be included in judicial productivity credit calculations, retroactive to July 1, 2009 until July 29, 2010, if the filing results in an adjudication, except dismissal for lack of service. Requires up to \$7 million of the monies in the Photo Enforcement Fund to be deposited in the Public Safety Equipment Fund in FY 2011.

immigration; seismic sensors; pilot program (S.B. 1027) – Chapter 74

Requires the Department of Public Safety (DPS) to implement a one-year pilot program that uses seismic sensors to monitor rural airport runways and other rural areas for illegal drug and illegal alien traffic or human smuggling. DPS must seek grant monies to fund the pilot program and must include on the grant application a request for reimbursement of all costs related to the application process if the grant allows for it. Contains a reporting requirement.

law enforcement officers; disciplinary actions (S.B. 1029) – Chapter 75

Prohibits an employer from disciplining a law enforcement officer unless there is just cause, which includes that the employer informed the officer of the possible discipline or the conduct was such that the officer should have known the discipline could occur; the discipline is related to the standards of conduct for an officer, the mission or operation of the agency or the officer's fitness for duty; the discipline is not excessive; a preponderance of the evidence supports that the conduct occurred; and the discipline is related to the seriousness of the offense and the officer's record. The requirement does not preempt agreements between employers and representative associations and does not apply to a probationary officer or a dismissal that is for administrative purposes, including a reduction in force.

PUBLIC SAFETY & HUMAN SERVICES COMMITTEE (Cont'd.)

~~parental rights; termination; hearing~~ (NOW: guardian ad litem; child; hearings) (S.B. 1035) – Chapter 267

Requires a juvenile's guardian ad litem or attorney to meet with the juvenile before the preliminary protective hearing, or if that is not possible, within 14 days after the preliminary protective hearing and before all substantive hearings.

~~immigration; law enforcement; safe neighborhoods~~ (NOW: safe neighborhoods; immigration; law enforcement) (S.B. 1070) – Chapter 113

Enforcement – Requires officials and agencies of the state and political subdivisions to fully comply with and assist in the enforcement of federal immigration laws. Specifically, law enforcement officials and agencies of the state and political subdivisions must make a reasonable attempt, when practicable, to determine the immigration status of a person during any legitimate contact if reasonable suspicion exists that the person is an unlawful alien. Provides an exemption if a determination would hinder an investigation. Prohibits a law enforcement official or agency of the state or a political subdivision from solely considering race, color or national origin in implementing the requirement for determining and verifying immigration status, except to the extent permitted by the U.S. or Arizona Constitutions. Officers may arrest a person without a warrant if the officer has probable cause to believe that the person has committed an offense that makes the person removable from the U.S. Prohibits officials and agencies from: 1) being restricted from sending, receiving or maintaining immigration status information or exchanging the information with other governmental entities for specified purposes; and 2) adopting policies that limit immigration enforcement. Any legal Arizona resident may bring an action in superior court to challenge a policy that limits immigration enforcement. The prevailing party may recover court costs and reasonable attorney fees. Outlines penalties when there is a judicial finding that an entity has adopted a policy limiting immigration enforcement.

New Offenses – Establishes crimes related to illegal immigration and outlines penalties for the offenses. Adds, as a state offense in addition to any violation of federal law, willful failure to complete or carry an alien registration document, but specifies that the offense does not apply to a person who maintains authorization from the federal government to remain in the U.S. Establishes the crimes of stopping and blocking traffic to hire and pick up passengers for work at a different location or entering a vehicle for the purpose of being transported to work at a different location. Stipulates that it is unlawful for an unauthorized alien to knowingly apply for, solicit or perform work in Arizona. Specifies that it is unlawful for a person in violation of a criminal offense to do the following if the person knows or recklessly disregards that the alien has come to, entered or remains in the U.S. in violation of law: 1) transport or move an alien in Arizona, in furtherance of the person's illegal presence, in a means of transportation; or 2) conceal, harbor or shield an alien from detection in any place in Arizona. Stipulates it is unlawful to encourage or induce an alien to come to Arizona if a person in violation of another criminal offense knows or recklessly disregards that entering the state will be in violation of law. The person's vehicle used to unlawfully transport, move, conceal, harbor or shield an unlawful alien is subject to mandatory immobilization or impoundment. Provides exemptions for Child Protective Services workers and emergency responders.

Employers – Requires employers to keep E-Verify records for a specified period of time. Contains requirements for employers to assert entrapment defenses for knowingly or intentionally employing an unauthorized alien.

PUBLIC SAFETY & HUMAN SERVICES COMMITTEE (Cont'd.)

Miscellaneous – Requires the act to be implemented in a manner consistent with federal laws regulating immigration, protecting the civil rights of all persons and respecting the privileges and immunities of U.S. citizens.

The provisions of S.B. 1070 were modified by H.B. 2162. For complete information, please see the summary for H.B. 2162 or the *As Enacted* fact sheet for S.B. 1070 at http://www.azleg.gov/DocumentsForBill.asp?Bill_Number=1070.

involuntary civil commitment; privileged communications (S.B. 1071) – Chapter 112

Permits one spouse to testify regarding physical acts and behaviors made by the other spouse in an involuntary civil commitment hearing.

welfare assistance; assignment of rights (S.B. 1090) – Chapter 106

Retroactive to October 1, 2009, specifies that child support that accrues before a person receives Temporary Assistance for Needy Families cash assistance is no longer assigned to the state or federal government.

CPS workers; investigations; group homes (S.B. 1091) – Chapter 161

Requires Child Protective Services to accept, screen and assess reports of abuse or neglect in the following residential agencies licensed by the Department of Health Services: Level I residential treatment centers and Level II and III behavioral health residential agencies.

prisoners; transition program (S.B. 1093) – Chapter 54

Expands eligibility for the prisoner transition program (program) to inmates other than drug offenders, but excludes DUI violators and maintains the prohibition on persons who committed certain dangerous or sexual offenses. Expands the prisoners whose wages fund the program and adds additional services. Extends the program for five years.

access to child; notification (S.B. 1095) – Chapter 186

Requires a child's parent or custodian to immediately notify the other parent or custodian if the person knows that a convicted or registered sex offender or someone who has been convicted of a dangerous crime against children may have access to the child.

child support; medical insurance (S.B. 1111) – Chapter 77

Modifies cash medical support (CMS) requirements. Specifically, prohibits the court from ordering the custodial parent to pay CMS and only requires the support in Title IV-D cases, in which the Department of Economic Security (DES) is involved. It specifies that CMS terminates when the noncustodial parent obtains private insurance for the child on the first day of the month after the policy's effective date or the date that the court or DES is notified that insurance has been obtained, whichever is later. Establishes that the CMS order resumes if the private insurance policy terminates. Modifies the information included in an administrative review of a medical support notice.

PUBLIC SAFETY & HUMAN SERVICES COMMITTEE (Cont'd.)

child support committee; membership (S.B. 1113) – Chapter 55

Permits the Child Support Committee member from the Attorney General's office to appoint a designee.

maternity; paternity; genetic testing (S.B. 1114) – Chapter 78

Modifies requirements for challenges to a DNA report in court and allows genetic testing of only the father and children if the mother is not available or will not cooperate. Requires state and local agencies that have custody of a person who is the subject of another state's genetic testing order to honor the order and exempts agencies, employees and contractors that cooperate in good faith from civil and criminal liability.

limited income withholding orders (S.B. 1116) – Chapter 162

Permits the Department of Economic Security to issue a limited income withholding order to any holder of the following lump sum payments: 1) excess proceeds, 2) retroactive disability proceeds, or 3) personal injury awards.

prison contraband; wireless communication device (S.B. 1122) – Chapter 56

Expands the definition of prison contraband to include wireless communication and multimedia storage devices. Allows a prisoner to use contraband if authorized by policy and with the permission of a prison official.

prisoners; community corrections; monitoring; fees (S.B. 1123) – Chapter 57

Increases fees for probation, community supervision and parole and establishes fees for home arrest and GPS monitoring. A portion of those fees is deposited into the newly created Community Corrections Enhancement Fund and used by the Arizona Department of Corrections to pay costs for administering those community corrections functions.

foster care children; rights (S.B. 1152) – Chapter 218

Stipulates that the Bill of Rights for Children and Youth in Foster Care Act, enacted in 2009, does not establish legally enforceable rights.

~~law enforcement officer; spouse; insurance~~ (NOW: secondary employment; corrections employees) (S.B. 1169) – Chapter 270 E

An emergency measure, effective May 7, 2010, that allows officers and employees of the Arizona Department of Corrections (ADC) to maintain specified secondary employment, but prohibits them from having any monetary interest in ADC contracts or purchases or receiving compensation for services, unless approved by the Director of ADC.

families of fallen officers fund (S.B. 1261) – Chapter 145

Requires the Families of Fallen Officers special plate fund monies to be allocated to the nonprofit organization in Arizona that paid the plate implementation fee to the Arizona Department

PUBLIC SAFETY & HUMAN SERVICES COMMITTEE (Cont'd.)

of Transportation and adds additional requirements for the organization. The organization must provide training to law enforcement agencies on survivor victimization issues and educate the public about the need to support the law enforcement profession and families of fallen officers.

juveniles; communication devices; sexual material (S.B. 1266) – Chapter 276

Sexting – Establishes the juvenile offenses of using an electronic communication device to transmit or display visual depictions of explicit sexual material involving minors and possessing such visual depictions. Classifies as a petty offense 1) transmitting or displaying a visual depiction to one other person, and 2) intentionally or knowingly possessing a visual depiction. If the juvenile transmits or displays the visual depiction to more than one other person the offense is a class 3 misdemeanor. If he or she commits a second or subsequent violation of one of the offenses the violation is a class 2 misdemeanor.

Domestic Violence – Allows the court to grant a petitioner of an order of protection the exclusive custody of any animal that is owned by one of the parties and to forbid the respondent from coming near or harming the animal. Expands the definition of domestic violence to include first and second degree murder, negligent homicide, manslaughter, sexual assault, cruelty to animal offenses and intentionally interfering with the use of a telephone by another person in an emergency. Removes a court notice requirement for a first time domestic violence offender. Classifies strangulation and suffocation as aggravated assault if the victim and perpetrator have a relationship that requires the assault to be classified as domestic violence, including individuals who are related by marriage, blood or court order, reside in the same household, have a child in common or have engaged in a romantic or sexual relationship.

abortion; reporting requirements. (S.B. 1304/H.B. 2649) – Chapter 111

Establishes electronic reporting requirements related to abortion. Specifically, hospitals and facilities where abortions are performed must submit to the Department of Health Services (DHS) information about the facility; the procedure; the unborn child; and the woman, including her age, race, ethnicity, marital status, education, prior pregnancies and abortions, medical conditions and residence. Requires health professionals who treat a woman that the health professional believes in good faith needs medical care because of complications from an abortion to submit an electronic report to DHS, including information about the woman, the facility where the abortion was performed, the procedure, complications and medical treatment. Additionally, DHS must prepare a comprehensive annual report based on those reports and on information provided by the courts on judicial bypass petitions. The name and information related to the woman is confidential and reports may only be disclosed to law enforcement on court order. Outlines penalties for wilfully: 1) violating reporting requirements, 2) disclosing confidential report information, and 3) delivering false information to DHS.

public monies; insurance; abortion; prohibition (S.B. 1305) – Chapter 114

Prohibits public or tax monies from being used to pay for insurance policies that provide abortion-related benefits. Also prohibits a policy offered through a state health care exchange from providing abortion coverage unless that coverage is offered as a separate optional rider for which an additional premium is charged, consistent with the requirements of the Patient Protection and Affordable Care Act (P.L. 111-148). Outlines exceptions to the prohibitions if the abortion is

PUBLIC SAFETY & HUMAN SERVICES COMMITTEE (Cont'd.)

necessary to save the woman's life or avert substantial and irreversible impairment of a major bodily function.

human egg providers; protection. (S.B. 1306) – Chapter 280

Requires a physician to obtain written and oral informed consent before performing certain medical procedures or prescribing hormones to an egg donor. The physician must provide information to the egg donor, including a description of drugs, procedures, and potential risks and effects. Prohibits a person from purchasing a human egg, but exempts treatment of human infertility, clinical investigation related to human infertility, cryopreservation or egg donation. Specifies penalties for violating the requirements.

human embryos; treatment. (S.B. 1307) – Chapter 281

Prohibits a person from intentionally or knowingly: 1) creating an in vitro human embryo by means other than fertilization of a human egg by human sperm, 2) creating a human-animal hybrid, 3) transferring a human embryo into a nonhuman womb or vice versa, or 4) transporting or receiving a human-animal hybrid. Forbids purchasing, selling or advertising for the purchase or sale of an in vitro human embryo, but exempts paying a physician for otherwise lawful infertility services or paying costs of donation of an embryo for implantation. Establishes the crime of intentionally or knowingly engaging in destructive human embryonic stem cell research. Outlines penalties for the offenses.

parents; rights (S.B. 1309) – Chapter 307

Stipulates that certain rights are reserved to a parent or legal guardian of a minor child without interference from any governmental entity except under certain circumstances. Specifically, decisions regarding the child's education, upbringing, moral or religious training and health care are reserved to the child's parent or guardian. Prohibits a person or organization from performing mental health screening or treatment on a minor without parental consent. Exempts emergency situations and mental health screenings performed in clinical settings from the requirement.

Requires school district governing boards to modify policies that promote parental involvement to include procedures for parents to review supplemental education materials, learn about the nature and purpose of clubs and activities, give written permission before a child is provided sex education instruction and learn about parental rights and responsibilities under state law.

domestic relations (S.B. 1314) – Chapter 221

Adds a public policy statement for custody disputes that, absent contrary evidence, it is the child's best interest for both parents to participate. Requires the court to award reasonable costs and attorney fees to a party under certain circumstances.

polygraph examinations; interviews; law enforcement (S.B. 1325) – Chapter 210

Applies officer due process rights to situations in which the officer reasonably believes that an interview could result in disciplinary action. Allows the officer's representative in the interview to be from the officer's professional membership organization under specified circumstances.

PUBLIC SAFETY & HUMAN SERVICES COMMITTEE (Cont'd.)

Requires the written interview notice to include the alleged facts that are the basis of the investigation and any complaints that contain the alleged facts, with an exception.

Establishes that data and reports from officer polygraph examinations are confidential and may only be used for the related administrative matter, other ancillary matters, or employment or certification purposes. Specifies when the employer must destroy the polygraph data and reports.

Modifies the definition of disciplinary action to include dismissals, demotions or suspensions for more than 16 hours, rather than 24 hours, which applies requirements related to appeal hearings to additional situations.

technical correction; health professionals (NOW: restoration order; juvenile commitment) (H.B. 2020) – Chapter 24

Allows, instead of requires, the court to appoint a guardian ad litem for a juvenile who is ordered to undergo a restoration to competency program.

technical correction; revenue bond authority (NOW: immigration; border security) (H.B. 2162) – Chapter 211

SEE APPROPRIATIONS COMMITTEE.

law enforcement, officer, representation (H.B. 2166) – Chapter 177

Prohibits an employer who violates statutory procedural requirements related to officer disciplinary interviews from using evidence obtained in the interview at an appeal hearing, except if the violation is harmless or on a showing of good cause.

foster parents; rights (H.B. 2224) – Chapter 89

Outlines the rights of foster parents. Within these rights, foster parents must: be treated with respect for the foster parent's personal dignity and privacy; be included and informed about the child and policies and procedures; have placement information kept confidential when necessary; be assisted, both through training and when dealing with a child leaving the foster home; be able to reach personnel and services; and receive an evaluation of the foster parent's performance.

This legislation does not establish any legally enforceable rights or cause of action on behalf of any person.

regulation of fireworks (H.B. 2246) – Chapter 286

Effective December 1, 2010, allows the sale of consumer fireworks to persons 16 years of age and older unless otherwise regulated by a governing body. Requires the State Fire Marshal to adopt rules relating to the sale of consumer fireworks and allows a civil penalty for prohibited use.

PUBLIC SAFETY & HUMAN SERVICES COMMITTEE (Cont'd.)

yellow lights; duration; photo enforcement (H.B. 2338) – Chapter 213

Requires the duration of a yellow light to be at least three seconds. Prohibits a red light photo enforcement ticket from being issued if the traffic control device involved in the violation does not conform to the manual and specifications adopted by the Arizona Department of Transportation.

sibling visitation rights (H.B. 2419) – Chapter 214

Requires the Department of Economic Security to make reasonable efforts to: 1) place a child in out-of-home care, guardianship or adoptive placement with siblings; or 2) if that is not possible, maintain frequent visitation or other ongoing contact between the siblings. Provides an exemption from the requirement if the court has determined that doing so would be contrary to a sibling's safety or well-being. Requires the court to consider DES efforts to comply with the requirement at hearings related to dependent children.

vulnerable adults; attorney fees (H.B. 2425) – Chapter 84

Limits the amount of attorney fees the court may order the defendant to pay to an amount equal to the total amount of compensatory damages in a lawsuit regarding abuse, neglect or exploitation of a vulnerable adult.

adult guardianship and protective proceedings (H.B. 2426) – Chapter 101

Adopts the Uniform Adult Guardianship and Protective Proceeding Jurisdictions Act. Creates a process for determining which state will have jurisdiction to appoint a guardian or conservator if there is a conflict by designating that the person's home state has primary jurisdiction, followed by a state with which the person has a significant connection. Another state may be given jurisdiction under certain circumstances if it is the more appropriate forum. Facilitates transfers of guardianship and conservatorship cases among jurisdictions and provides for recognition of another state's order. Permits communication between courts and parties of other states. Provides jurisdiction in emergency situations and cases in which the person has property located in this state.

~~restitution; economic loss definition~~ (NOW: guardianship of foreign citizens) (H.B. 2437) – Chapter 151 E

An emergency measure, effective April 26, 2010, that expands the court's ability to appoint a guardian of a foreign citizen by removing certain requirements. Now, the only condition is for the person under 21 years of age to have a U.S. visa or be a legal permanent resident.

~~taxation; biogas facilities~~ (NOW: developmentally disabled; providers; deemed status) (H.B. 2503) – Chapter 228

Requires the Department of Economic Security (DES) to adopt rules that provide deemed status for residential care service providers of developmentally disabled individuals if the provider maintains current accreditation from a nationally recognized agency with standards that meet those of DES. If a provider is granted deemed status, DES must monitor the provider once a year, instead of at least twice per year. Permits providers to serve as a client's representative payee if requested by the client or the client's guardian and approved by the payer.

PUBLIC SAFETY & HUMAN SERVICES COMMITTEE (Cont'd.)

LEGISLATION VETOED

law enforcement; duty fitness examination. (H.B. 2043) – VETOED

Prescribes requirements for employers of law enforcement and probation officers related to fitness for duty examinations. Specifically, establishes deadlines for providing the final report and preexamination materials to an officer who failed a physical fitness for duty examination. Requires the employer to provide all preexamination materials to the physician or psychologist conducting an independent examination of an officer who failed a psychological fitness for duty examination.

The Governor indicates in her veto message that H.B. 2043 does not allow the redaction of sensitive information from a report before the employer gives it to the officer. The Governor also specifies that the legislation would force agencies that have efficient policies in place regarding fitness for duty examinations to eventually change those procedures.

driving on highways; lane regulations (H.B. 2300) – VETOED

Requires the Arizona Department of Transportation (ADOT), in cooperation with the Department of Public Safety, to conduct an engineering and safety study in certain non-urbanized areas to determine the likely safety improvements and feasibility of implementing commercial vehicle lane restrictions. ADOT is required to implement recommendations from the study as a two year pilot program and report to the Governor, the President of the Senate, the Speaker of the House of Representatives and the appropriate legislative committees.

The Governor indicates in her veto message that ADOT has this authority under current law and is looking at whether the proposals in H.B. 2300 would facilitate the safe and orderly movement of traffic and what types of vehicles should be restricted.

~~motorcycle operations; riding between lanes~~ (NOW: riding between lanes; motorcycle operation) (H.B. 2475) – VETOED

Establishes a one-year period during which motorcycle operators in Maricopa County can, in stopped traffic, overtake and pass vehicles in the same lane and drive between lanes of traffic or between adjacent rows of vehicles.

The Governor indicates in her veto message that it was unclear how H.B. 2475 could have been implemented to notify and educate motorists of the change in the law. She also has concerns related to the jurisdictional implementation required by the bill and its impact on safety.

PUBLIC SAFETY & HUMAN SERVICES COMMITTEE (Cont'd.)