

# **Public Safety and Human Services Committee**

Senator Linda Gray, Chairman



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# **PUBLIC SAFETY AND HUMAN SERVICES COMMITTEE**

## **LEGISLATION ENACTED**

technical correction; technical registration board (NOW: lakes; non-motorized watercraft; rulemaking; exemption) (S.B. 1012) – Chapter 122 E

An emergency measure that exempts the Arizona Game and Fish Department from the state's rulemaking requirements for one year in order to revise its rules relating to watercraft motor and engine restrictions.

child welfare agency; technical correction (NOW: peace officers; licensure; registration; prohibited) (S.B. 1020) – Chapter 222

Prohibits the Department of Public Safety from issuing a private investigator license or registration certificate to a peace officer. Exempts retired officers and accident reconstructionists from the ban.

enforcement of pretrial release conditions (S.B. 1023) – Chapter 140

Allows Maricopa County adult probation officers to serve warrants, make arrests and bring people before the court who are supervised under pretrial release and are alleged to have violated a condition of that release.

Arizona state hospital; fingerprinting requirements (S.B. 1025) – Chapter 177

SEE THE HEALTHCARE AND MEDICAL LIABILITY REFORM COMMITTEE.

DES; notices; electronic communications (S.B. 1045) – Chapter 61

Allows the Department of Economic Security and its divisions to provide certain orders, notices, decisions and letters by electronic means if the person being served consents. Establishes processes for obtaining and revoking consent, and outlines the services and programs to which electronic service applies.

juvenile corrections; discharge; ICE detainers (S.B. 1046) – Chapter 293

Requires the Arizona Department of Juvenile Corrections (ADJC) to conditionally discharge a youth from its jurisdiction if both of the following circumstances are met: a) the youth completes the minimum length of stay assigned by the court, and b) the U.S. Immigration and Customs Enforcement (ICE) enforces a detainer demanding custody of the youth for immigration proceedings. However, if ADJC receives notice that the juvenile has returned to the U.S. illegally, ADJC must vacate the discharge, take custody of the youth and notify ICE.

waiver; intensive probation standards (S.B. 1054) – Chapter 204

SEE THE JUDICIARY COMMITTEE.

law enforcement officers; disciplinary action (NOW: disciplinary action; law enforcement officers) (S.B. 1057) – Chapter 244

Permits a law enforcement officer who believes he or she was terminated without just cause to bring an action in superior court for a new hearing on the termination if the chief of the law enforcement agency or the chief executive officer of a city or town reversed the decision or recommendation of a civil service board or merit commission. Outlines a similar process for situations in which there is no civil service board or merit commission to review the termination. Establishes remedies if the court finds that just cause for the termination did not exist, including reinstatement or monetary damages.

custodial interference; classification (S.B. 1080) – Chapter 224

Modifies the offense of custodial interference. Specifies the crime is only a class 1 misdemeanor if the parent or the parent's agent is the person who returns the child without physical injury, and prescribes a 48 hour time limit for receiving the lower classification. Exempts a parent from custodial interference if he or she has filed an emergency custody petition and has a good faith and reasonable belief the child will be in immediate danger if the child is left with the other parent. Establishes an offense related to false reporting of vulnerable adult abuse or neglect.

DES; fingerprinting; finger imaging (S.B. 1082) – Chapter 142

Modifies finger imaging for Temporary Assistance for Needy Families (TANF) Cash Assistance and the Supplemental Nutrition Assistance Program (SNAP) by requiring the Department of Economic Security (DES) to purge the images 36 months after it denies or terminates TANF or SNAP benefits, whichever occurs later, instead of purging images that are not accessed within 12 months. Beginning December 31, 2012, requires employees of DES licensees and contractors who provide services directly to vulnerable adults to obtain fingerprint clearance cards.

unlawful sexual conduct; probation employees (S.B. 1130) – Chapter 226

Creates the felony offense of unlawful sexual conduct by an adult probation department or juvenile court employee as knowingly coercing the victim to engage in sexual conduct by threatening to influence the victim's supervision or release status. Establishes a misdemeanor offense related to false reporting of that crime.

dissolution of marriage; legal separation (S.B. 1187) – Chapter 305

Requires a party to a divorce case who wishes to extend the stay in conciliation court to file a petition with the court that states the basis for extension, including a plan for reconciliation or a counseling schedule. Allows the court to grant an extension of up to 120 days if the moving party establishes good cause for the extension. However, if the other party objects with good cause, the court cannot grant the extension. Beginning January 1, 2013, revises the educational program on divorce and specifies criteria that must be included in the program.

adoption; marital preference (NOW: marital preferences; adoption) (S.B. 1188) – Chapter 147

Requires the Department of Economic Security (DES) and private adoption agencies to place a child in an adoptive home that best meets specific needs of the child. Outlines factors adoption

entities must consider when placing a child in an adoptive setting. If all relevant factors are equal between a single adult and a married man and woman, placement preference must be given to the married couple. Requires the court to make findings on the record in each adoption proceeding and expands a DES reporting requirement.

developmental disabilities; intermediate care facilities (NOW: developmental disabilities; residential placement) (S.B. 1190) – Chapter 246

Requires the Department of Economic Security (DES) to conduct meetings with developmentally disabled individuals who are served by state intermediate care facilities for persons with an intellectual disability, skilled nursing facilities or intermediate care facilities and their parents or guardians to present placement options. DES may adjust its service delivery options based on the meeting results, including exploring additional options for placement with private service providers. Requires DES to submit a report regarding the meetings by December 1, 2011.

juveniles; discretionary transfer; adult court (S.B. 1191) – Chapter 206

Expands the list of offenses for which a juvenile defendant may request a reverse remand hearing. Allows the request to be made in any case in which a juvenile is charged as an adult at the discretion of the county attorney. If such a request is made, the court must hold a hearing to determine if jurisdiction of the criminal prosecution should be transferred to the juvenile court.

child support model; review; report (S.B. 1192) – Chapter 228

Prohibits the Arizona Supreme Court from adopting the Child Outcome Based Support (COBS) model of child support unless the Supreme Court selects a nationally recognized independent research organization to review specific factors about COBS. Expresses the Legislature's concerns regarding COBS.

ignition interlock device; time requirements (NOW: driving under the influence; interlock) (S.B. 1200) – Chapter 341

Beginning January 1, 2012, makes omnibus changes to driving under the influence (DUI) statutes.

**Driver Licenses** – Requires law enforcement officers to serve an order of license suspension on a person arrested for driving with a drug or its metabolite in the person's body unless the person has a valid prescription. Allows additional offenders to apply for Special Ignition Interlock Restricted Driver Licenses. Decreases the license revocation for aggravated DUI from three years to one year, but allows the court to order a certified ignition interlock device (IID) for 24 months, instead of 12 months.

**Sentences** – Requires first time, non-extreme DUI offenders to serve one day, instead of 24 consecutive hours, in jail. Permits the court to suspend all but nine days or all but fourteen days of an extreme DUI sentence, depending on the person's blood alcohol concentration (BAC), if the person installs an IID for 12 months. Authorizes county sheriffs, cities, towns, counties and the Arizona Department of Corrections to establish continuous alcohol monitoring programs for DUI offenders, which will allow offenders to serve a portion of their sentences in the community with an

ankle bracelet that monitors and reports alcohol intake. Establishes related requirements and procedures.

***Ignition Interlock Device*** – Requires the Arizona Department of Transportation (ADOT) Motor Vehicle Division (MVD) to extend an IID for six additional months if the person violates statutory IID requirements, and modifies those requirements related to a person attempting to operate a vehicle with a BAC above 0.08. Also requires MVD to do the following: a) refuse to renew the registration of a vehicle owned by a person who fails to comply with IID requirements; b) remove the IID requirement for a person only convicted of DUI while there is a drug in the person's body if the person completes alcohol or drug screening and the court determines no alcohol education or treatment is required; and c) defer six months of the twelve month IID period for a first time, non-extreme DUI offender if the person completes certain requirements, including alcohol education and maintaining a functioning IID. The deferment is revoked, however, if the person is arrested for a DUI offense during the period of deferment. Allows the Director of ADOT to impose a civil penalty against an IID installer or manufacturer who fails to report IID data and requires those monies to be deposited in the DUI Abatement Fund. Permits MVD to allow a person who shows sufficient medical evidence or an employment requirement to be placed in a continuous alcohol monitoring program instead of installing an IID. Establishes related requirements.

***Miscellaneous*** – Removes the statutory requirement for someone charged with a first time, non-extreme DUI to be entitled to a jury trial. Establishes a \$125 assessment, rather than a 10 percent surcharge on the amount of the fine, if a warrant is issued as a result of a failure to pay a fine for a civil traffic offense.

developmental disabilities advisory council; continuation (S.B. 1232) – Chapter 160

Retroactive to July 1, 2011, the Developmental Disabilities Advisory Council (Council) is continued until July 1, 2021. Modifies the duties and membership of the Council.

peace officers; at will employment (S.B. 1233) – Chapter 208

Specifies that protection from disciplinary action for law enforcement officers does not apply to at will police chiefs or assistant police chiefs.

law enforcement officers; disciplinary procedures (S.B. 1235) – Chapter 230

Modifies procedures related to law enforcement and probation officer disciplinary action and appeals. Specifically, requires the employer, after completing a misconduct investigation, to provide a basic summary or file copies of any discipline ordered against other officers of similar rank and experience within the previous two years for a similar violation, at the request of the disciplined officer. The employer cannot take final action or schedule a hearing until the summary or copies are provided to the officer. Removes the population restrictions related to an automatic change of hearing officer in disciplinary appeals, and requires small cities, towns and counties to provide an alternate hearing officer by means of an interagency agreement. If the officer is the party that requested the alternate hearing officer, the officer must reimburse the city, town or county for half of the additional expenses incurred in procuring the alternate hearing officer.

Prohibits a critical incident stress management team member (member) from being compelled or allowed to disclose information in a trial, investigation or legal proceeding that the

member acquired secretly and in confidence in the course of the member's response to a critical incident. This confidentiality requirement applies to information acquired from emergency medical providers, firefighters, law enforcement officers or probation officers. Establishes exemptions from the confidentiality requirement.

Prohibits an employer from retaliating against a city or town law enforcement officer for disclosing information that the officer believes evidences mismanagement, a violation of any law, a gross waste of monies or an abuse of authority. This is commonly referred to as the *whistle blower* statute.

parents' rights; law enforcement investigation (S.B. 1244) – Chapter 69 E

SEE THE JUDICIARY COMMITTEE.

child custody; military families (S.B. 1283) – Chapter 346

SEE THE VETERANS AND MILITARY AFFAIRS COMMITTEE.

inmate credit for imprisonment (NOW: prisoners; credits for fines) (S.B. 1291) – Chapter 102

SEE THE WATER, LAND USE AND RURAL DEVELOPMENT COMMITTEE.

court ordered outpatient treatment; notification (NOW: juveniles; DNA testing) (S.B. 1367) – Chapter 351

SEE THE JUDICIARY COMMITTEE.

human smuggling organization; offense; penalty. (NOW: probation officers; disciplinary actions) (S.B. 1368) – Chapter 352

SEE THE JUDICIARY COMMITTEE.

domestic relations; support; community restitution (NOW: domestic relations; notification requirements) (S.B. 1396) – Chapter 236

Requires the court to provide written notification to all parties to domestic relations proceedings informing them that they may request conclusions of fact and law on the contested issues of child custody, relocation requests, spousal maintenance, child support and community property and debt. Requires the notification to contain procedures for making such a request.

photo enforcement; DPS equipment fund (NOW: moving violations; assessment; equipment; enforcement) (S.B. 1398) – Chapter 308

SEE THE APPROPRIATIONS COMMITTEE.

national guard; state active duty (NOW: assessment for family offenses; stalking) (S.B. 1424) – Chapter 296

SEE THE VETERANS AND MILITARY AFFAIRS COMMITTEE.

probate; omnibus (NOW: probate proceedings; omnibus) (S.B. 1499) – Chapter 354

Beginning January 1, 2012, makes omnibus changes to guardianship and conservatorship requirements.

***Court Duties*** – Requires judicial officers presiding over probate proceedings to participate in training as prescribed by the Supreme Court. Requires the court to make specific findings on the record regarding the basis for appointing a conservator. Allows the court to appoint a medical professional who has an established relationship with the ward to examine the ward and to appoint a guardian or conservator nominated by the ward. Modifies the priority list to be a guardian or conservator, and establishes the definition of *good cause*, for which a person who has priority may be passed over for someone with a lower priority. If a person who was passed over by the court makes a request, the court must make a specific finding regarding the determination of good cause and why the person was not appointed.

***Remedies*** – Establishes remedies for persons who engage in unreasonable conduct by requiring the person, the person's attorney or both to pay for some or all fees or expenses incurred as a result of the person's conduct. Permits the court to require arbitration or to order alternative dispute resolution after the initial appointment of a fiduciary. Outlines circumstances in which the court may summarily deny a repetitive motion or petition without an objection being filed or a hearing being set.

***Substitutions*** – Allows the court to substitute a guardian or conservator without finding that the person acted inappropriately, if the substitution is in the ward's or protected person's best interest. Limits the ability of guardians, conservators or their attorneys to be compensated from wards' estates for defending against substitutions. Requires the court to substitute a trustee and appoint a successor under certain circumstances. Imposes requirements related to modifying a protective order.

***Costs and Compensation*** – Prescribes responsibilities for fiduciaries related to costs, including preserving the assets of the ward or protected person and protecting against costs that exceed benefits. Specifies that market rates for goods and services are a proper and ongoing consideration for the fiduciary and the court. Creates duties related to compensation, as follows: a) requires certain parties who intend to seek compensation from the estate to give written notice of the basis of the compensation when the person first appears in the proceeding and to provide notice if the basis for compensation changes during the pendency of the action; and b) requires their compensation to be reasonable and necessary, as determined by the court. Prescribes deadlines for compensation.

***Transparency*** – Prohibits an investigator or someone related to the investigator from being appointed as a fiduciary, attorney or professional for the person who was the subject of a prior investigation, except if ordered by the court for good cause. Permits an interested party to request to view or receive copies of a protected person's financial records and billing statements related to the conservatorship. Also requires the conservator to provide a report of receipts and disbursements on request. Modifies the conservator's requirement to prepare and file an inventory.

juveniles; restitution; adoptive parents; exception (NOW: juveniles; fees; adoptive parents; exception) (S.B. 1559) – Chapter 168

Requires the court, juvenile probation officer or county attorney, as appropriate, if the juvenile was adopted or placed in permanent guardianship after he or she was determined to be a dependent child, to consider: a) the totality of the child's circumstances, and b) the nature of the dependency. Allows the court to waive all or part of the fees related to the juvenile being adjudicated delinquent for an offense if extenuating circumstances exist.

dependent children; hearings; notice (S.B. 1560) – Chapter 253

Requires a motion for removal or to change the case plan to be provided to a foster child's prospective permanent placement at least 15 days prior to a hearing on the motion. Specifies that refusing to take a paternity test is evidence of abandonment. Allows actions inconsistent with the case plan of severance and adoption to be taken only: a) by court order; b) if the prospective permanent placement requests the child to be removed; or c) if it is required by federal law, state law or regulation. Requires the Department of Health Services to ensure that services, such as non-school related appointments and activities, are provided to foster children outside of regular school hours.

welfare; 2011-2012; budget reconciliation (NOW: budget reconciliation; welfare; 2011-2012) (S.B. 1620) – Chapter 32

SEE THE APPROPRIATIONS COMMITTEE.

emergency response services fees; prohibition (H.B. 2003) – Chapter 82

Prohibits any county or municipality from directly or indirectly charging a fee or seeking reimbursement for emergency services related to motor vehicle accidents, with exceptions related to property damage, the driver's negligence, emergency response in flood areas or for DUI offenses, environmental cleanup or any other costs required or permitted by law, services provided outside of city boundaries in certain counties and intergovernmental agreements between political subdivisions.

privatization; correctional health services (NOW: privatization; correctional health services) (H.B. 2154) – Chapter 278 E

SEE THE APPROPRIATIONS COMMITTEE.

child custody; technical correction (NOW: intellectually disabled; terminology) (H.B. 2213) – Chapter 89

Effective October 1, 2011, updates terminology throughout statute, replacing the terms *mental retardation* and *crippled* with *intellectually disabled* and *physically disabled*. This act does not affect current coverage, eligibility, rights or responsibilities as prescribed by law.

DUI; work release (H.B. 2369) – Chapter 91

Requires, instead of allows, the court to provide for work release for DUI and extreme DUI offenders, unless the court finds good cause not to allow the release and places the findings on the record. Increases the number of days per week an offender may be released.

department of juvenile corrections; continuation (H.B. 2376) – Chapter 261

SEE THE JUDICIARY COMMITTEE.

crimes; forensic interviews; mandatory fine (H.B. 2406) – Chapter 115

SEE THE JUDICIARY COMMITTEE.

outpatient treatment; agency notification (H.B. 2408) – Chapter 264

SEE THE JUDICIARY COMMITTEE.

child prostitution; consecutive sentences (H.B. 2411) – Chapter 78

SEE THE JUDICIARY COMMITTEE.

schools; bullying policies (H.B. 2415) – Chapter 196

Adds that current school district policies and procedures on harassment, intimidation and bullying must address offenses occurring through electronic technology or communication on school computers, networks, forums and mailing lists. Additionally restructures the policies and procedures for all types of harassment, intimidation and bullying by requiring them to: supply written forms designed to provide a full and detailed account of an incident; prescribe appropriate disciplinary procedures for employees who fail to report suspected incidents; annually provide all pupils with a written copy of the rights, protections and support services that are available; maintain records of reported incidents for at least six years; prescribe procedures designed to protect the health and safety of victims who are physically harmed; and establish definitions for harassment, intimidation and bullying.

abortion (H.B. 2416/S.B. 1246) – Chapter 10

SEE THE HEALTHCARE AND MEDICAL LIABILITY REFORM COMMITTEE.

probate; wards; rights (H.B. 2424) – Chapter 285

SEE THE APPROPRIATIONS COMMITTEE.

law enforcement officer discipline (H.B. 2444) – Chapter 198

Modifies requirements related to officer misconduct investigations. Specifically, prohibits the results of a polygraph examination from being the basis for disciplinary action unless other evidence exists. Requires the employer to make a good faith effort to complete an investigation of a law enforcement officer within 120 business days. If a hearing officer, administrative law judge or appeals board determines the employer did not make a good faith effort to meet the deadline, he or she may dismiss the discipline. However, the dismissed discipline may be considered in future disciplinary actions. Prescribes requirements related to exceeding the time limit and giving the officer notice of discipline. Outlines exceptions to the time limit.

law enforcement officers; witness; representation (NOW: witness; representation; law enforcement officers) (H.B. 2477) – Chapter 301

Allows a law enforcement officer designated by an employer as a witness in another officer's misconduct investigation to have a representative present during the interview, subject to specified restrictions. Designates the information learned from the interview as proprietary and confidential, and specifies circumstances under which the information is no longer confidential. The witness may discuss the interview with the representative and the representative's legal counsel, but the employer may discipline the witness or the representative for releasing the information to anyone else without authorization.

motor vehicle accidents; violations (NOW: violations; motor vehicles; license suspensions) (H.B. 2523) – Chapter 286

Expands the types of license suspensions that will result in a felony offense if the person drives, commits one of ten traffic violations and seriously injures or kills someone. Includes, among other reasons, a license suspended because the person: a) was involved as a driver in an accident resulting in the death or injury of another person; b) was convicted of reckless driving; c) was convicted of failing to install an ignition interlock device after a DUI offense; or d) failed to appear in court for a traffic violation if the person has had at least one other suspension for failing to appear.

peace officer misconduct; reporting (NOW: board; complaints; peace officer misconduct) (H.B. 2613) – Chapter 303

Outlines actions the Arizona Peace Officer Standards and Training Board (AzPOST) may take regarding law enforcement officer misconduct, including from whom AzPOST may take complaints. Allows the president or chief executive officer of an AzPOST-recognized law enforcement association to bring a complaint of officer misconduct to AzPOST if the association believes that a law enforcement agency: a) refused to investigate, or b) made findings that are contradictory to prima facie evidence that an officer violated AzPOST qualifications. Prescribes related requirements for AzPOST.

domestic violence review teams (H.B. 2658) – Chapter 254

Allows Domestic Violence Fatality Review Teams (Teams) to examine near fatal incidents of domestic violence, in addition to those that result in the victim's death. Requires Team reports to be distributed to additional entities.

food stamps; benefit cards; penalty (H.B. 2675) – Chapter 121

Adds, as a class 5 felony, using another person's Food Stamps after an unlawful transfer to the crime of unlawful use of Food Stamps. Removes impersonation as a means of unlawfully using Food Stamps.