

# ARIZONA STATE SENATE

46TH LEGISLATURE  
FIRST REGULAR SESSION

## MINUTES OF COMMITTEE ON JUDICIARY

**DATE:** February 5, 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

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## ATTENDANCE

## BILLS

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### Committee Members

	<u>Pr</u>	<u>Ab</u>	<u>Ex</u>	<u>Bill Number</u>	<u>Disposition</u>
Senator Aguirre	X			SB 1021	DP
Senator Bee	X			SB 1024	DPA
Senator Binder	X			SB 1044	DPA
Senator Brotherton	X			SB 1098	HELD
Senator Jarrett	X			SB 1100	HELD
Senator Miranda	X			SB 1101	DISCUSSION/HELD
Senator Rios	X			SB 1104	DP
Senator Verschoor, Vice Chairman	X			SB 1135	DPA
Senator Weiers, Chairman	X			SB 1143	NOT HEARD
				SB 1144	HELD
				SB 1158	DP
				SCR 1001	HELD

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## GOVERNOR'S APPOINTMENTS

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### Name

### Position

### Recommendation

Chairman Weiers called the meeting to order at 8:43 a.m., and attendance was taken.

## **APPROVAL OF MINUTES**

**Senator Weiers moved the minutes of January 29, 2003 be approved. Without objection, the minutes were approved as distributed.**

## **CONSIDERATION OF BILLS**

### **SB 1158 – campus sex crimes prevention – DO PASS**

**Michelle Morales, Judiciary Committee Research Intern**, explained that SB 1158 provides for the tracking of convicted, registered sex offenders working, volunteering or enrolled as students at institutions of higher education.

**Senator Martin, sponsor of the bill**, pointed out that under the federal privacy rules when Megan's law passed, it applied to every community except campuses. This law was brought forth because of an incident at Arizona State University (ASU) and has been passed in eight other states.

**Senator Verschoor moved SB 1158 be returned with a DO PASS recommendation. The motion CARRIED with a roll call vote of 9-0-0. (Attachment 1)**

Senator Weiers announced the individuals who registered their position on the bill (Attachment A).

### **SB 1135 – hit and run accidents – DO PASS AMENDED**

Ms. Morales explained that SB 1135 prescribes specific penalties for drivers convicted of a hit and run in which it is proven beyond reasonable doubt that the driver had alcohol and/or drugs in his/her system at the time of the accident. This law, if enacted, will be known as Jessica's Law in remembrance of the death of ASU freshman, Jessica Woodin. Ms. Morales also explained two amendments: 1) Weiers three-line amendment dated 01/31/03 at 2:38 p.m., and 2) Brotherton six-line amendment dated 2/4/03 at 11:43 a.m.

Senator Brotherton clarified that the bill does not apply if no injury or death occurs and questioned what level of injury would apply. Ms. Morales indicated that the bill does not specify. She also noted the bill stipulates "if the person under the influence caused the accident." Senator Brotherton stated that currently if individuals refuse to submit to a blood alcohol test, their license is suspended; however, this bill would make it a criminal offense. He wondered if there were any constitutional concerns making this a criminal offense when individuals fail to give evidence against themselves considering Article 2, Section 10 of the Arizona Constitution. Mr. Lujan replied that if there are any constitutional concerns, they would be addressed in the Rules Committee.

**Eleanor Eisenberg, Executive Director, Arizona Civil Liberties Union**, testified that this bill does raise constitutional issues regarding incriminating oneself. She indicated that she also has a problem if there were any signs of liquor or drugs on a person that do not rise to the legal limit in which someone is impaired. If they are not impaired, there is a lack of connection between the accident and the liquor or drugs. She pointed out that currently if a person refuses to give a sample for a test, the officer would have to obtain a warrant. That stipulation is missing in this bill and would be necessary in order to comply with the Constitution.

**Senator Mead, sponsor of the bill**, noted that the Weiers amendment is a good step because it is including alcohol that is contained in candy or food. He suggested that they also should add a statement regarding wine from a religious communion. He pointed out the purpose of the bill stems from the accident in Tempe involving a freshman from ASU. This bill is attempting to keep people from leaving the scene of an accident. If a person stays with an accident, this bill would not go into affect. This bill would trigger when a person makes the choice to leave the scene. Seven years ago, Arizona tried to strengthen its hit and run statutes by reclassifying the offenses, making it a Class 3 or 4 offense. However, it is not working because hit and run situations are still occurring. He maintained that it does not matter if the person caused the accident, but if they leave the scene, the bill would go into affect.

In response to Senator Brotherton, Senator Mead replied that if the person leaves the scene whether they have caused the accident or not, the bill would go into affect.

In response to Senator Rios' question regarding the current law on what the blood alcohol level is considered for impairment, Senator Mead indicated that the bill would only go into affect if the driver leaves the scene of the accident because they take evidence with them.

Senator Brotherton asked if this bill was in place, how would it have changed the Woodin case. Senator Mead replied that if the driver knew this law was in placed, perhaps he would not have left the scene. In response to Senator Brotherton's question, Senator Weiers indicated that he does not believe a person has to be an attorney to know that they will not be as drunk the next day. Senator Brotherton noted that people leave the scene of the accident for various reasons and is concerned about the level of punishment in this bill.

**Jerry Landau, Lobbyist, Maricopa County Attorney's Office**, testified that they support the bill. He suggested that the bill does not force the defendant to give a test nor does it criminalize a refusal. Current law states that if an officer has probable cause that a person is driving under the influence (DUI) and a sample is taken, the officer can obtain that sample. This bill suggests there will be zero tolerance for alcohol and illegal drugs. This bill stipulates that if a person is involved in an injury or fatal collision, has alcohol or drugs in his system, and leaves the injured person unattended, there will be mandatory prison. He pointed out that over the years, they have been successful in combating the DUI problem; however, they have not been as fortunate in the hit and run cases. He noted that last year, there were 48 hit and run accidents in Maricopa County and 30 additional cases where the driver was charged with homicide after leaving the scene of the accident. He suggested that it would be difficult to prove in court that a person did have alcohol or drugs in their system when they left the scene. He mentioned that he has had requests from citizens who want people who leave the scene of a fatal accident to be charged with manslaughter.

Senator Weiers added that a person who leaves the scene of an accident has something to hide and they should not get away with it.

Senator Miranda asked about what reasons are given as to why a person flees the scene. Mr. Landau replied that the driver may have alcohol or drugs in their system, they may have a warrant out on them, or they could be scared. Senator Miranda wondered how many hit and run drivers had an excuse for fleeing other than alcohol or drugs. Mr. Landau indicated that he does not have that information. He noted that they only see the injury and fatal accidents.

In response to Senator Brotherton's question, Mr. Landau stressed that the law has always required that a driver remain at the scene of an accident; there are no laws indicating that a person must

remain at the scene of an aggravated assault. Senator Brotherton stated that he understands that whether the driver is at fault or not, if they leave the scene and have had any amount of alcohol, they would be faced with mandatory prison time. Mr. Landau responded that the hit and run laws have always applied whether the driver caused the accident or not. Senator Brotherton indicated that if the driver did not cause an accident, it is a Class 4 felony; if they did cause the accident, it is a Class 3 felony. Mr. Landau replied that is correct for a serious injury accident; for a nonserious injury accident, it is a Class 6. Mr. Landau emphasized that when a person leaves the scene of an injury accident, it is a callous act.

In response to Senator Brotherton's question, Mr. Landau replied that the bill would not apply if the person has used a prescription drug. Senator Brotherton inquired as to what the difference is if a person is impaired on alcohol or a prescription drug. Mr. Landau replied that they do not want to write laws that would dissuade someone from taking prescriptions.

Senator Rios asked how it can be proven that a person has any alcohol in their system. Mr. Landau replied that the person would have to be caught shortly after the accident for a blood alcohol test to show traces of alcohol in the system. Another way attorneys have proven that a driver was drinking was to gather records from bars.

Senator Brotherton noted that the hit and run driver in the Woodin case did go to prison for eight or nine years, so he does not feel that this bill is needed.

Senator Jarrett explained that often when there is a mandatory situation, there may be some unintended consequences.

Senator Rios indicated that he does not feel this is good policy because current law stipulates that blood alcohol level is 0.08 for a DUI and this bill would send a person to prison for having less than that in their system.

**Senator Verschoor moved SB 1135 be returned with a DO PASS recommendation.**

**Senator Verschoor moved the Brotherton six-line amendment dated 2/4/03, 11:43 a.m. be ADOPTED. The motion CARRIED by voice vote. (Attachment B)**

**Senator Verschoor moved the Weiers three-line amendment dated 1/31/03, 2:38 p.m. be ADOPTED. The motion CARRIED by voice vote. (Attachment C)**

**Senator Verschoor moved SB 1135 be returned with an AS AMENDED, DO PASS recommendation. The motion CARRIED with a roll call vote of 5-4-0. (Attachment 2)**

Senator Weiers announced the individuals who registered their position on the bill (Attachment A).

### **SB 1104 – payment of wages; immigration status – DO PASS**

Ms. Morales explained that SB 1104 requires employers to pay employees due wages regardless of their immigration status.

**Senator Chevront, sponsor of the bill**, pointed out that this bill states that if someone hires a person to work for them, the employer must pay the individual. This provides recourse for employees who are exploited by employers and not paid fair wages.

Senator Weiers announced the individuals who registered their position on the bill (Attachment A).

**Senator Verschoor moved SB 1104 be returned with a DO PASS recommendation. The motion CARRIED with a roll call vote of 9-0-0. (Attachment 3)**

Senator Weiers announced he would be holding SB 1100, SB 1101, SB 1144, and SCR 1001.

**SB 1100 – limitations; privilege; expert witnesses – HELD**

**SB 1144 – fingerprint clearance cards – HELD**

**SCR 1001 – legislature; ineligibility for office; repeal – HELD**

**SB 1101 – medical malpractice actions; elder abuse – DISCUSSION/HELD**

**Lace Collins, Judiciary Committee Research Assistant Analyst**, explained that SB 1101 prohibits a medical malpractice action from being brought against a licensed healthcare provider based on the Adult Protective Services Act (APSA) provisions. In response to Senator Brotherton, Ms. Collins noted that APSA allows an incapacitated or vulnerable adult whose life or health is or has been endangered by neglect, abuse or exploitation to bring an action against a person or enterprise providing care.

**Bill Jones, Attorney and Chairman, Committee on Health and Insurance, Chamber of Commerce**, noted that the courts have decided that the medical malpractice cases that previously were only brought under the 1976 Medical Malpractice Reform Act (MMRA) can now be brought under the APSA statute and the MMRA. If a healthcare professional is providing care within their licensure, they should be sued under the MMRA, which differs significantly from the APSA statute. He suggested some people would say that if an elderly person is raped by a nurse while residing in a nursing home, they could no longer be sued under the APSA. He stressed that is not true because the rape would be outside the nurse's licensure. He mentioned that attorneys are seeing a tremendous amount of frivolous lawsuits filed under MMRA, with well over 90% of the MMRA cases won by the defense and a significant number voluntarily dismissed.

In response to Senator Brotherton's questions, Mr. Jones stated that cases won by the plaintiff are not necessarily frivolous. He explained that he is not aware of any sanctions being placed because of a frivolous case; however, he believes the judiciary system is lax in that area. He said that his sense is that the potential for excess exposure created by the rights under APSA has caused additional monies to be paid in settlements of lawsuits. He suggested that there will be no affect on a doctor's malpractice insurance premium if this bill passes. The rising costs for nursing homes is driven by reimbursements from Medicare, Arizona Health Care Cost Containment System (AHCCCS), and Health Maintenance Organizations (HMOs).

Senator Cannell provided a perspective from a physician's point of view, noting that there are doctors who are unable to practice any longer because of the high cost of malpractice insurance. He maintained that it is just a matter of time before there are significant troubles with the trauma centers,

emergency rooms, and rural healthcare. He indicated that he was informed by the Mutual Insurance Company of Arizona (MICA) that the APSA will impact the cost of malpractice insurance. He pointed out that the vast majority of doctors are good. He suggested that most malpractice cases were not true malpractice. However, the trial attorneys try to intimidate the doctors, threatening to sue for more than the limits of the malpractice insurance. He related a story regarding a malpractice suit brought against him where he was not guilty but it took one and one-half years for MICA to resolve the issue in his favor. He mentioned that many doctors do not want to put their entire savings in jeopardy and are leaving medicine to ward off any potential of a frivolous lawsuit. He emphasized that this bill would be a beginning to deal with the malpractice issue.

In response to Senator Brotherton, Senator Cannell admitted that there are some bad doctors and most are not given hospital privileges. He pointed out that the Board of Medical Examiners (BOMEX) has become very effective in regulating the doctors. He suggested that the entire malpractice insurance system should be changed to ensure the true victims receive deserved monies for their injuries. Medical care is not improved by malpractice insurance, rather malpractice insurance is making medical care worse, as doctors are ordering unnecessary tests in order to protect themselves.

**Michael Johnson, representing himself**, testified that he was the plaintiff in the first case to be tried under APSA. He indicated that he opposes the bill, explaining his reason is based on his personal situation regarding his father's abusive care in a nursing home.

Senator Binder asked why Mr. Johnson did not remove his father from the nursing home when he first noticed the abuse happening. Mr. Johnson replied that his stepmother had the medical power of attorney and the nursing home personnel were telling her that the patient was receiving good care. However, he indicated that his father was compromised.

Senator Weiers explained that this bill would allow a patient or his family to file a lawsuit under APSA or MMRA, but not under both.

**Don Isaacson, Arizona Association of Homes and Housing for the Aging**, indicated that this association is a group of nonprofit housing and senior facilities. He commented that this bill addresses the issue of liability and restores balance. He stated that he has not heard that the malpractice laws were insufficient that this additional level of exposure is necessary. The basis of APSA is where medical malpractice actions stop, then APSA would pick up. APSA and MMRA would not overlap. Medical malpractice is the failure to provide good medical care.

In response to Senator Jarrett's question, Mr. Isaacson replied that there were no patients sitting on the committee that drafted this bill. Senator Binder noted that her husband, who is a doctor and was a patient two years ago with many adverse conditions resulting from surgery, was a member of the committee and could bring both perspectives to the discussion. Senator Jarrett suggested that she would have liked to have a patient who was abused sitting on the committee.

Mr. Isaacson pointed out that overall insurance premiums are increasing at a dramatic rate due to insurers unfair share of loss ratios and the unpredictability of future losses. Additionally, the Arizona skilled nursing home market is somewhere in the middle statistically of the national crisis and is not as grave as the most troubled states. The committee is not aware of any national insurer that has listed Arizona as a state in which they will not write. Some insurers have expressed concern about Arizona's elder abuse statutes and its strict liability doctrine. Mr. Isaacson suggested that the goal is to restore balance where there is accountability (civil and criminal) for any misconduct that occurs.

He noted that this bill: 1) takes away double exposure for healthcare providers; 2) changes the dynamics of the statute of limitations; 3) changes the type of damages that can be collected; and 4) does not allow collateral source of payments.

In response to Senator Brotherton, Mr. Isaacson replied that he feels this bill would have a positive impact on insurance rates, which may not lead to lower rates. However, it will reduce the number of frivolous lawsuits and limit exposure insurance carriers face. Part of the insurance difficulties in Arizona stem from the civil liability system. He indicated that the increased cost of nursing homes is liability insurance and would welcome oversight of insurance rates.

**Micheal Wright, Attorney, Arizona Trial Lawyers Association**, testified that elder abuse cases have arisen from a small percentage of nursing homes. He suggested that this bill would effectively repeal the elder abuse statute, because the bill states that any licensed professional would be immune from suit for elder abuse. The elder abuse statute already has provisions that correct the problems proposed in this bill. He pointed out that the primary difference between a medical malpractice action and the elder abuse action. In an elder abuse action, the pain and suffering of the victim survives the death of the victim and the estate can bring a claim. In a malpractice action, if the patient dies before trial, the action is thrown out. The family of an abused elder cannot afford to invest in the high cost of litigation if the patient will die before trial. APSA was passed to allow families to sue for pain and suffering.

Senator Brotherton asked why the family is unable to sue after the patient dies. Mr. Wright replied that under MMRA, the victim's claim for personal injury expires with death. A survivor can sue for wrongful death only if the patient's death was caused by abuse or neglect. If a patient suffers for months with tremendous pain from bed sores and then dies of natural causes, the family is not able to sue under the MMRA. He stated that the elder abuse statute is a medical malpractice action, which provides broader remedies. He pointed out that since APSA was passed 12 years ago, the problems have not gone away. Administrators at the high-quality nursing homes want to clean up the industry. He indicated that the best incentive to provide good care is the threat of a lawsuit. He suggested that the ability to sue for abuse and neglect saves taxpayers money. By deterring poor care and abuse, patients are spared injury and the State is spared the expense of providing treatment for those injuries. The ability to sue is a source of revenue for the State because when a case is settled, AHCCCS has a right to reimbursement for monies spent on treatments. He quoted a motto from the Agency on Aging: "Elder abuse hurts us all. It hurts us financially in the burden that it places on the healthcare system. It hurts us morally in the emotional wounds and the shame that it inflicts on our society. And if allowed to persist, it will hurt us as we grow older and have to depend on caregivers." The mark of a truly civilized society is the way it takes care of its most vulnerable citizens. Repealing the elder abuse statute would be poor economics and morally wrong.

Senator Verschoor stated that the intent of the bill is not to repeal the elder abuse laws and asked where there could be a compromise. Mr. Wright replied that the language of APSA does not refer only to doctors, it refers to any licensed professional, which in effect is a repeal of ARS 46-455. He suggested that the doctors could be outside the elder abuse statute. It is very seldom that doctors are being sued for elder abuse except for the Arizona Long-Term Care System (ALTCS) doctors.

**Barry Halpern, Attorney, Arizona Medical Association (AMA)**, commented that ARS 12-561 is the operative law governing medical negligence actions, which states that physicians and healthcare providers licensed by the State will be governed by standards of care and measured by what would be reasonable under the circumstances they face. The law requires a competent expert to testify in a medical malpractice case and the law is flexible to give relief to any injury sustained as a result of

medical negligence. The idea that there was a gap in MMRA prior to the APSA is incorrect. This bill changes the statute of limitations, does away with the requirement of competent experts on medical negligence, and imposes punitive damages and open-ended liability. The suggestion that if the MMRA is not supplemented by APSA, there will no longer be any wrongful death lawsuits is not true. He stated that the effect of the statute as it has been overlaid into the medical malpractice arena is devastating. Lawsuits involving questions of medical competence are now burdened with additional claims of vulnerable adult law violations. The cost of defending these lawsuits has gone up monumentally because an attorney needs to be defending on two fronts. This cost is a direct and profound affect on rates and availability of insurance. Most importantly, this bill is horribly demoralizing to the medical profession, which is already under siege. The overlay of these two unrelated statutes creates burden, confusion, and expense to the judiciary system and the public. He added that the Area Agency on Aging supports this bill.

**Marcia Asbury, representing herself**, related a personal story regarding her mother who was a care facility resident for three and one-half years. Her death was due to neglect. She testified that without informing the family, the attending physician stopped medications, which progressed her mother's disease. She emphasized that the care facility should be held accountable for her mother's death.

Senator Weiers announced the individuals who registered their position on the bill (Attachment A). He also noted a letter received from Bonnie Lundquist (Attachment D).

Senator Weiers announced that he would be holding SB 1098.

#### **SB 1098 – domestic violence; privileged communications; training – HELD**

#### **SB 1021 – elected office vacancy; election – DO PASS**

**David Lujan, Judiciary Committee Research Analyst**, explained that SB 1021 allows a person elected to fill the remainder of an unexpired four-year term of a state or county office to take the oath of office and begin service within 90 days.

Senator Weiers expounded on the bill and noted that this bill primarily affects legislators.

**Senator Verschoor moved SB 1021 be returned with a DO PASS recommendation. The motion CARRIED with a roll call vote of 9-0-0. (Attachment 4)**

#### **SB 1024 – JPs; qualifications; productivity credits – DO PASS AMENDED**

Ms. Morales explained that SB 1024 increases the training and education necessary to serve as a justice of the peace (JP) and revises the formula for calculating judicial productivity credits (JPCs) used to determine a JP's salary. She also explained the Jarrett seven-line amendment dated 1/30/03 at 11:06 a.m. (Attachment E) and the Rios two-line amendment dated 1/20/03 at 1:19 a.m.

Upon Senator Rios questioning the action of the Jarrett amendment, Senator Jarrett agreed not to offer her amendment.

**Eleanor Eisenberg, Executive Director, ACLU**, testified that she does oppose the bill and that unqualified JPs do a lot of damage. Many complaints come through their office.

**Richard Tracy, Attorney**, stated that when he worked for the Arizona Supreme Court for one year, he was amazed that ten years after adopting the Modern Courts Amendment that Arizona had not

initiated that amendment. In addition, Arizona was approximately 30 years behind in many of their case laws. The national trend was to have JPs with a law degree, be in good standing with the bar, and be a resident for five years. Arizona did not follow that trend. He alleged that Arizona has not moved ahead since 1960. The Legislature passes many laws each year and the JPs are supposed to know these laws. He pointed out that many of the JPs are not attorneys and stated that "this is not justice." He distributed a handout (Attachment F) consisting of several news articles on the topic. He referred to Section 6, Article 22, of the Arizona Constitution that requires a JP have a law degree if handling more than \$1,000 in cases. He stressed that the courts are underfunded and have "more chiefs than Indians." He suggested that the method of appointing judges is the root of the problem.

Senator Weiers noted that this bill does not state that a JP must be a licensed attorney; however, it does raise the level of qualifications needed.

Senator Bee referred to the blanks on page one of the bill and asked when they would be filled in. Senator Jarrett responded that the information not completed in the bill is already in statute and the blanks will be filled in by staff.

**Senator Verschoor moved SB 1024 be returned with a DO PASS recommendation.**

**Senator Rios moved his two-line amendment dated 1/20/03 at 1:19 p.m. be ADOPTED. The motion CARRIED by voice vote. (Attachment G)**

**Senator Verschoor moved SB 1024 be returned with an AS AMENDED, DO PASS recommendation. The motion CARRIED with a roll call vote of 8-1-0. (Attachment 5)**

### **SB 1044 – blood alcohol concentration regulation; DPS – DO PASS AMENDED**

Ms. Morales explained that SB 1044 transfers, from the Department of Health Services (DHS) to the Department of Public Safety (DPS), regulation authority over law enforcement's breath testing used to determine a person's blood alcohol concentration. She also explained two amendments: 1) Rios two-line amendment dated 2/4/03 at 1:18 p.m. and 2) Binder two-page amendment dated 1/28/03 at 9:58 a.m.

Senator Binder noted that most states have the function of regulating blood, breath, and alcohol testing under their state crime laboratory or an equivalent agency. The criminal justice community and DHS feels this function will be best serviced by a criminal justice agency rather than their department.

Senator Weiers stated that he understands that DHS no longer wants to do this duty and DPS has agreed to take on the task.

**Jack Lane, Lieutenant, DPS**, testified that after various meetings with DHS and the criminal justice community, it was determined that DPS would be the appropriate department to handle this job. He indicated that they do support the amendments.

**David Derickson, Attorney, Arizona Attorneys for Criminal Justice**, testified in opposition to the bill. He commented that DHS is a state agency that is independent of law enforcement and has a good history of promulgating appropriate regulations. This bill removes the oversight from an independent agency and places it with DPS. He suggested that DPS is different from the 47 states

where the crime lab has the decision-making authority on what the regulations are. Arizona's DPS has been chastised by prosecutors and courts for failing to follow DHS regulations. He recited from a letter sent to the Governor from Maricopa County Attorney Richard Romley that suggests the State should "retain an outside quality control organization to review DPS evidence, analysis, and procedures," because of his concern about the adequacy of the controls and oversight of the breath testing program. Prosecutors rely upon the accuracy of forensic evidence and believe that it is imperative that evidence be analyzed, preserved, disclosed, and utilized without the slightest hint of unreliability.

**Edward A. Loss, III, Attorney, Arizona Committee for Constitutional Enforcement of DUI Laws,** mentioned that defense attorneys do not advocate or condone drunk driving. He pointed out that they have two primary concerns: 1) the constitutional enforcement of the laws relating to drunk driving; and 2) the scientific integrity of the State's forensic processes. He indicated that the DPS crime lab cannot be trusted. Hundreds of DUI cases have been dismissed because of the improprieties of the DPS crime lab. Although DHS does not want to continue these tests, they are an objective, scientific organization.

**Clifford Girard, Attorney,** testified in opposition to the bill. He noted that the State v. Meza case took a long time to wind through the court system because DPS and the Phoenix crime lab had set up a convoluted system using computers and programs to hide data. He stated that another reason he opposes the bill is the loose use of the word "calibration."

**Senator Verschoor moved SB 1044 be returned with a DO PASS recommendation.**

**Senator Verschoor moved the Binder two-page amendment dated 1/28/03 at 9:58 a.m. be ADOPTED. The motion CARRIED by voice vote. (Attachment H)**

**Senator Rios moved his two-line amendment dated 2/4/03, 1:18 p.m. be ADOPTED. The motion CARRIED by voice vote. (Attachment I)**

**Senator Verschoor moved SB 1044 be returned with an AS AMENDED, DO PASS recommendation. The motion CARRIED with a roll call vote of 6-3-0. (Attachment 6)**

**SB 1143 – dog bites; liability exception – NOT HEARD**

There being no further business, the meeting was adjourned at 11:44 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.)