

ARIZONA STATE SENATE

45TH LEGISLATURE
SECOND REGULAR SESSION

MINUTES OF COMMITTEE ON JUDICIARY

DATE: February 12, 2002 **TIME:** 1:30 p.m. **ROOM:** SHR 1

CHAIRMAN: Senator Richardson **VICE CHAIRMAN:** Senator Bee

ANALYST: Sheryl Rabin **COMMITTEE SECRETARY:** Tracey Moulton

INTERN: Lisa Hird **ASST. ANALYST :** Lace Collins

ATTENDANCE

BILLS

<u>Committee Members</u>	<u>Pr</u>	<u>Ab</u>	<u>Ex</u>	<u>Bill Number</u>	<u>Disposition</u>
Senator Aguirre	X			SB 1124	DPA
Senator Bundgaard	X			SB 1143	DPA
Senator Burns	X			SB 1164	DP
Senator Cummiskey			X	SB 1202	HELD
Senator Rios	X			SB 1335	DP
Senator Smith	X			SB 1337	DPA
Senator Bee, Vice Chairman	X			SB 1366	DP
Senator Richardson, Chairman	X			SB 1397	HELD
				SCR 1011	HELD

GOVERNOR'S APPOINTMENTS

<u>Name</u>	<u>Position</u>	<u>Recommendation</u>
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Tape 1, Side A

Chairman Richardson called the meeting to order at 1:40 p.m. and attendance was noted. For additional attendees, see Sign-in Sheet (Attachment A).

APPROVAL OF MINUTES

Senator Richardson announced, without objection, the minutes of February 5, 2002 were approved as distributed.

CONSIDERATION OF BILLS

S.B. 1124 - judicial productivity credits; additional salaries – DO PASS AMENDED

Sheryl Rabin, Research Analyst, stated Justices of the Peace (JPs) preside over Justice Courts, which have jurisdiction over various matters. These include civil matters worth under \$10,000, domestic violence protection orders, criminal offenses punishable by fines under \$2,500 or six months imprisonment and felonies for purposes of issuing warrants and conducting preliminary hearings.

Ms. Rabin explained that S.B. 1124 increases the minimum age for a JP from 18 to 30, includes educational requirements, and requires JPs to attend a JP orientation program prior to filing a nominating petition. The bill states that new qualifications become effective on January 1, 2003, after the next JP elections. Additionally, those who have served as JPs before that time do not need to meet the new qualifications added by this bill.

Furthermore, the bill revises the formula for calculating judicial productivity credits (JPCs), which are used to determine a JPs salary.

The bill adds certain types of claims and offenses into the calculation and changes the rate of calculation of certain criminal traffic filings. The bill also prohibits any JP with JPCs of 700 or more from sitting as a city magistrate and from collecting any additional salary from any other court.

Ms. Rabin explained the Richardson amendment changes the requirement of a one-day orientation program to a requirement of an 8-hour program. The amendment also states that a justice of the peace can only determine cases after successfully completing an education program offered by the Supreme Court.

Senator Rios asked for the reason the age was changed from 18 years of age to 30. Ms. Rabin remarked that a working group that met over the interim decided upon the increase in the age requirement. She stated that there was not a specific reason given for the increase.

Senator Rios expressed his concern with the difference in the age requirement for being a Senator and a JP. He stated it seems ironic that laws can be made by Senators as young as 25 and yet with the proposed increase in age requirement, JPs would have to be at least 30 years old.

Senator Smith remarked that he was a member of the working group and that the age of 30 is not written in stone. He noted the work group wanted to demonstrate the JPs had a little more maturity and education than what presently exists in some of the JP courts.

Senator Aguirre commented that she has similar concerns as Senator Rios. She noted that her 24 year old son is completing his master's degree in public administration and has a BA in criminal justice and opined that he would be more than qualified to serve as a JP at the age of 25. She noted that there are no current JPs that are currently under the age of 30. She stated that she would be more supportive of the bill if the age were amended to 25 years.

Senator Burns questioned the definition of post-secondary instruction. Ms. Rabin stated that the intention of the language was to refer to college courses taken at Community Colleges or Universities.

Charles Jones, Chief Justice, Arizona Supreme Court, testified in support of the bill and remarked that one of the reasons that 30 was the age selected was because it is also the age requirement for a superior court judge. Secondly, a judge functions in a different arena than a legislator. A JP, in particular, must make his decisions all alone without the benefit of law clerks or back up resources to which he can refer. Therefore, a level of maturity is required. He stated that he could identify a host of 18 year olds that have shown more maturity than 30 year olds, but in general, the age of 30 was selected for those reasons.

Chief Justice Jones opined that the current justice system is operated as an effective branch of government, but recognizes that there is room for improvement, particularly in certain areas. He noted that JP reform has been identified as one of those areas. He opined that this legislation is modest and will improve the overall character of the system as it exists today. He stated that this system has not been materially altered in 90 years of statehood and it is time with the population growth of over 5 million people in the State that this be reviewed.

Chief Justice Jones noted that JPs have jurisdiction and authority to resolve disputes up to \$10,000. He opined that by increasing the training and educational requirement of JPs, there will be an overall improvement in the quality of justice that the JPs can provide. He stated that it is not that many of them do not do it already, they do and the Courts recognize the strengths of the system. He noted that the Courts also recognize some weaknesses as well. He commented that JP courts and the municipal counterpart, the city magistrate courts, handle in excess of 90% of all case filings in the State. He stated that it is his desire for the people who come to court to see a system and a judge that is mature, responsible, accountable and who is willing to make reasoned decisions based on ability and knowledge. He remarked that having a law degree is not a prerequisite, yet the JPs do address some specific areas of the law, such as landlord/tenant disputes and other contract disputes. He opined that with a higher quality of training in those specific areas of the law and the rules of evidence that apply to these areas, the modest improvements proposed in this legislation would bring about some strong improvement in the JP courts today.

Chief Justice Jones remarked that when litigants come to court, there will always be a successful litigant and an unsuccessful litigant. The person who wins in court, really does not care why, but the person who loses wants to know why the case went against them and we need to have someone on the bench who can explain why a decision was made. Hopefully, the person can receive an adequate answer and leave the court feeling that although he may have lost his case,

he was treated fairly. Fairness in our judicial system is the great hallmark and he opined that this legislation would aid in sending the message to the public that the State is attempting to improve the level of fairness in JP courts.

Senator Burns asked if Justice Jones had reviewed and was in support of the Richardson amendment regarding precertification for newly elected judges. He commented that he supports the amendment. He stated that if the general education requirements are not increased, as opposed to specific precertification training that the amendment proposes, success will be achieved only if a commensurate general improvement in the quality, knowledge and the reasoning ability of the people who occupy the JP bench in Arizona is accomplished. He stated that when this is accomplished, the quality of justice will improve.

Senator Richardson asked if Justice Jones would support the proposed Aguirre amendment to change the age requirement from 30, to 25. He remarked that the age of 30 is key, but if the other requirements were retained, the Courts would except it. He remarked that age 30 is the constitutional minimal age for a superior court judge, who does not have to make decisions all alone without the benefit of assistance with decisions.

Richard T. Tracy, Sr., Attorney, representing himself, testified in opposition to the bill and remarked that he is admitted to practice law in New York, Ohio and has been in Arizona for over thirty years and resides in Mesa. He has been a City of Phoenix judge for six years and a hearing officer. He distributed handouts entitled "Inefficient, archaic court system plagues Arizona", "Statewide Revenue and Expenditure Summary" as well as a document of articles (Attachments B, C and D). His testimony came directly from the handouts.

Lester Pearce, Maricopa County Justice of the Peace, testified in support the bill and remarked that he was part of the Committee that drafted the bill.

Judge Pearce commented that currently the JPs have a mentoring system where every new JP is assigned a Judge mentor that sits on the bench with them until a certain level of proficiency has been reached. He noted that he did receive a number of calls from JPs with regard to section I of the bill, becoming a municipal judge. He stated that there are several JPs in Maricopa County that act as municipal judges through an agreement with the municipalities. He opined that the cities might be concerned with this change, but noted the judges have some minor concerns with this issue. He remarked that another issue that effects judges across the State is the 60 post-secondary education credits. He stated that in Maricopa County it will not effect anyone, but outside of Maricopa County, he opined that it may have some effect on many of the current judges on the bench.

Senator Marilyn Jarrett, bill sponsor, stated that she has worked for many years with the JP system and opined that because it is the court that is closest to the people it deserves to be supported and protected. She remarked that the bill was brought forward due to many entities that were concerned about some of the activities and problems that were occurring in some of the JP courts. She remarked the participants in drafting the legislation were: Lester Pearce, a presiding judge of Maricopa County; Senator Tom Smith, Representative Gary Pierce; Chief Justice Jones and representatives from the Courts. She commented that this legislation is an attempt to help the JP court. She remarked that there have been abuses of the system in the past that this bill addresses.

In response to Senator Aguirre, Senator Jarrett deferred to Justice Jones to answer the constitutionality of the age requirement, but noted that she did not think that it would be an issue, as there is currently no JPs serving under the age of 30.

Chief Justice Jones remarked that there is no specific requirement in the Constitution for JPs, such as there are for general law making provisions, which allows the Legislature to make changes to the age requirement.

Senator Richardson announced the following people were present in support of the bill: **Ron Johnson, Director of Government Relations, State Bar of Arizona; Jerry Landau, Maricopa County Attorney's Office; Lynne Keller, representing herself; Michael Define, Attorney, representing himself and Allie Bones, Systems Advocate, Arizona Coalition Against Domestic Violence.**

Senator Richardson announced that **Tonia Tunnell, Government Affairs Manager, Arizona Association of Counties** was present and neutral toward the bill.

Martin Shultz, Vice President, Pinnacle West Capital Corporation-Arizona Public Service (APS), testified in support of the bill and remarked the importance of the limited jurisdiction courts and JP courts to commerce, industry or business activity and the general impact on society should not be underestimated. However, the cases are becoming more complex and therefore the educational requirements are to be read as follows: the educational requirements are a demonstration that the JPs have gone through a post secondary instruction and that this education has led to their ability to read and to understand fairly complex issues.

Senator Bee moved S.B. 1124 be returned with a DO PASS recommendation.

Senator Bee moved the twelve-line Richardson amendment dated 2/11/02, 8:37 a.m. be ADOPTED (Attachment E). The motion CARRIED by voice vote.

Senator Aguirre moved the following verbal amendment to the bill:

**Page 1, line 6, strike "THIRTY" insert "TWENTY-FIVE"
The motion CARRIED by voice vote.**

Senator Bee moved S.B. 1124 be returned with an AS AMENDED, DO PASS recommendation. The motion CARRIED with a roll call vote of 4-3-1 (Attachment 1).

Tape 1, Side B

S.B. 1397 - first degree murder; parole eligibility – HELD

Ms. Rabin stated that prisoners who committed first degree murder prior to August 8, 1973, and were convicted under sentencing guidelines available at that time received one of two sentencing

options, either a death sentence or life imprisonment without the possibility of parole. In 1973, a third sentencing option of life with the possibility of parole was added.

She noted that although eligible for commutation, the 28 inmates sentenced for crimes committed prior to the 1973 sentencing change are ineligible to apply for parole.

She stated that SB 1397 allows those 28 inmates to apply for parole and is an emergency measure.

Senator Richardson announced the bill sponsor, Senator Petersen, could not be present today, but had expressed to her his concern with having S.B. 1397 heard.

Stan Turley, Former State Senator, representing himself, testified in support of the bill and remarked that this is only the second time in the sixteen years since he worked in the Legislature that he has come forward to speak on a bill. He stated that the reason for his being present was the fact that the public is interested in the Legislature being fair. He opined that this is not a crime bill, but rather a fairness bill. He remarked that it is not fair that out of approximately 22,000 inmates only 28 are unable to at sometime be seen by the Board of Executive Clemency. He stated that a number of these men have been incarcerated for over 25 years and opined that not many of them would even receive a release of any kind, although there may be a few.

Mr. Turley noted that there are only three reasons to incarcerate a person: to punish them, to keep them away from the public and to provide rehabilitation.

Edwin Cook, Executive Director, Arizona Prosecuting Attorneys' Advisory Council, testified in opposition to the bill and remarked that the Council consists of the fifteen elected County Attorneys, the Attorney General, four city prosecutors and two non-prosecutors. The bill is asking the Legislature to make eligible, for immediate parole, several convicted murders. He noted that the intent clause of the bill is framed in terms of taking individuals that are convicted of similar crimes and give them the same sentence and opportunities for sentence review. He opined that in order to do so, it would ignore the law as it existed at the time the offenses were committed and the opportunity of sentence review that each and every one of these individuals has or has had.

Mr. Cook explained that any one of these individuals that believes that the law has been unfairly applied to them, could petition the court. One individual, named Shawn Jensen has petitioned the court. He is convicted of shooting two teenagers to death at Sahuaro Lake and challenged whether or not the old code meant without parole or with possibility of parole. He lost in the court of appeals. He noted that most of these individuals have had an opportunity for proportionality review. He stated that each and every one of these individuals has the right to petition the Board of Executive Clemency for a clemency recommendation.

Mr. Cook opined that if the Legislature is being asked to make individuals immediately eligible for parole, the Committee members need to know a little bit about the individuals that will be effected by this.

Senator Richardson commented that she appreciates what Mr. Cook was leading up to and noted that some of that type of testimony will be heard. However, she explained that the bill does not go into the individual cases, but rather it is about determining if a person is being treated equitably and fairly under the law today, as compared to before.

Senator Bundgaard remarked that a vote in favor of this legislation may mean that a certain number of people are let out of prison. He expressed concern that there may be a compelling reason to keeping them in prison based on their record.

Senator Richardson noted that the bill only talks about eligibility for consideration of parole. The Legislature would not be making the determination of which prisoners would be eligible.

Mr. Cook stated that the Department of Corrections had advised him that over half of the 28 individuals were originally sentenced to death and the death penalty was overturned. He noted that he could give a litany of who the bill is going to impact and noted that the victims will be subjected to further hearings in addition to the hearings that they are already subjected to through the Board of Executive Clemency. He opined that going back and trying to change the law that existed prior to August 8, 1973 damages the credibility of the system. He outlined a few of the inmates that will be effected by this legislation. One of the inmates was convicted of killing a Phoenix police officer. Another inmate was sentenced to 28 counts of first-degree murder, concurrently after setting fire to the Pioneer Hotel in Tucson, Arizona. His co-defendant was convicted of killing three people, and both of these men will become eligible for parole if this legislation is passed. He commented that the remainder of the details on the 28 inmates that this bill would effect would be given to the members. He noted that further information could be obtained through the Department of Corrections or the Board of Executive Clemency.

Mr. Cook remarked that the Council opposes the bill and does not believe that it advances justice, but rather hurts the credibility of the system.

In response to Senator Richardson, Mr. Cook stated that he was given a list of 28 individuals that were serving life. He noted that 27 of them are in for first degree murder and other crimes and one individual was incarcerated for the rape of a four-year old victim and therefore does not fall under this bill.

Senator Smith remarked that with regard to this group of individuals, the judges could not have sentenced them to life with the possibility of parole because it was not an available sentence. It was only available after August 8, 1973. He stated that at the present time, the only way this group of individuals can receive a different sentence is if they apply for commutation before the Board of Executive Clemency.

In response to Senator Bundgaard, Mr. Cook stated that it is not legal to review sentences every time the Legislature enhances a penalty and then, increase the sentence, as this would be a violation of the double jeopardy clause. The clause states that an individual that has been previously sentenced to a lesser sentence cannot be re-sentenced to a lengthier sentence.

Senator Rios commented that recent studies indicate that 80% of capital crime cases were overturned or there were errors made in many of the cases. He opined that even if that number is not totally accurate, and is closer to 50%, as the Attorney General's Office has commented, our society needs to take a second look at the issue of fairness.

Senator Richardson announced that she would be holding the bill.

Senator Richardson announced the following people were present in support of the bill: **Polly London, representing herself, Lee Stein, representing himself, Larry Hammond, attorney, representing himself, Rick DeGraw, Marketing Director, representing himself; Eleanor Eisenberg, Executive Director, Arizona Civil Liberties Union and Paula Miller, representing herself.**

Senator Richardson announced the following people were present in opposition to the bill: **Steve Twist, representing himself, Jerry Landau, Maricopa County Attorney's Office; Samuel Wooldridge, Legislative Liaison Arizona Police Association; Eric Edwards, Arizona Association of Chiefs of Police, Phoenix Police Department; Chatham Kitz, Executive Director, Arizona Voice for Crime Victims; Andy Swann, Associated Highway Patrolmen of Arizona; Lyle Mann, retired officer; John Blackburn Jr., Legislative Liaison, Arizona Criminal Justice Commission and Kelly Orrick, Assistant to the Chief of Police, City of Mesa Police Department.**

Liza Genrich, General Counsel/Legislative Liaison, Arizona Department of Corrections, was present and neutral toward the bill.

S.B. 1335 - animal cruelty; increased penalties – DO PASS

Lisa Hird, Research Intern, explained the law states that three acts of cruelty to animals are considered class 6 felonies, and the other six acts are listed as class 1 misdemeanors. S.B. 1335 increases all acts of cruelty to animals as class 6 felonies.

Senator Virginia Yrun, bill sponsor, stated that she sponsored the bill on behalf of students at University High School, who approached her over the summer with a well-outlined project analysis. She stated that she would like to give them the opportunity to share their concerns with the Committee and urged the Committee to support the bill and allow the students the opportunity to see the bill move through the process.

Spencer Edelman, Citizen Advisory Group Representative, University High School, testified in support of the bill and explained the Advisory Group was created in the fall of 2001 to develop revisions to animal cruelty legislation. He stated the group received advice from an animal cruelty prosecutor in Tucson, who pointed them in this direction.

Mr. Edelman stated that the Group would like to see revisions made to Arizona Revised Statute (ARS) §13-2910 to place sections 1 through 6 under the same class 6 felony as sections 7, 8 and 9. He remarked that there have been comparisons made between animal cruelty and violent crimes against humans. He noted that in several court cases, it has been demonstrated that violent crimes against animals are almost always a precursor to cruelty or violence towards humans. He noted that Eric Harris and Dylan Klebold, the student gunmen in the Columbine shooting, were cruel to animals when they were children, as well as Albert DeSalvo, the Boston Strangler and Jeffery Dahmer.

Mr. Edelman commented that intentionally or knowingly subjecting any animal to cruel mistreatment is considered a class 6 felony, while intentionally or knowingly or recklessly killing any animal under custody or control of another person without legal privilege or consent of the owner is a class 1 misdemeanor. He stated the bill would increase the fine, jail time and make it

more difficult to expunge these acts from the record of the people who are committing these crimes.

In response to Senator Smith, Mr. Edelman remarked that the bill would not affect hunting and the bill would be increasing the classification of these crimes to class 6 felony charges.

Shannon Slattery, Legislative Relations Coordinator, Maricopa County Public Defender, testified in opposition to the bill and remarked although she applauds the efforts of the students coming forward with the bill, this same bill was debated, discussed and thoroughly reviewed in 1996. She stated that the decisions that were made and laid out in the law for the specific purpose of segregating out different types of offenses and creating the felonies that are listed currently. By making all of these offenses felonies, more people will be caught, creating additional costs. Additionally, this is potentially creating felons of people who are at an age where treatment, appropriate intervention and assistance would be more appropriate than putting them in a jail or prison setting. She commented that the expungement of records has always been up to judicial discretion, has to be done by application and in Arizona, is not really expungement, but merely a set-a-side. She remarked that any prior conviction can always be used by criminal justice agencies accessing the system, but will not be useable for purposes of employment history or other background history checks for public parties.

Senator Yrun commented that when an item is classified a class 6 felony, the county prosecutor has the opportunity and full discretion to charge the offense as a class 1 misdemeanor.

**Senator Bee moved S.B. 1335 be returned with a DO PASS recommendation.
The motion CARRIED with a roll call vote of 3-2-3 (Attachment 2).**

S.B. 1202 - sex offenses; violent crimes; bail - HELD

Ms. Rabin explained current law allows a judicial officer to consider many conditions when releasing a person on his own recognizance or on bail. Conditions may include restrictions on travel, bail requirements, and prohibited possession of weapons, among other conditions. S.B. 1202 requires the judicial officer to impose certain conditions on defendants charged with violations of sexual offenses or sexual exploitation of children.

The legislation requires those defendants to deposit one million dollars bail with the court clerk, requires electronic monitoring, prohibits those defendants from approaching any school, and prohibits defendants from having any contact with the victim or the victim's family.

Senator Dean Martin, bill sponsor, explained that S.B. 1202 is half of a package of two bills. S.C.R. 1011 and S.B. 1202 will be moving together through the process. He noted that testimony to be heard on S.B. 1202 will be similar to S.C.R. 1011, which assists in the time management of the meeting.

Matt Salmon, Former Congressman, representing himself, testified in support of the bill and remarked that a serious problem has manifested itself within the last few months regarding bail that is being sent notoriously low for people who he opined pose a serious threat to the community at large.

Mr. Salmon remarked that in January 2002, a person charged with one count of indecent exposure, one count of sexual conduct with a minor and one count of child molestation was given \$26,000 bail. The reason the bail was posted so low was because the judge was in a good mood that night, as reported by a person present at the time. In another instance, in December 2001, Maricopa County Superior Court Judge Barbara Jarrett confirmed that no one knew where the suspected child rapist was after he did not show up for his trial. She had reduced the amount of bail to \$100,000 from the \$2.5 million that a previous judge had set. Mr. Salmon remarked that a man sold his house for \$400,000 and was therefore able to post his bail of \$100,000. He did not show up for his trial as a suspected rapist of an eleven year-old boy and the authorities do not know where he is. In December 2001, Mark Gerna of Chandler had illicit sex with at least three minors, while he worked as the Director of Teen Life at St. Timothy's Catholic Church in Mesa and later as a volunteer for the youth program. Police arrested Gerna on December 5th and again on December 8th after victims contacted officers. He is charged with fifteen counts of sexual conduct with a minor and one count of furnishing obscene material to a minor and is free on \$21,240 bond. After he was free on bail, he harassed one of the victims so much that the parents had to get a restraining order to keep this predator from bothering their child again.

Mr. Salmon stated that these cases are unacceptable and judges are setting extremely low bail for violent offenders. He opined that the "catch and release" program is better suited for the Game and Fish Department, than it is for the State's judges. He stated that bail laws need to be revamped with more involvement of the victim's concerns in the process. He urged the Committee to support the bill.

Susan Cottrell, representing herself, testified in support of the bill and remarked that this legislation is necessary because people who have been convicted of child molestation are getting out on bail. She stated that an incident occurred within her family, and the young man who committed the offense against two of her family members did not have to serve his time because he is in the appeals process. This happened three years ago and the situation has been extremely difficult for the victims and the entire family. She stated that dealing with this type of crime is difficult for children who have to speak to strangers and testify in court to get convictions. It becomes unbearable when convicted offenders are let out to prey on other children.

Julie Lind, representing herself, testified in support of the bill and remarked that she made the difficult decision this morning to come before the Committee in support of the bill. She stated that she was a victim of child abuse and was abused from the age of four to the age of fifteen. She opined that the bill contains minimal provisions for what should be happening to perpetrators of this particular crime. She commented that bail should reflect the seriousness of the crime, the vulnerability of the victim and the insult to society as well as the protection of the citizens of the State of Arizona. She opined that the \$1 million bond reflects this minimally. She stated that the electronic monitoring is not onerous and is minimal supervision as is the prohibition of approaching schools. She remarked that this bill is an attempt to address the protection of children. She urged the Committee to support the bill.

Senator Martin distributed handouts entitled "FindLaw Legal News and Commentary" and "The Daily Senator" (Attachments F and G) which contained articles with further information on this subject. He explained that the bill was brought to him by Chris Cottrell, and was legislation that he had written for his student legislature. He remarked that Legislative Council was unable to distribute two amendments that clean up language in the bill, by the 1:00 p.m. deadline. He stated

that with the permission of the Committee, he would offer them next week or offer them on the floor with any other adjustments that the Committee would like to see.

Senator Richardson announced that the S.B. 1202 and S.C.R. 1011 would be held.

Senator Richardson announced the following individuals were present in support of SB 1202: **Allie Bones, Systems Advocate, Arizona Coalition Against Domestic Violence; Steve Twist, representing himself; Chatham Kitz, Executive Director, Arizona Voice for Crime Victims; Chris Cottrell, representing herself; Karla Mayberry, representing herself; Angela Lewis, representing herself; Jerry Landau, Maricopa County Attorney's Office; Eric Edwards, Arizona Association of Chiefs of Police, Phoenix Police Department; Mark Faull, Lobbyist, Maricopa County Attorney's Office; Aubrey Thatcher, representing herself; Karin Warren, representing herself; Tracy Munsil, representing herself; Kaitlyn Weas, representing herself; Rodney Frith, representing himself; Terry Hoelscher, representing himself; Wayne Shippy, representing himself; Andrew Olson,, representing himself; Spencer Hoelscher, representing himself; Tricia Ford, representing herself; Nikki West, representing herself; Leigh Munsil, representing herself; Mark Weekley, representing himself; Patricia Christie, representing herself; Jared Thatcher, representing himself; Chanell Hallett, representing herself; Jane Phinney, representing herself; Sue Weas, representing herself; Patty Hafer, representing herself; Melanie Woodruff, representing herself; Steve Phinney, representing himself; Nancy Shippy, representing herself; Hahna Thatcher, representing herself; Richard Woodlands, representing himself; Eric Armenta, representing himself; Dean Hoelscher, representing himself; Diane Lilly, representing herself; Annie Cottrell, representing herself; Patricia Brown, representing herself; Elizabeth Phinney, representing herself; Patty Sepp, representing herself; Holly Craw, representing herself; Alex Bambulas, representing himself; Margaret Kulp, representing herself; John Lilly, representing himself; George Christie, representing himself; Justin Weas, representing himself; Keith Mayberry, representing himself; Nancy Fowler, representing herself; Stephanie Armenta, representing herself; Paul Christie, representing herself; Kristina Buss, representing herself; Kacy Smajstrla, representing selfher; Paz Luna, representing himself; Kylee Lowe, representing herself; Kim West, representing herself; Kristin Weas, representing herself; Will Munsil, representing himself; Kevin Buss, representing himself; Richard Woodlands, representing himself; Caleb Thatcher, representing himself; David Cottrell, representing himself; Naomi Shippy, representing herself; Betty Grill, representing herself; Trudy Woodlands, representing herself; Cheldon Hallett, representing himself; Patrick Thatcher, representing himself; Chris Cottrell, representing himself; Carol Frith, representing herself; Hannah Cottrell, representing herself; Ken Weas, representing himself; Sharon Carter, representing herself; Susan Weekley, representing herself; Christie Christie, representing herself; Bert West, representing himself; Soccorro Galusha-Luna, representing himself; Robert Cottrell, representing himself; Hallett Mark, representing himself; Wayne Warren, representing himself; Tyler Lewis, representing himself; Valerie Jones, representing herself; Ross Woodruff, representing herself; Harold Mallery, representing himself; Emily Thatcher, representing herself; Kristin Jones, representing herself; Nathaniel Christie, representing himself; Kim Nixon, representing herself; Shelley Olsen, representing herself; Lisa Partridge, representing herself; Paul Shippey, representing himself; Natalie Cottrell, representing self; Terry Kohuth, representing herself; Trent Lewis, representing himself; Diane Hallett, representing herself; Jan Tuning, representing herself; Kelly West, representing herself; Diana Alessi, representing herself; Jennifer Christie, representing herself; Garry Blackwell, representing himself; Mark Horne, representing self; Luz Luna,**

representing herself; Megan Weas, representing herself; Joshua Bamboulas, representing himself; Jessica Phinney, representing herself; Hannah Hoelscher, representing herself; Robyn Thatcher, representing herself; John Bambulas, representing himself; Barb Weber, representing herself; Garnet Mallery, representing himself; Kevin Lind, representing himself; Anna Christie, representing herself; Amy Blackwell, representing herself; Donna Durivage, representing herself; Susan Sellers, representing herself; Christine Horne, representing herself; Mike Nixon, representing himself; Jim Lewis, representing himself; Karla Mayberry, representing herself; Kelly Orrick, Assistant to the Chief of Police, City of Mesa Police Department.

Senator Richardson announced the following individuals were present in opposition of SB 1202: **Shannon Slattery, Legislative Relations Coordinator, Maricopa County Public Defender; Eleanor Eisenberg, Executive Director, Arizona Civil Liberties Union.**

S.C.R. 1011 - bailable offenses; prohibition - HELD

S.B. 1143 - jps pro tempore; hearing officers – DO PASS AMENDED

Ms. Rabin explained hearing officers are appointed by a superior court judge to preside voluntarily over small claims divisions. S.B. 1143 impacts hearing officers in three ways: first, hearing officers would receive preference in JP pro tempore appointments; second, hearing officers may be reimbursed for mileage expenses accrued while performing official duties; and third, hearing officers would have the authority to officiate over a marriage ceremony.

Mickey Dingott, Hearing, testified in support of the bill and distributed a handout including an administrative order regarding the appointment of hearing officers for the JP Courts in Maricopa County and an administrative order regarding appointments of JP pro tempores for justice courts in Maricopa County; a chart of small claims cases – hearing officer – judge counts (Attachment H). The majority of his testimony came from the handouts.

Senator Richardson announced **Tonia Tunnell, Government Affairs Manager, Arizona Association of Counties**, was present in opposition to the bill.

Ms. Hird explained the eight-line Richardson amendment dated 2/6/02, 11:13 a.m. would insert language stating that hearing officers who have served for ten or more continuous years of appointment would be given preference for the JP pro tempore appointments. The amendment would also add language that JPs pro tempore can perform marriage ceremonies.

Senator Bee moved S.B. 1143 be returned with a DO PASS recommendation.

Senator Bee moved the eight-line Richardson amendment dated 2/6/02, 11:13 a.m. be ADOPTED (Attachment I). The motion CARRIED by voice vote.

Senator Bee moved S.B. 1143 be returned with an AS AMENDED, DO PASS recommendation. The motion CARRIED with a roll call vote of 6-0-2 (Attachment 3).

S.B. 1164 - licensure; registration; applicants; fingerprint requirements – DO PASS

Lace Collins, Research Assistant Analyst, explained S.B. 1164 conforms several State agencies' fingerprinting provisions to current federal requirements and grants the Board of Chiropractic Examiners and the Structural Pest Control Commission statutory authority to conduct fingerprint criminal record checks. This legislation is needed in order for the Department of Public Safety to continue to access federal criminal records and contains an emergency measure.

Senator Richardson announced the following individuals were present in support of SB 1164: **Jack Confer, Executive Director, Arizona State Board of Optometry; Vista Brown, Legislative Liaison for the Arizona Department of Insurance; Michael Goldwater, Director, Registrar of Contractors (ROC); Mike T, Lobbyist, Arizona Department of Public Safety; Kevin McCullough, Assistant, Superintendent of Banks, State Banking Department; Dean Miller, Legislative Liaison, Arizona Corporation Commission; Patrice Pritzl, Executive Director, Chiropractic Board and Carl Martin, Structural Pest Control Commission.**

Senator Smith moved S.B. 1164 be returned with a DO PASS recommendation. The motion CARRIED with a roll call vote of 7-0-1 (Attachment 4).

S.B. 1337 - light rail safety; ADOT oversight – DO PASS

Sean Laux, Research Analyst, explained S.B. 1337 designates the Arizona Department of Transportation (ADOT) as the oversight agency to oversee safety of the light rail transit system in Maricopa County. Under this bill, ADOT would be required to establish, implement and enforce minimum safety standards for light rail systems in Maricopa County and extends absolute immunity to ADOT for this purpose. This legislation further requires ADOT to report light rail transit safety violations in writing to the Federal Transit Authority (FTA) and allows the Director the discretion to keep certain information related to the safety oversight of the light rail transit system confidential if, in consultation with the FTA. The bill also requires the light rail system's operator to include safety oversight in the operator's risk management and reimburse ADOT for administrative costs related to the safety oversight.

Mr. Laux explained the Aguirre amendment requires that the light rail system's operator pay for ADOT's administrative costs rather than annually reimburse the Department for the costs.

Senator Richardson announced the following individuals were present in support of SB 1337: **Ken Driggs, Executive Director, Regional Public Transportation Authority (RPTA), Maricopa County; Kevin Biesty, Legislative Liaison, ADOT; Jim Huling, Assistant to the City Manager, City of Mesa; Steve Olson, Government Relations Director, City of Scottsdale; Shannon Wilhelmsen, Government Relations Director, City of Tempe; Jay Kaprosy, Lobbyist, Greater Phoenix Chamber of Commerce; Norris Nordvold, City of Phoenix and Barry Dill, Lobbyist, City of Tucson.**

Senator Aguirre moved S.B. 1337 be returned with a DO PASS recommendation.

Senator Aguirre moved the three-line Aguirre amendment dated 2/7/02, 3:25 p.m. be ADOPTED (Attachment J). The motion CARRIED by voice vote.

Senator Aguirre moved S.B. 1337 be returned with an AS AMENDED, DO PASS recommendation. The motion CARRIED with a roll call vote of 6-0-2 (Attachment 5).

S.B. 1366 - watercraft; extreme intoxication – DO PASS

Ms. Collins explained SB 1366 creates the crime of operating a motorized watercraft while under the extreme influence of intoxicating liquor (known as OUI) for persons with an alcohol concentration level of .15 or greater. This legislation contains the same penalties as imposed under current extreme DUI laws.

Senator Richardson announced that the bill sponsor, Senator Guenther was unable to be present but asked for the Committee's support on the bill.

Senator Richardson announced the following individuals were present in support of SB 1366: **Tonia Tunnell, Government Affairs Manager, Arizona Association of Counties and Jerry Landau, Maricopa County Attorney's Office.**

Senator Bee moved S.B. 1366 be returned with a DO PASS recommendation. The motion CARRIED with a roll call vote of 5-0-3 (Attachment 6).

Without objection, the meeting was adjourned at 4:05 p.m.

Respectfully submitted,

Tracey Moulton
Committee Secretary

(Tapes and attachments on file in the Secretary of the Senate's Office/Resource Center, Room 115.)