

ARIZONA STATE SENATE

47TH LEGISLATURE SECOND REGULAR SESSION

MINUTES OF COMMITTEE ON JUDICIARY

DATE: February 13, 2006 **TIME:** 1:30 P.M. **ROOM:** SHR1

CHAIRMAN: Senator Huppenthal **VICE CHAIRMAN:** Senator Martin

ANALYST: Jennifer Eugster **INTERN:** Damion LeeNatali

ASSISTANT ANALYST: Leah Birk **COMMITTEE SECRETARY:** Shelley Ponce

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 1039	DPA
Senator Brotherton	X			SB 1117	HELD
Senator Gould	X			SB 1128	DPA
Senator Harper	X			SB 1145	DPA
Senator Jarrett	X			SB 1158	DPA
Senator Miranda	X			SB 1339	DPA
Senator Martin, Vice Chairman	X			SB 1370	DPA/SE
Senator Huppenthal, Chairman	X			SB 1387	HELD
				SB 1426	DP
				SB 1440	HELD
				SB 1444	DPA
				SB 1471	DP
				SB 1474	HELD
				SB 1534	DPA
				SB 1557	DPA
				SB 1559	HELD
				SCR 1001	DPA
				SCR 1004	DP
				SCR 1010	DP
				SCR 1018	DPA
				SCR 1033	DP

Chairman Huppenthal called the meeting to order at 1:31 p.m., and attendance was taken.

APPROVAL OF MINUTES

Senator Huppenthal moved the minutes of February 6, 2006 be approved. Without objection, the minutes were approved as distributed.

CONSIDERATION OF BILLS

SCR 1033 – methamphetamine; probation ineligibility – DO PASS

Jennifer Eugster, Judiciary Committee Analyst, explained SCR 1033 and the 3-line Brotherton amendment dated 02/10/06 at 2:55 p.m. (Attachment A).

President Bennett, bill sponsor, further explained SCR 1033 and testified in opposition to the amendment.

Senator Brotherton announced that he would not offer his 3-line amendment dated 02/10/06 at 2:55 p.m.

Carey Hyatt, Judge, Superior Court, representing self, testified in support of SCR 1033.

Senator Gould moved SCR 1033 be returned with a DO PASS recommendation. The motion CARRIED with a roll call vote of 7-0-1 (Attachment 1).

In explanation of his vote, Senator Brotherton stated that he would support the bill at this time, but has some concerns that he would like to discuss with the sponsor before it reaches the Floor and he voted “aye”.

SCR 1010 – sentencing; third felony offenses. – DO PASS

Jennifer Eugster, Judiciary Committee Analyst, explained SCR 1010.

Senator Leff, bill sponsor, further explained SCR 1010.

Beckie Miller, Chapter Leader, Parents Of Murdered Children, testified in support of SCR 1010.

Timothy La Sota, Special Assistant County Attorney, Maricopa County Attorney's Office, testified in support of SCR 1010 and answered questions.

Senator Martin moved SCR 1010 be returned with a DO PASS recommendation. The motion CARRIED with a roll call vote of 5-2-1 (Attachment 2).

In explanation of his vote, Senator Brotherton stated it would be more appropriate if it was on the third appearance in court not necessarily just the third offense and he voted “no”.

In explanation of his vote, Senator Miranda stated that the bill needs more work before he can support it and he voted “no”.

In explanation of his vote, Senator Martin stated just because someone was not in court on the first two occasions but there on the third does not mean the first offenses do not count and he voted "aye".

SB 1128 – juvenile competency – DO PASS AMENDED

Jennifer Eugster, Judiciary Committee Analyst, explained SB 1128 and the 7-line Huppenthal amendment dated 02/10/06 at 1:42 p.m. (Attachment B).

Senator Tibshraeny, bill sponsor, further explained SB 1128.

Timothy La Sota, Special Assistant County Attorney, Maricopa County Attorney's Office, testified in support of SB 1128 and answered questions posed by the Committee.

Senator Gould moved SB 1128 be returned with a DO PASS recommendation.

Senator Gould moved the 7-line Huppenthal amendment dated 02/10/06 at 1:42 p.m. be ADOPTED. The motion CARRIED by voice vote.

Senator Gould moved SB 1128 be returned with an AS AMENDED, DO PASS recommendation. The motion CARRIED with a roll call vote of 7-0-1 (Attachment 3).

SB 1145 – self-defense; home protection – DO PASS AMENDED

Jennifer Eugster, Judiciary Committee Analyst, explained SB 1145 and the following amendments:

2-page Martin dated 02/10/06 at 4:59 p.m. (Attachment C).

22-line Martin dated 02/10/06 at 4:35 p.m. (Attachment D).

Senator Bee, bill sponsor, further explained SB 1145.

Michael Anthony, lawyer, representing self, testified in support of SB 1145.

Edwin Cook, Executive Director, Arizona Prosecuting Attorneys' Advisory Council, testified in opposition to SB 1145.

Mel McDonald, County Attorney's Office, representing self, testified in support of SB 1145 with amendments.

Senator Gould moved SB 1145 be returned with a DO PASS recommendation.

Senator Martin moved his 22-line amendment dated 02/10/06 at 4:35 p.m. be ADOPTED. The motion CARRIED by voice vote.

Senator Martin moved his 2-page amendment dated 02/10/06 at 4:59 p.m. be ADOPTED. The motion CARRIED by voice vote.

Senator Martin moved SB 1145 be returned with an AS AMENDED, DO PASS recommendation. The motion CARRIED with a roll call vote of 7-1-0 (Attachment 4).

SCR 1001 – deadly force; use; home protection – DO PASS AMENDED

Jennifer Eugster, Judiciary Committee Analyst, explained SCR 1001 and the 14-line Harper amendment dated 02/10/06 at 4:57 p.m. (Attachment E).

Senator Harper, bill sponsor, further explained SCR 1001.

Senator Harper moved SCR 1001 be returned with a DO PASS recommendation.

Senator Harper moved his 14-line amendment dated 02/10/06 at 4:57 p.m. be ADOPTED. The motion CARRIED by voice vote.

Senator Harper moved SCR 1001 be returned with an AS AMENDED, DO PASS recommendation. The motion CARRIED with a roll call vote of 7-1-0 (Attachment 5).

Gary Christensen, Arizona State Rifle & Pistol Association, testified in support of SCR 1001.

SB 1557 – election reform; manual count – DO PASS AMENDED

Jennifer Eugster, Judiciary Committee Analyst, explained SB 1557 and the 3-page Huppenthal amendment dated 02/13/06 at 12:13 p.m. (Attachment F).

Carolyn Maxon, Self, testified in support of SB 1557, but in opposition to the amendment.

Senator Johnson, bill sponsor, further explained SB 1557.

Dan Gutenkauf, Legal Researcher, representing self, testified in support of SB 1557 and in opposition to the amendment.

Karen Osborne, Elections Director, Maricopa County, testified in support of the amendment, but in opposition to the bill in original form.

Senator Martin moved SB 1557 be returned with a DO PASS recommendation.

Senator Martin moved the 3-page Huppenthal amendment dated 02/13/06 at 12:13 p.m. be ADOPTED. The motion CARRIED by voice vote.

Senator Martin moved SB 1557 be returned with an AS AMENDED, DO PASS recommendation. The motion CARRIED with a roll call vote of 7-0-1 (Attachment 6).

In explanation of his vote, Senator Harper stated that the amendment took out some important provisions and hopes some of them will be returned and voted “aye”.

In explanation of her vote, Senator Jarrett stated that the stake holders need to do more work on this bill and she voted “aye”.

In explanation of his vote, Senator Miranda stated there are some problems with the bill and he would not support the bill if the amendment gets removed and he voted “aye”.

In explanation of his vote, Senator Martin stated that this is an opportunity for change and discussion on some of the election problems and he is glad the bill is moving forward and he voted “aye”.

In explanation of his vote, Senator Huppenthal stated there were many people who helped identify main points for our negotiations, in order to help get this bill going and he voted “aye”.

SB 1039 – voyeurism; surreptitious viewing – DO PASS AMENDED

Jennifer Eugster, Judiciary Committee Analyst, explained SB 1039 and the 2-page Huppenthal amendment dated 02/10/06 at 3:48 p.m. (Attachment G).

Senator Martin moved SB 1039 be returned with a DO PASS recommendation.

Senator Martin moved the 2-page Huppenthal amendment dated 02/10/06 at 3:48 p.m. be ADOPTED. The motion CARRIED by voice vote.

Senator Martin moved SB 1039 be returned with an AS AMENDED, DO PASS recommendation. The motion CARRIED with a roll call vote of 5-2-1 (Attachment 7).

In explanation of his vote, Senator Brotherton stated he does not like some of the definitions and the punishment is possibly too high for some of the potential situations and he voted “no”.

In explanation of his vote, Senator Huppenthal stated that he wants to be careful when escalating penalties and if Senator Brotherton can get together with the police to gather more information, Senator Huppenthal would be open to an amendment and he voted “aye”.

SB 1158 – appropriation; illegal immigration; enforcement – DO PASS AMENDED

Leah Birk, Judiciary Committee Assistant Research Analyst, explained SB 1158 and the 3-line Huppenthal amendment dated 02/10/06 at 2:15 p.m. (Attachment H).

Senator Huppenthal announced those who registered their position on the bill (Attachment I).

Senator Leff, bill sponsor, further explained SB 1158.

Senator Martin moved SB 1158 be returned with a DO PASS recommendation.

Senator Martin moved the 3-line Huppenthal amendment dated 02/10/06 at 2:15 p.m. be ADOPTED. The motion CARRIED by voice vote.

Senator Martin moved SB 1158 be returned with an AS AMENDED, DO PASS recommendation. The motion CARRIED with a roll call vote of 5-3-0 (Attachment 8).

SB 1339 – firearms; possession; persons adjudicated delinquent – DO PASS AMENDED

Damion LeeNatali, Judiciary Committee Research Intern, explained SB 1339 and the 11-line Huppenthal amendment dated 02/10/06 at 3:43 p.m. (Attachment J).

Senator Gould moved SB 1339 be returned with a DO PASS recommendation.

Senator Gould moved the 11-line Huppenthal amendment dated 02/10/06 at 3:43 p.m. be ADOPTED. The motion CARRIED by voice vote.

Senator Gould moved SB 1339 be returned with an AS AMENDED, DO PASS recommendation. The motion CARRIED with a roll call vote of 7-0-1 (Attachment 9).

SB 1534 – political contributions; limits – DO PASS AMENDED

Leah Birk, Judiciary Committee Assistant Research Analyst, explained SB 1534 and the 2-line Aguirre amendment dated 02/10/06 at 2:03 p.m. (Attachment K).

Senator Aguirre moved SB 1534 be returned with a DO PASS recommendation.

Senator Aguirre moved her 2-line amendment dated 02/10/06 at 2:03 p.m. be ADOPTED. The motion CARRIED by voice vote.

Senator Aguirre moved SB 1534 be returned with an AS AMENDED, DO PASS recommendation. The motion CARRIED with a roll call vote of 6-0-2 (Attachment 10).

Senator Huppenthal announced those who registered their position on the bill (Attachment I).

SCR 1004 – misdemeanors; jury trials – DO PASS

Leah Birk, Judiciary Committee Assistant Research Analyst, explained SCR 1004.

David Derickson, Arizona Attorneys for Criminal Justice, testified in support of SCR 1004.

Senator Huppenthal, bill sponsor, further explained SCR 1004.

Senator Martin moved SCR 1004 be returned with a DO PASS recommendation. The motion CARRIED with a roll call vote of 5-2-1 (Attachment 11).

In explanation of his vote, Senator Miranda stated with some of the cities against this he votes “no”.

In explanation of his vote, Senator Huppenthal stated that the rights in the Constitution are precious and have been eroded to some extent by the courts and he voted “aye”.

SB 1370 – civil rights; identity disclosure prohibited – DO PASS AMENDED/STRIKE EVERYTHING

Leah Birk, Judiciary Committee Assistant Research Analyst explained the 2-page Martin strike everything amendment dated 02/06/06 at 3:43 p.m. (Attachment L) and the 3-line Martin amendment dated 02/10/06 at 11:38 a.m. (Attachment M) to the strike everything amendment.

David Selden, Chair, Employee Relations Committee, Arizona Chamber of Commerce and Industry, testified in support of SB 1370 and answered questions posed by the Committee.

Senator Martin moved SB 1370 be returned with a DO PASS recommendation.

Senator Martin moved his 2-page strike everything amendment dated 02/06/06 at 3:43 p.m. be ADOPTED. The motion CARRIED by voice vote.

Senator Martin moved his 3-line amendment to the strike everything amendment dated 02/10/06 at 11:38 a.m. be ADOPTED. The motion CARRIED by voice vote.

Senator Martin moved SB 1370 be returned with an AS AMENDED, DO PASS recommendation. The motion CARRIED with a roll call vote of 5-2-1 (Attachment 12).

In explanation of his vote, Senator Brotherton stated that he does not think the time limits are set for appropriate times and he voted “no”.

In explanation of his vote, Senator Martin stated that this bill simply clarifies the statute of limitations and people need to bring suit within a reasonable amount of time and he voted “aye”.

In explanation of his vote, Senator Huppenthal stated that to make a vibrant job market you make it a symmetrical relationship between employers and employees and he voted “aye”.

SB 1444 – failure to register; presumptive sentence – DO PASS AMENDED

Damion LeeNatali, Judiciary Committee Research Intern, explained SB 1444 and the following amendments:

18-line Martin dated 02/10/06 at 3:49 p.m. (Attachment N)

16-line Martin dated 02/13/06 at 10:39 a.m. (Attachment O)

Senator Verschoor, bill sponsor, further explained SB 1444.

Senator Martin moved SB 1444 be returned with a DO PASS recommendation.

Senator Martin moved his 16-line amendment dated 02/13/06 at 10:39 a.m. be ADOPTED.

Senator Brotherton voice an objection to the Martin 16-line amendment dated 02/13/06 at 10:39 a.m. that was not was not ready by the deadline.

Senator Martin moved his 18-line amendment dated 02/10/06 at 3:49 p.m. be ADOPTED. The motion CARRIED by voice vote.

Senator Martin moved his 16-line amendment dated 02/10/06 at 3:58 p.m. be ADOPTED (Attachment P).

Jennifer Eugster, Judiciary Committee Analyst, explained that the Martin 16-line amendment dated 02/10/06 at 3:58 p.m. had technical errors that the late amendment corrected, but would be taken care of with a Floor amendment.

The motion CARRIED with a voice vote.

Senator Martin moved SB 1444 be returned with an AS AMENDED, DO PASS recommendation. The motion CARRIED with a roll call vote of 6-1-1 (Attachment 13).

In explanation of his vote, Senator Brotherton stated that he does not like mandatory sentencing and taking discretion away from judges and he voted “no”.

SB 1471 – sex offender treatment; privileged communications – DO PASS AMENDED

Damion LeeNatali, Judiciary Committee Research Intern, explained SB 1471.

Senator Huppenthal announced those who registered their position on the bill (Attachment I).

Elizabeth Pardo, Behavioral Health Therapist, representing self, testified in support of SB 1471.

Senator Martin moved SB 1471 be returned with a DO PASS recommendation. The motion CARRIED with a roll call vote of 6-0-2 (Attachment 14).

SCR 1018 – police tools; criminal suspects; immunity – DO PASS AMENDED

Leah Birk, Judiciary Committee Assistant Research Analyst, explained SCR 1018 and the 12-line Martin amendment dated 02/09/06 at 12:21 p.m. (Attachment Q).

Senator Martin, bill sponsor, further explained SCR 1018.

Andy Swann, President, Associated Highway Patrolmen of Arizona, testified in support of SCR 1018 and answered questions posed by the Committee.

Tom Ryan, Lawyer, Arizona Trial Lawyers Association, answered questions posed by the Committee.

Senator Martin moved SCR 1018 be returned with a DO PASS recommendation.

Senator Martin moved his 12-line Martin amendment dated 02/09/06 at 12:21 p.m. be ADOPTED. The motion CARRIED by voice vote.

Senator Martin moved SCR 1018 be returned with an AS AMENDED, DO PASS recommendation. The motion CARRIED with a roll call vote of 4-3-1 (Attachment 15).

In explanation of his vote, Senator Brotherton stated this bill gives immunity if a person is injured during an arrest no matter what the circumstances are and he voted "no".

SB 1426 – improper influence; contacting employer; prohibition – DO PASS

Senator Martin, bill sponsor, explained SB 1426.

Senator Martin moved SB 1426 be returned with a DO PASS recommendation. The motion CARRIED with a roll call vote of 6-0-2 (Attachment 16).

There being no further business, the meeting was adjourned at 4:50 p.m.

Respectfully submitted,

Shelley Ponce
Committee Secretary

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