

COMMITTEE ON JUDICIARY

Representative Eddie Farnsworth, Chairman
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HB 2064 – Chapter 76 – *foreign law; conflict of laws

Prohibits a court, arbitrator, administrative agency or other adjudicative, mediation or enforcement authority from enforcing a foreign law if doing so would violate a person's constitutional right or conflict with federal or Arizona laws.

HB 2146 – Chapter 85 – concealed weapons permit; training

Modifies firearm training and certification to allow instruction and approval by either DPS or a National Rifle Association certified instructor. Removes certain requirements for instructors.

HB 2154 – Chapter 278 [E] – *privatization; correctional health services

Requires DOC to issue an RFI for the privatization of all correctional health services, including all medical and dental services. Directs DOC to award a three-year contract to the best qualified bidder and limits the reimbursement rate at the AHCCCS capped fee-for-service schedule.

HB 2167 – Chapter 6 [E] – definition of dangerous drugs; synthetic

Expands the definition of *dangerous drugs* to include 10 specific chemical compounds that typically compose synthetic cannabinoids.

HB 2303 – Chapter 331 – voting centers; polling places

Permits a county BOS to authorize the use of voting centers in addition to or in place of designated polling places on Election Day.

HB 2304 – Chapter 332 – state elections; omnibus

Makes numerous changes to relating to state election law, including the following provisions:

- Clarifies that a person circulating nomination petitions does not have to be an Arizona resident but must register as a circulator with the SOS.
- Allows a Permanent Early Voter applicant to list a mailing address outside the county of residence.
- Adds special elections to the list of elections requiring a hand count.
- Extends the time a new party is entitled to be recognized from one to two general elections.
- Allows corporations, LLCs and unions to contribute to independent expenditure committees.
- Increases the threshold that requires the SOS to return original signature sheets to their submitter due to failure to meet the minimum number of signatures required for the general election ballot from 95% to 100% of the minimum number of signatures.
- Allows the SOS to establish a scanned ballot election auditing pilot program and establish and maintain a multistate database of voter registrants.

HB 2335 – Chapter 299 – presidential ballot; president; vice-president

Requires the heading of the column on a general election ballot containing the names of the candidates for the office of president to read "President and Vice-President."

HB 2351 – Chapter 38 – failure; return rented vehicle; classification

Establishes failure to return a rented motor vehicle as a Class 5 felony (1.5 years/\$150,000).

HB 2352 – Chapter 217 – court commissioner; qualifications

Removes the requirement for court commissioners to complete three years of active practice before appointment.

HB 2353 – Chapter 90 – sentencing; dangerous offenses; probation

Reorganizes special sentencing statutes for assault, organized crime, drug offenses, family offenses, and sexual offenses. Adds code enforcement officers, park rangers, and public defenders to those protected from targeted attack under the aggravated assault statutes.

HB 2355 – Chapter 260 – court surcharges

Clarifies that court surcharges apply to the base fine.

HB 2369 – Chapter 91 – DUI; work release

Requires courts to allow first- and second-time DUI and extreme DUI offenders to continue their employment or schooling while serving out their jail sentence, with exceptions.

HB 2376 – Chapter 261 – department of juvenile corrections; continuation

Continues ADJC until July 1, 2012.

HB 2396 – Chapter 113 [E] – game and fish; trophies; enforcement

Requires G&F employees and volunteers who have contact with children or vulnerable adults as part of their regular duties to have a valid FPCC. Prohibits a person from obtaining a hunting or fishing license during pendency of a civil action relating to a G&F violation or prior to payment of damages in full. Exempts the G&F Commission from rulemaking requirements for one year to revise its rules relating to watercraft and engine restrictions and the lawful taking of wildlife.

HB 2402 – Chapter 262 – guardians of incapacitated persons

Establishes court procedures for determining whether an incapacitated individual's privilege to drive should be suspended or retained. Broadens the scope of powers for guardians. Expands the options the court may exercise in an involuntary commitment proceeding.

HB 2403 – Chapter 334 – trusts and estates

Outlines the rights of beneficiaries and creditors in trust agreements. Conforms language regarding total return trusts with existing definitions in the Arizona Trust Code. Eliminates the requirement for an irrevocable life insurance trust to previously have owned life insurance in order for the benefits to apply and the requirement for a transfer on death provision to include notice to the owner and any beneficiary regarding monetary limitations on decedents' estates.

HB 2404 – Chapter 263 – *criminal restitution; victim notification

Requires the trial court to enter a criminal restitution order when a defendant absconds from probation or his sentence and specifies who must notify the victim if the defendant makes an initial appearance pursuant to a Writ of Habeas Corpus or if the defendant is released.

HB 2405 – Chapter 114 – human smuggling organization; offense; penalty

Defines *human smuggling organization* and classifies participation in a human smuggling organization as a Class 2 felony (5 years/\$150,000) and assisting a human smuggling organization as a Class 3 felony (3.5 years/\$150,000). Imposes special sentencing provisions.

HB 2406 – Chapter 115 – crimes; forensic interviews; mandatory fines

Requires a person convicted of or adjudicated delinquent for a dangerous crime against children or sexual assault to pay an additional assessment of \$500 to defray the cost of medical or forensic interview expenses, effective December 31, 2011.

HB 2408 – Chapter 264 – outpatient treatment; agency notification

Stipulates that if criminal charges against a patient involving certain sexual offenses, death or serious physical injury are dismissed, the medical director must notify the original prosecuting agency five days before discharging a patient receiving court-ordered treatment when a civil commitment order expires or terminates or if the patient is discharged to outpatient treatment.

HB 2411 – Chapter 78 – child prostitution; consecutive sentences

Specifies that persons convicted of child prostitution involving a 15, 16, or 17-year-old minor must serve their sentence consecutively.

HB 2424 – Chapter 285 – probate; wards; rights

Establishes a Probate Advocacy Panel and delineates the composition of its membership and their duties. Contains a delayed repeal date of June 30, 2016.

HB 2438 – Chapter 58 – sexual conduct; minor

Expands the definition of *teacher* as it applies to sexual conduct with a minor and expands the offenders eligible for the Class 2 felony provision for sexual conduct with a minor of at least 15 years of age to encompass any person who is currently or was previously the minor's parent, step-parent, adoptive parent, legal guardian, foster parent, teacher, or clergyman or priest.

HB 2480 – Chapter 117 – officeholder expense accounts; late fees

Establishes a late penalty in the amount of five dollars per day for each day that a political committee, a candidate or the designating individual of an exploratory committee fails to comply with the reporting requirements related to officeholder expense accounts.

HB 2645 – Chapter 304 – *firearms; rights restoration; peace officers

Expands procedures for the restoration of the right to possess a firearm by mentally ill persons. Adds retired peace officers to laws regulating the carrying of firearms by peace officers.

SB 1023 – Chapter 140 – enforcement of pretrial release conditions

Authorizes adult probation officers, in counties with more than two million persons, to serve warrants and make arrests on anyone who has violated a condition of pretrial release while under the supervision of the pretrial services division.

SB 1054 – Chapter 204 – waiver; intensive probation standards

Expands the counties in which the Supreme Court may waive the probation ratio and team composition requirements of adult and juvenile intensive probation programs.

SB 1080 – Chapter 224 – custodial interference; classification

Alters the Class 1 misdemeanor classification of custodial interference to only include situations in which the child or incompetent person is voluntarily returned without physical injury within 48 hours after the interference occurs. Establishes a Class 1 misdemeanor (6 months/\$2,500), for intentionally making a false report of vulnerable adult abuse or neglect to another person who is required to report the information to a law enforcement agency.

SB 1081 – Chapter 225 – minors; protective proceedings

Reorganizes statute related to guardians of incapacitated persons. Establishes a mechanism for allowing judicial appointment of a guardian for incapacitated minors approaching adulthood.

SB 1086 – Chapter 340 – tobacco products; prohibitions

Specifies that a minor who uses false identification to acquire cigars, cigarettes or cigarette papers or smoking or chewing tobacco is guilty of a petty offense (\$500).

SB 1101 – Chapter 1 [E] – protest activity; prohibition

Establishes a 300-foot zone around any establishment during or within one hour before or after a funeral or burial service takes place in which picketing or engaging in protest activities are prohibited. Establishes the violation as a Class 1 misdemeanor (6 months/\$2,500).

SB 1103 – Chapter 63 – unclaimed property; exempt child support

Exempts child support payments from the definition of *property* under the Revised Arizona Unclaimed Property Act.

SB 1130 – Chapter 226 – unlawful sexual conduct; probation employees

Establishes a felony offense for unlawful sexual conduct by an adult probation department employee or juvenile court employee. Classifies the false reporting or coercion of another to make a false report of unlawful sexual conduct with a correctional facility employee, juvenile court employee, or probation employee as a Class 1 misdemeanor (6 months/\$2,500).

SB 1167 – Chapter 159 [E] – *legislation; referenda challenges

Establishes a statute of limitations for actions that challenge the legal sufficiency of a measure referred by the legislature.

SB 1191 – Chapter 206 – juveniles; discretionary transfer; adult court

Expands the offenses for which a jurisdictional determination is made as to whether a juvenile charged as an adult in a criminal prosecution should be transferred to a juvenile court.

SB 1192 – Chapter 228 – child support model; review; report

Requires the Arizona Supreme Court to select a nationally-recognized independent research organization to review and assess the methodology used in creating the Child Based Outcome Support model and the effect it will have prior to adopting the model.

SB 1212 – Chapter 99– civil appeal bonds; limits

- Restricts the amount of the bond necessary to stay the execution of a judgment from a lower court during the course of all appeals or discretionary reviews of that judgment in appellate court. Establishes the following limits on the amount of interest rates that can be set:
 - Juvenile restitution orders at 10%;
 - Medical malpractice judgments at one percentage point above the federal postjudgment interest rate.
 - Loan, indebtedness, judgment or other obligation at the lesser of 10% annually or 1% plus the prime rate established by the Federal Reserve.
- Prohibits the court from awarding any of the following:
 - Prejudgment interest for any unliquidated, future, punitive or exemplary damages that are found by the trier of fact.
 - Interest for any future, punitive or exemplary damages that are found by the trier of fact.

SB 1225 – Chapter 229 – forgery; human smuggling; classification

Classifies forgery as a Class 3 felony (3.5 years/\$150,000) if the forged instrument is used to obtain a dwelling used as a drop house for human smuggling.

SB 1229 – Chapter 123 – recreational users; landowner liability

Expands the definition of *recreational user* as it relates to recreational immunity to include a person who enters premises to engage in off-highway vehicle, off-road recreational motor vehicle, all-terrain vehicle activity, or outdoor recreational pursuits.

SB 1243 – Chapter 188 – bad checks; county attorney fees

Increases the fees the county attorney may collect from a person who has issued or passed a check in violation of specified statutes.

SB 1245 – Chapter 42 – capital postconviction public defender; continuation

Continues the State Capital Postconviction Public Defender Office until July 1, 2016.

SB 1247 – Chapter 189 – sexually violent persons; hearings

Requires the court to order an evaluation to determine whether an individual is a sexually violent person if the individual does not request a probable cause hearing.

SB 1290 – Chapter 71 – county election workers; political campaigns

Prohibits an employee of the county elections department from operating as a chairman, treasurer, or other officer of any political campaign or candidate campaign committee.

SB 1334 – Chapter 349 – hunting within city limits

Prohibits a political subdivision from enacting an ordinance, rule, or regulation that limits the lawful take of wildlife during an open season unless it is consistent with the state's hunting laws and G&F Commission rules and Orders. Allows cities, towns, or counties to restrict the discharge of a firearm within a quarter mile of an occupied structure.

SB 1363 – Chapter 153 – employer protections; labor relations

Makes it unlawful for a labor organization to engage in picketing or to induce others to engage in picketing to coerce or induce an employer or self-employed person to join or contribute to a labor organization. Creates a No Trespass Public Notice List to identify employers who have established private property rights to their place of business. Establishes violations of unlawful picketing, trespassory assembly, unlawful mass assembly, and defamation of an employer as Class 2 misdemeanors (4 months/\$750) or Class 1 misdemeanors (6 months/\$1500) if the offense occurs on a property listed on the No Trespass Public Notice.

SB 1367 – Chapter 351 – *juveniles; DNA testing

Expands the scenarios when a judicial officer is required to order a juvenile to submit a sample for DNA testing and specifies procedures for collecting, analyzing, and maintaining samples.

SB 1412 – Chapter 105 – early voting; revisions

Broadens the classification of ballot abuse to include certain offenses and delineates the classifications.

SB 1469 – Chapter 353 – justification; use of force

Removes, as an element for justification in defense of a third person, whether a reasonable person would believe that such person's intervention is immediately necessary to protect the third person. Redefines *acting reasonably* and the presumption for the defense of a home or occupied vehicle. Establishes an additional presumption for the justification of the use of force or defensive display of a firearm, with certain exceptions.

SB 1471 – Chapter 166 – county election law amendments

Establishes a process to review petitions and verify signatures for recognition of a new political party and extends the duration of recognition to two regularly-scheduled general elections for federal office. Requires, in determining the number of signatures needed for recognition, at least five counties of registration and at least 10% of signatures to be registered in counties with less than 500,000 persons. Includes various declarations on an early ballot affidavit.

SB 1472 – Chapter 272 – publicity pamphlets; judicial performance; comment

Requires the SOS to post the following information regarding Arizona Supreme Court justices and Court of Appeals judges prior to their elections for retention:

- Biographical information, including time served on the bench and educational background.
- A listing of published decisions in which the justice or judge declared a statute constitutional or unconstitutional, along with the provision used.

SB 1473 – Chapter 273 – early voting sites; electioneering

Requires facilities used as an early voting site during the period of early voting to allow persons to electioneer and engage in other political activity outside the 75 foot limit in public areas and parking lots used by voters, except in the case of an emergency.

SB 1482 – Chapter 210 – appellate judges; judicial performance reviews

Requires the Commission on Judicial Performance Review to publish a list of decisions an appellate judge made at least 60 days prior to the primary election for the judge's retention.

SB 1484 – Chapter 326 – terrorism; radiological agent; infectious substances

Expands the terrorism statute to include unlawful acts involving infectious biological substances or radiological substances.

SB 1499 – Chapter 354 – *probate proceedings; omnibus

Requires a fiduciary to prudently manage costs, preserve the assets of wards and protected persons for their benefit, and protect against incurring any costs that exceed probable benefits to wards, protected persons, or a decedent's estate or trust. Directs a guardian, conservator, attorney, or guardian ad litem seeking compensation from the estate of a ward or protected person to give written notice when first appearing in the proceeding. Permits the court to appoint a physician, psychologist or registered nurse as a guardian if that health professional has an established relationship with the alleged incapacitated person and is qualified to evaluate the capacity of the person. Requires conservators to prepare and file with the court an inventory of the assets and liabilities of the protected person within 90 days of appointment.

SB 1504 – Chapter 355 – arbitration; waiver; restriction

Stipulates that prior to the origination of a controversy subject to an arbitration agreement, a party in the agreement may not waive or agree to vary the effect of the requirements for the following:

- An application for judicial relief be made through a motion to the court and heard in the manner provided by law or court rule; or
- An agreement contained in a record to submit to arbitration any existing or subsequent controversy arising between the parties to the agreement;
- The procedure for interim remedies prior to and during the duration of the arbitration.

SB 1546 – Chapter 356 – eminent domain on federal property

Broadens the classification of property subject to the state's eminent domain laws by including property possessed by the United States government.

SB 1610 – Chapter 313 – state firearm

Establishes the Colt Action Army Revolver as the official state firearm.