

ARIZONA STATE SENATE

46TH LEGISLATURE FIRST REGULAR SESSION

MINUTES OF COMMITTEE ON JUDICIARY

DATE: January 29, 2003 **TIME:** 8:30 a.m. **ROOM:** SHR 1

CHAIRMAN: Senator Weiers **VICE CHAIRMAN:** Senator Verschoor

ANALYST: David Lujan **INTERN:** Michelle Morales

ASSISTANT ANALYST: Lace Collins **COMMITTEE SECRETARY:** Carol Dager

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 1044	HELD
Senator Bee	X			SB 1046	DISCUSSION/HELD
Senator Binder	X			SB 1053	DPA
Senator Brotherton	X			SB 1057	DPA
Senator Jarrett	X			SB 1059	DPA
Senator Miranda	X			SB 1063	DP
Senator Rios	X			SB 1075	DP
Senator Verschoor, Vice Chairman	X			SB 1076	HELD
Senator Weiers, Chairman	X				

GOVERNOR'S APPOINTMENTS

<u>Name</u>	<u>Position</u>	<u>Recommendation</u>
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Chairman Weiers called the meeting to order at 8:33 a.m., and attendance was noted.

Senator Weiers announced that he would be holding SB 1044 at the request of the Governor's office and SB 1076 at the request of the sponsor.

SB 1044 – blood alcohol concentration regulation; DPS – HELD

SB 1076 – background checks; gun shows - HELD

APPROVAL OF MINUTES

**Senator Weiers moved the minutes of January 22, 2003 be approved.
Without objection, the minutes were approved as distributed.**

Senator Brotherton asked that the amended copy of the Committee Rules be distributed to the members.

CONSIDERATION OF BILLS

SB 1059 – trespass; critical public service facilities – DO PASS AMENDED

David Lujan, Judiciary Committee Research Analyst, explained that SB 1059 prohibits knowingly entering or remaining unlawfully in a critical public service facility and classifies the crime as a class 5 felony.

Senator Binder asked if the bill pertained to the utility company workers entering a person's backyard. Mr. Lujan replied that it would not; this bill only refers to trespassing on property at a critical public service facility.

Senator Tibshraeny, sponsor of the bill, noted that this bill is similar to the legislation passed last year by Congress - the Uniting and Strengthening America by Providing Appropriate Tools Required to Intercept and Obstruct Terrorism (USA PATRIOT) Act. Last year, Arizona's Legislature also passed SB 1427, the Security Enhancement Act. He pointed out that SB 1059 deters and enhances penalties for those who would commit acts of terrorism on critical public service facilities. Current statutes do not provide appropriate penalties for those who enter critical public service facilities with the intent to do harm. The most stringent sentence that can be imposed is a Class 1 misdemeanor. This bill is essential to maintain the safety and security of the critical public service facilities. It is a preventative measure that protects citizens from people who would do harm to these facilities or the public through the introduction of biological or chemical agents.

Eric Edwards, Arizona Association of Chiefs of Police and Phoenix Police Department, provided additional information responding to Senator Binder's question, noting the bill limits the critical public service facilities to structures or fenced yards. He also pointed out that the bill requires that the person knowingly enters or remains unlawfully on property. He suggested that if someone really wanted to harm society, these are the areas they would attack.

In response to Senator Verschoor's question, Mr. Edwards pointed out that if an upset customer goes into a fenced structure and is not given notice that they are trespassing, they have not committed a

crime. It would require the security guard to put them on notice and give them a reasonable opportunity to leave.

Senator Brotherton referred to his amendment that changes the Class 5 felony to a Class 6 felony and asked if Mr. Edwards supported that amendment. Mr. Edwards replied that he does support the amendment.

In response to Senator Verschoor, Mr. Edward noted that a Class 6 felony can be plead down to a misdemeanor.

Barb Dolan, Legislative Associate, League of Arizona Cities and Towns, pointed out the mayors of Arizona's 87 cities and towns have designated this bill as a legislative priority. She explained that his bill originally started as increasing the penalties for trespassing on municipal drinking water facilities. However, after consulting with the Chiefs of Police, they had determined that there was much more critical public infrastructure that needed to be addressed.

Senator Brotherton asked for clarification as to whether there could be an undetermined fiscal impact to the budget. Mr. Lujan replied that if there was an increase in prosecutions under this bill, there would be a fiscal impact.

Senator Verschoor moved SB 1059 be returned with a DO PASS recommendation.

Senator Brotherton moved his four-line amendment dated 01/28/03, 1:42 p.m. be ADOPTED. The motion CARRIED by voice vote. (Attachment A)

Senator Verschoor moved SB 1059 be returned with an AS AMENDED, DO PASS recommendation. The motion CARRIED with a roll call vote of 9-0-0. (Attachment 1)

SB 1063 – wildfires; fire bans; criminal penalties – DO PASS

Michelle Morales, Judiciary Committee Research Intern, explained that SB 1063 increases criminal penalties for causing wildland fires

Senator Verschoor moved SB 1063 be returned with a DO PASS recommendation. The motion CARRIED with a roll call vote of 9-0-0. (Attachment 2)

SB 1053 – victims of trafficking; task force – DO PASS AMENDED

Lace Collins, Judiciary Committee Assistant Research Analyst, explained that SB 1053 establishes a Trafficking Victims' Task Force and prescribes its membership and duties. She also explained the Binder five-line amendment dated 01/28/03 at 8:43 a.m.

Diane Post, Attorney, Arizona Coalition Against Domestic Violence, distributed a handout (Attachment B) that she wrote and distributed to 44 other states. She provided an overview of what sexual assault and domestic violence service providers need to know about sex trafficking. She pointed out that approximately 50,000 women are trafficked into the United States annually for prostitution and other sexual exploitation. Half of that group are girls under the age of 18. Recently, there have been several police raids of these trafficking rings, in Florida, Dallas, and Denver. In all three cities, most of the girls were under 18 and primarily from Mexico, Central and South America.

Ms. Post noted that most of these girls were trafficked through bridal agencies. She noted that many girls were trafficked from the Midwest to the coastal cities, explaining that the trafficking includes American girls as well.

Ms. Post noted that in March, there will be a training course in Tucson on trafficking for border agents, customs, Immigration and Naturalization Service (INS), and police. In Phoenix, there is a problem of trafficking Asian women to work in massage parlors. She urged the Committee members to approve this bill.

Senator Binder indicated that this is a violent problem that most people do not think about; however, she feels that the State should become proactive in working on this issue. She reiterated that it is not only women being brought into the United States (US) from other countries, but it is happening to young girls in our country.

Senator Rios asked if the women are deported after a raid has occurred. Ms. Post replied that the US trafficking law has a maximum of 5,000 visas a year for victims of trafficking. The women have to apply for a visa to stay in the country.

Senator Verschoor moved SB 1053 be returned with a DO PASS recommendation.

Senator Binder moved her five-line amendment dated 01/28/03, 8:43 a.m. be ADOPTED. The motion CARRIED by voice vote. (Attachment C)

Senator Verschoor moved SB 1053 be returned with an AS AMENDED, DO PASS recommendation. The motion CARRIED with a roll call vote of 9-0-0. (Attachment 3)

SB 1057 – auto theft; manipulation keys – DO PASS AMENDED

Ms. Morales explained that SB 1057 adds “manipulation keys” to the list of burglary tools that are illegal to buy, sell, transfer or possess. She also explained three amendments to the bill: 1) Weiers 10-line amendment dated 01/28/03 at 2:45 p.m.; 2) Weiers 7-line amendment dated 01/28/03 at 3:58 p.m.; and 3) Rios two-line amendment dated 01/28/03 at 1:03 p.m.

Eric Edwards, Arizona Association of Chiefs of Police and Phoenix Police Department, testified that Arizona is number one in the country for auto thefts, which illustrates the need for this bill. He pointed out that more often people are using a homemade device that can be used to enter many different vehicles and start the transmission. There also is a market for selling master keys for several types of vehicles. These master keys are available on the Internet.

Senator Verschoor asked if anyone can buy these master keys. Mr. Edwards replied that anyone can buy the keys. The website does have the normal disclaimer not to use the keys for illegal purposes. Senator Verschoor inquired as to whether there is a penalty for purchasing or selling these keys. Mr. Edwards responded that he feels the bill does cover that issue and that law enforcement would be able to go after the seller if they knew the purchaser was using them as a burglary tool. However, it would be difficult to prosecute the seller on the website who has the disclaimer.

Senator Rios asked Mr. Edwards if he had any problem with his amendment. Mr. Edwards replied that they are supportive of all three of the amendments.

In response to Senator Brotherton's question, Mr. Edwards replied that there could be an undetermined fiscal impact to the budget depending on the number of persons incarcerated.

Senator Jarrett moved SB 1057 be returned with a DO PASS recommendation.

Senator Jarrett moved the Weiers 10-line amendment dated 01/28/03, 2:45 p.m. be ADOPTED. The motion CARRIED by voice vote. (Attachment D)

Senator Jarrett moved the Weiers 7-line amendment dated 01/28/03, 3:58 p.m. be ADOPTED. The motion CARRIED by voice vote. (Attachment E)

Senator Jarrett moved the Rios two-line amendment dated 01/28/03, 1:03 p.m. be ADOPTED. The motion CARRIED by voice vote. (Attachment F)

Senator Jarrett moved SB 1057 be returned with an AS AMENDED, DO PASS recommendation. The motion CARRIED with a roll call vote of 9-0-0. (Attachment 4)

SB 1075 – election reform; federal monies; fund – DO PASS

Ms. Morales explained that SB 1075 is an emergency measure that creates the elections systems improvement fund (ESI fund), which shall be used to implement the Help America Vote Act (HAVA).

Kevin Tyne, Assistant Secretary of State, Secretary of State's Office, pointed out that if this funding mechanism is not in place when the federal money is distributed, Arizona could be passed over. If federal funding is not appropriated to cover the cost of the HAVA, the monies would be distributed on a first-come, first-served basis.

Senator Jarrett moved SB 1075 be returned with a DO PASS recommendation. The motion CARRIED with a roll call vote of 9-0-0. (Attachment 5)

SB 1046 – election law amendments – DISCUSSION/HELD

Mr. Lujan explained that SB 1046 makes various revisions to election law statutes.

Senator Binder asked about how a signature is removed from a petition. **Karen Osborne, Elections Director, Maricopa County Elections**, replied that they have always permitted signatures to be removed from petitions. There is a procedure in law for how to do that. Last year, people submitted a number of notarized documents asking that their signatures be removed from a specific petition. There was no stop date as to when the Elections Department no longer would allow signatures to be removed from the petitions.

Senator Weiers clarified that there is a stop date as to when a candidate submits a petition, but no stop date on the challenge of removal of signatures.

Senator Brotherton suggested that the stop date is the filing deadline. Ms. Osborne replied that they did not have specific directions in the law. Senator Brotherton asked if a candidate files a week early, no one can remove signatures after the petition has been filed. Ms. Osborne responded that is the intent of the bill. Senator Brotherton wondered how a candidate would learn that people had submitted a request to remove their signature from their petition. Ms. Osborne answered that it would

be in their best interest to tell the candidate because the petition would be short the required signatures, and the petition would not be accepted.

Senator Miranda asked if the request to remove signatures from a petition could be mailed. Ms. Osborne indicated that a person can remove a signature by: 1) verifying the withdrawal by signing a simple statement of intent to withdraw at the office of the receiving officer; 2) mailing a signed, notarized statement of intent to withdraw to the receiving officer; or 3) drawing a line through the signature and printed name on the petition. It is important to note that whatever method is used, it must be done by five o'clock on the day the petition is filed.

Senator Weiers inquired as to whether the Elections Department would use the postmark date rather than the actual delivery date. Ms. Osborne replied no.

Senator Brotherton asked what the authority was for removing a signature from a petition. Ms. Osborne replied that case law dictated the authority. She indicated that she believes a person could pull their signature up until the time a candidate files.

Senator Aguirre pointed out that many candidates file a petition and later file an amended petition and wondered how this bill would affect the amended petition. Ms. Osborne replied that this bill only refers to the original petition.

Senator Jarrett questioned moving the write-in candidates' deadline to the 40th day from the 14th day prior to the election. **Tonia Tunnell, Government Affairs Manager, Arizona Association of Counties**, replied that currently there are a growing number of people asking for early ballots, which are sent out 33 days before the election. Many of the voters are receiving an early ballot prior to the write-in candidates filing. She indicated that they felt by moving the write-in candidates' deadline to the 40th day, the early voters would have an opportunity to vote for them. There is a separate statute that provides for death, vacancy, or withdrawal to allow another candidate's name on the ballot.

Senator Rios asked if there is an issue with prohibiting compensation for people registering voters. Ms. Tunnell replied that in the last election cycle, there was a growing number of people that were paying individuals for each voter registration form completed, which can lead to voter fraud. Senator Rios suggested that there already are penalties for voter fraud. He indicated that he would not want to discourage any party from registering voters. He pointed out that the tribes paid the circulators when they launched their initiative on Proposition 202, and also paid for registering people.

REQUEST TO SPEAK

Attached is the information registered on the Request to Speak System (Attachment G).

There being no further business, the meeting was adjourned at 9:28 a.m.

Respectfully submitted,

Carol Dager
Committee Secretary

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