

# ARIZONA STATE SENATE

46TH LEGISLATURE  
FIRST REGULAR SESSION

## MINUTES OF COMMITTEE ON JUDICIARY

**DATE:** March 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

---

### ATTENDANCE

### BILLS

---

#### Committee Members

	<u>Pr</u>	<u>Ab</u>	<u>Ex</u>	<u>Bill Number</u>	<u>Disposition</u>
Senator Aguirre	X			HB 2019	DP
Senator Bee	X			HB 2020	DP
Senator Binder	X			HB 2021	DP
Senator Brotherton	X			HB 2108	DP
Senator Jarrett	X			HB 2110	DP
Senator Miranda	X			HB 2197	DP
Senator Rios	X			HB 2214	DP
Senator Verschoor, Vice Chairman	X			HB 2221	DP
Senator Weiers, Chairman	X			HB 2239	DP
				HB 2316	HELD
				HB 2321	FAILED
				HB 2332	DP
				HB 2345	DISCUSSION/HELD
				HB 2353	HELD
				HCR 2017	HELD

---

### GOVERNOR'S APPOINTMENTS

---

Name

Position

Recommendation

Chairman Verschoor called the meeting to order at 8:51 a.m., and attendance was taken.

## **CONSIDERATION OF BILLS**

Senator Weiers announced that he would be holding the following bills:

### **HB 2316 – secure and verifiable identification – HELD**

### **HB 2353 – firearms; concealed weapons permits – HELD**

### **HCR 2017 – initiatives; filing date - HELD**

### **HB 2345 – voter identification – DISCUSSION/HELD**

**Michelle Morales, Judiciary Committee Research Intern**, explained that HB 2345 requires voters to present identification to an election official at a polling place.

**Karen Osborne, Elections Director, Maricopa County Elections Department**, testified that they are neutral on the bill; however, they do have some concerns about time and money. She pointed out that if voters do not have identification, they can vote a ballot to be verified or provisional ballot, which would take a lot of time to hand verify. For Maricopa County, it is estimated that there could be approximately 50,000 ballots to verify.

Senator Brotherton inquired as to how much voter fraud is occurring. Ms. Osborne replied that Maricopa County has very little voter fraud. Recently, there was a conviction of five people for voter fraud.

Senator Rios asked if voter identification is a requirement under the Help America Vote Act (HAVA). Ms. Osborne responded that under HAVA anyone who registers in 2003 would have to show identification at the polls. Senator Rios questioned if there has been any fraud in other counties. Ms. Osborne replied that most of the fraud is in gathering signatures for initiative petitions.

Senator Weiers wondered what the negative would be in asking the voter for identification. Ms. Osborne replied that the only negatives would be time and money, with long lines occurring at some of the polls.

Senator Miranda referred to a letter received from the Pima County Recorder stating concern about: 1) allegations of voter fraud being a myth with little evidence to support it; 2) the bill's requirement for identification exceeds HAVA's requirements; 3) long lines at polling places; 4) cost to verify ballots borne by the counties; 5) additional poll workers to meet bill's requirement; 6) delay in election results; and 7) many Native Americans do not have photo identification. He stressed that government should try to encourage voter participation rather than trying to make it more difficult for individuals.

In response to Senator Brotherton's questions, Ms. Osborne responded that one-half of the Maricopa County ballots cast in the 2000 general election were cast by mail with every signature checked against voter registration. When a person votes at the polling place, those signatures do not require verification. All signatures could be verified; however, with 1.3 million voters, it would take a great deal more time.

**Jim Pederson, Chairman, Arizona Democratic Party**, testified in opposition to the bill. He pointed out that HB 2345 is not a voter protection measure, it is a voter suppression measure. The bill is not necessary. Current law requires all voters to sign a precinct register. If a person's name does not appear on the rolls, identification will be required to vote. If the county recorders are doing their job and verifying registration forms, there should be no need to implement another identification requirement. In addition, there is not a significant number of proven cases of voter fraud in Arizona. If any legislator proposing this requirement knows of any fraud, they have a responsibility to bring it forward. Not one case of fraud has been presented in the course of hearing this bill. Arizona has a history of voter intimidation and does not need to discourage certain classes of individuals from voting with yet another bureaucratic requirement.

Mr. Pederson added that this legislation is not required under HAVA, although it is presented as a bill that will help bring Arizona into compliance with HAVA. Although a legislative fiscal analysis states that the bill will not cost more money, many county recorders believe that it will cost time and staff expenditures. It would require at least one more poll worker at each polling place and the ballots will take longer to count.

Mr. Pederson referred to a door hanger (Attachment A) that the Democratic Party used during the last election, noting that the sponsor of the bill indicated that it is an example of misinformation bordering on voter fraud. He emphasized that the door hanger is voter education and the Legislature should not discourage its use.

In response to Senator Miranda, Mr. Pederson agreed that many senior citizens have voted in the same place for years and usually do not carry any identification to the polling place. He added that if this bill passes, senior citizens, along with many other groups would be discouraged to vote.

**Representative Gray, sponsor of the bill**, noted that the right of citizens to vote and have their vote count is the cornerstone of democracy. Enforcing the laws that guarantee voting rights and punishing voter fraud is the duty of the Department of Justice. She pointed out that if anyone does not have identification with them, they will need to sign the register and that ballot will be verified. Although HAVA requires identification only once upon registration or the first time at the poll, HB 2345 states that identification is needed each time a person votes. She referred to the first item on the Democratic Party's door hanger and wondered why they promoted the fact that a voter was not required to show identification. She provided a handout (Attachment B) which shows that 13 states have identification requirements. She also brought up that in 1990, Mexico adopted security enhanced voter identification cards with nine security features to prevent the forging of voter cards. She stressed that a person is required to have identification to get on an airplane, cash a check, rent videos, and purchase a fishing license. Why not require identification when voting to protect democracy? She asked for the Committee's support to have a voting process that protects the rights of democracy.

Senator Brotherton reiterated that Maricopa County has very little voter fraud and wondered if there was any evidence that there is a problem. Representative Gray replied there was concern that the Democratic Party by encouraging people to vote without showing any form of identification bordered on fraud.

Senator Brotherton noted that at one polling place, voters were told they were not allowed to take any candidate material into the polling place. It was determined this was illegal, that voters can bring in candidate material. However, when he explained that to the precinct workers, they continued to tell voters to throw away the candidate materials before entering the polling place. He wondered if this was done to discourage people from voting. Representative Gray replied that she would hope that

voters know what their rights are. Senator Brotherton suggested that many people did know their rights but were told they would not be allowed to vote if they did not throw the materials away. He indicated that since very little fraud has occurred, he does not understand why the identification requirement is needed.

Senator Weiers pointed out that his assumption is that the average person believes they are required to show identification to vote. Representative Gray indicated that if a voter does not have identification, they can vote and their ballot will later be verified.

In response to Senator Miranda, Representative Gray replied that the county recorders' office will bear the cost to verify signatures. She commented that she does not feel that there will be many signatures to verify.

Senator Rios mentioned that he does not see the integrity of the elections being violated and does not feel this legislation is necessary. Instead, he views it as a barrier to voting. He suggested that the comparison of Mexico's voter cards to the United States (US) elections is inaccurate. Americans do not have a history of revolutions and overthrowing the government when they do not like the President that has been elected, nor does the US have a history of voter fraud.

**Bart Turner, Executive Director, League of Women Voters of Arizona**, testified in opposition to the bill, noting that HB 2345 would discourage voter turnout and create longer lines at the polling places. If people who have previously voted without any hassle are required to fill out provisional ballot information, they will be frustrated by the process taking longer and will spread the word to neighbors and friends which could discourage others from voting. Senator Weiers agreed that there are a number of things that could happen; however, without evidence, it is only speculation of what may happen. He questioned if there were long lines during the last election. Mr. Turner replied that there were some lines late in the day. Senator Miranda added that he has witnessed long lines near closing time at the polls and submitted that this bill will only jeopardize people's ability to vote.

**Manny Armenta, Executive Board Member, Latin Council for Latin American Advancement (LCLAA)**, spoke against the bill, noting that for years voter participation has been encouraged, yet there is still a low voter turnout. This bill would additionally reduce turnout. He indicated that many people find excuses not to vote as evidenced in the last election when people were discouraged by the fiasco in Florida. He asked the Committee to vote against the bill.

**Bill Hogan, President, United Steelworkers Local 937**, indicated that he opposes the bill and related a story regarding two individuals in their union who have wives that do not have any photo identification. One individual suggested that to have to purchase a photo identification to vote would be similar to establishing a poll tax.

**Rosie Lopez, Arizona Hispanic Community Forum**, testified against the bill, explaining that many in the Hispanic community do not carry identification. She pointed out that she has spent much time in encouraging the Hispanic community to vote and feels that this bill would intimidate many Hispanics, creating barriers and discouraging voting.

**Luis Heredia, Yuma County Interfaith Council**, indicated that he opposes the bill and related a story regarding his mother obtaining her voter registration card and putting it in a safe-deposit box for protection. He suggested that there is a federal penalty if someone signed the registration form fraudulently. It is a matter of trust, that the ballot is signed by the voter who registered.

**Ian Robertson, President, Southern Arizona Labor Council**, echoed everything that has been said against the bill. He indicated that their Council represents 24,000 working families and on their behalf, asked the Committee to vote against the bill.

**Andrea Robson, Pima County Interfaith Council**, explained that she is opposed to the bill because it sends the wrong message. This legislation will make it more difficult to vote. Statistically, Arizona is fourth from the bottom in voter participation. She suggested that this bill will make that figure worse.

**Richard White, East Valley Interfaith Council**, suggested that in a time when there is a budget crisis, it is not an appropriate use of government time to debate this issue. Passing this bill would send a message that Arizona wants to be considered to be against voter turnout. He urged the Committee to vote against the bill.

Senator Verschoor announced the individuals who registered their position on the bill (Attachment C).

### **HB 2321 – concealed weapons; petty offense – FAILED**

Ms. Morales explained that HB 2321 changes the penalty for carrying a concealed weapon without a permit from class 1 misdemeanor to a petty offense.

**Representative Graf, sponsor of the bill**, pointed out that this bill has passed out of the House of Representatives three years in a row. Arizonans have a constitutional right to carry weapons for self-defense. He suggested that a Class 1 misdemeanor is too heavy a penalty to be applied to someone who may accidentally carry a concealed weapon.

**Gerry Anderson, Executive Director, Halt Gun Violence**, suggested that the current statute is a useful law enforcement tool, a model across the nation, and works very well. This bill is based on the assumption that more guns in the community makes it safer and reduces crime. However, recent studies indicate that more guns may slightly elevate crime. In 1998, the Violence Policy Center conducted a study in Texas, which indicated that people with concealed carry permits committed crimes at a rate 22% higher than the general public over the age of 21.

**Samuel Wooldridge, Legislative Liaison, Arizona Police Association**, representing 4,000 police officers, testified in opposition to the bill. He pointed out that they are not against second amendment rights or concealed weapon carriers. Currently, to receive a concealed weapons permit, a person must take a 16-hour program. Carrying a concealed weapon is not a right, rather it is a privilege. This bill changes the punishment for carrying a concealed weapon without a permit to a petty offense, which is highly unenforceable.

Mr. Wooldridge pointed out that a law enforcement officer must have 585 hours of training with 40 hours dedicated to firearms training. Every year thereafter, an officer must be requalified. It is a huge responsibility to carry a weapon.

Mr. Wooldridge indicated that this bill eliminates any incentive for an individual to obtain a permit before carrying a concealed weapon and urged the Committee to vote against the bill.

In response to Senator Verschoor, Mr. Wooldridge replied that this bill would pose a greater danger to police officers, as well as to the public. He suggested that carrying a concealed weapon will not necessarily prevent a crime. To the contrary, the fact that a weapon is available can cause a problem.

**David Carey, representing himself**, stated that he opposes the bill. He suggested that a responsible individual would not forget they are carrying a concealed weapon. Proper documentation is important when carrying a concealed weapon.

**Jack Lane, Lieutenant, Arizona Department of Public Safety**, reiterated that responsible gun owners do not accidentally cover up a weapon. Reducing the punishment for carrying a concealed weapon without a permit will hurt law enforcement, because it will allow people to carry concealed weapons in a fanny-pack holster, notebook holster, or purse without a permit. He testified that they are opposed to the bill

**Eric Edwards, Arizona Association of Chiefs of Police and Phoenix Police**, noted that this bill would take away an effective tool from law enforcement. He related a story regarding a case that is used as a training scenario for officers, where a person who was observed by the police casing a jewelry store was ultimately arrested for carrying a concealed weapon without a permit. If this bill passes, an officer will not be able to search a person for a petty offense.

Senator Brotherton pointed out that in current statute, a judge could impose a smaller fine than the law calls for if a person is arrested for carrying a concealed weapon without a permit and there are extenuating circumstances.

**Kenneth Rineer, President, Firearms Action Committee, Tucson**, testified in support of the bill and suggested that the only reason the word "belt" was deleted from the language of the bill is because there are a variety of holsters available. Last summer, an individual was arrested for having a weapon in his glove compartment, which is not considered a concealed weapon. After the person hired an attorney and after much discussion, the charges were dropped.

Senator Verschoor announced the individuals who registered their position on the bill (Attachment C).

**Senator Weiers moved HB 2321 be returned with a DO PASS recommendation.  
The motion FAILED with a roll call vote of 3-3-3. (Attachment 1)**

#### **HB 2221 – burial responsibility – DO PASS**

**David Lujan, Judiciary Committee Research Analyst**, explained that HB 2221 provides for the duties of burial and disposition of a deceased person to fall to the next responsible party if the statutorily responsible party is criminally charged for causing the death of the deceased.

Senator Verschoor announced the individuals who registered their position on the bill (Attachment C).

**Senator Brotherton moved HB 2221 be returned with a DO PASS recommendation.  
The motion CARRIED with a roll call vote of 6-0-3. (Attachment 2)**

#### **HB 2019 – historical priors; absconder status – DO PASS**

Mr. Lujan explained that HB 2019 adds absconder status while on probation to the time that is excluded from determining whether a prior felony qualifies as an historical prior felony for sentencing purposes.

**Edwin Cook, Executive Director, Arizona Prosecuting Attorneys' Advisory Council**, testified in support of the bill, noting that the definition of an absconder includes an additional criteria which is that a petition to revoke probation must have been filed. There is a safeguard of judicial determination so that if a court determines that an individual was not on absconder status then the tolling provision does not take effect.

Senator Verschoor announced the individuals who registered their position on the bill (Attachment C).

**Senator Weiers moved HB 2019 be returned with a DO PASS recommendation.  
The motion CARRIED with a roll call vote of 7-0-2. (Attachment 3)**

**HB 2020 – juvenile court costs; parental responsibility (now: juvenile court costs; parent expense – DO PASS**

**Chris Kresge, Appropriations Committee Research Intern**, explained that HB 2020 allows a juvenile court to assess the ability of children who are designated as incorrigible or delinquent, or their parents, to bear a portion of the expense of foster care, treatment, educational program or other required programs.

**David Sands, Legislative Officer, Administrative Office of the Courts**, pointed out that this bill is a logical extension of current law. In a juvenile delinquency case, a child is committed to the Department of Juvenile Corrections and the court must assess whether the child or parent can pay part of the cost. Likewise, if the child is referred to the juvenile detention facility, the court must make that inquiry. If the child is sent to a treatment, counseling, or education program, there is no present provision in law to allow the court to make that assessment. This bill would grant that authority. The intent of the bill is to increase accountability and to offset some of the costs of these programs.

Senator Verschoor announced the individuals who registered their position on the bill (Attachment C).

**Senator Weiers moved HB 2020 be returned with a DO PASS recommendation.  
The motion CARRIED with a roll call vote of 6-1-2. (Attachment 4)**

**HB 2021 – criminal code; conforming changes – DO PASS**

Mr. Lujan explained that HB 2021 makes clarifying changes to deoxyribonucleic acid (DNA) testing and antiterrorism legislation enacted in 2002.

**Raluca Butunoiu, Legislative Intern, Maricopa County Attorney's Office**, testified in support of the bill. The first section of the bill repeals Chapter 107, Section 1 regarding DNA testing.

Senator Verschoor announced the individuals who registered their position on the bill (Attachment C).

**Senator Weiers moved HB 2021 be returned with a DO PASS recommendation.  
The motion CARRIED with a roll call vote of 7-0-2. (Attachment 5)**

**HB 2108 – judges; personal records; confidentiality – DO PASS**

**Lace Collins, Judiciary Committee Research Assistant Analyst**, explained that HB 2108 permits justices, judges, superior court commissioners and public defenders, to request that the general public be prohibited from accessing personal information contained in public records.

**Ashley Fritz, Government Relations Liaison, Maricopa County Superior Court**, testified in support of the bill and explained that several judges would be providing their personal situations.

**The Honorable Eileen Willett, Criminal Trial Judge, Maricopa County Superior Court**, commented that she is concerned with the safety of her family. Unfortunately there are unstable individuals who go through the court system who are a danger to themselves and others. As a criminal trial judge, she has the opportunity to see such litigants on a daily basis. She voiced her concern about having her home address readily available to anyone who wishes her harm. She pointed out that her life has been threatened many times. This bill will give her the added protection and security of knowing that her family at home will be a little safer. She understands that there are no guarantees, but safeguards are in place that work well for police officers to which judges may be added. She asked for the Committee's support of the bill.

**The Honorable Maria Verdin, Judge, Maricopa County Superior Court**, noted that she has been a judicial officer for eight years with the last five years assigned to the family court. She explained that there are times that a judge's job is dangerous, adding that she and her family have been threatened. She voiced her concern about her address being readily available. She also urged the Committee to support the bill.

**Bill Hart, Systems Advocate, Arizona Coalition against Domestic Violence**, pointed out that this bill also protects victims of domestic violence.

Senator Verschoor announced the individuals who registered their position on the bill (Attachment C).

**Senator Weiers moved HB 2108 be returned with a DO PASS recommendation.  
The motion CARRIED with a roll call vote of 7-0-2. (Attachment 6)**

#### **HB 2110 – administrative assessment; criminal proceedings; timing – DO PASS**

Ms. Morales explained that HB 2110 allows the courts to impose a one-time administrative assessment fee of \$25 on defendants who qualify for the services of a public defender at any time, instead of only during the initial appearance.

Senator Verschoor announced the individuals who registered their position on the bill (Attachment C).

**Senator Weiers moved HB 2110 be returned with a DO PASS recommendation.  
The motion CARRIED with a roll call vote of 6-0-3. (Attachment 7)**

#### **HB 2197 – election reform fund; federal monies – DO PASS**

Ms. Morales explained that HB 2197 is an emergency measure that creates the elections systems improvement fund (ESI fund), which shall be used to implement the Help America Vote Act.

Senator Verschoor announced the individuals who registered their position on the bill (Attachment C).

**Senator Weiers moved HB 2197 be returned with a DO PASS recommendation.  
The motion CARRIED with a roll call vote of 7-0-2. (Attachment 8)**

**HB 2214 – veterans’ services department fiduciary duties – DO PASS**

Ms. Collins explained that HB 2214 gives the Arizona Department of Veterans’ Services (ADVS) priority over other public fiduciaries in the appointment of a guardian or conservator and authorizes the ADVS to act in all fiduciary matters.

**Senator Weiers moved HB 2214 be returned with a DO PASS recommendation.  
The motion CARRIED with a roll call vote of 7-0-2. (Attachment 9)**

**HB 2239 – superior court clerk; revisions – DO PASS**

Ms. Collins explained that HB 2239 requires persons applying for a marriage license to provide their social security numbers (SSN) to the county clerk separate from the affidavit and increases the population threshold for counties that may appoint a separate jury commissioner to 500,000.

**Tonia Tunnell, Government Affairs Manager, Arizona Association of Counties**, explained that the reason they are asking to collect SSNs separate from the marriage affidavit is that the federal government requires that an SSN be provided for all people applying to get married for child support reasons. For identity theft reasons, they are not allowed to put them on the Internet. As the marriage information is collected and stored electronically, the SSN needs to be separate from the application.

Senator Verschoor announced the individuals who registered their position on the bill (Attachment C).

**Senator Weiers moved HB 2239 be returned with a DO PASS recommendation.  
The motion CARRIED with a roll call vote of 5-2-2. (Attachment 10)**

**HB 2332 – utility franchise – DO PASS**

Ms. Collins explained that HB 2332 exempts, from campaign contribution and expense laws, a public utility that spends only its own money in support of its proposed franchise.

Senator Verschoor announced the individuals who registered their position on the bill (Attachment C).

**Senator Weiers moved HB 2332 be returned with a DO PASS recommendation.  
The motion CARRIED with a roll call vote of 6-0-3. (Attachment 11)**

There being no further business, the meeting was adjourned at 11:00 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.)