

ARIZONA STATE SENATE

48TH LEGISLATURE FIRST REGULAR SESSION

MINUTES OF COMMITTEE ON JUDICIARY

DATE: January 29, 2007 **TIME:** 1:30 p.m. **ROOM:** SHR1

CHAIRMAN: Senator Chuck Gray **VICE CHAIRMAN:** Senator Gould

ANALYST: Christina Estes-Werther **ASSISTANT ANALYST:** Ryan DeMenna

INTERN: Heather Owens **COMMITTEE SECRETARY:** Bill Ritz

ATTENDANCE

BILLS

| <u>Committee Members</u> | <u>Pr</u> | <u>Ab</u> | <u>Ex</u> | <u>Bill Number</u> | <u>Disposition</u> |
|------------------------------|-----------|-----------|-----------|--------------------|--------------------|
| Senator Chevront | X | | | SB 1021 | DPA/SE |
| Senator Hale | X | | | SB 1106 | DP |
| Senator Johnson | X | | | SB 1134 | DP |
| Senator Miranda | X | | | SB 1167 | DPA |
| Senator Waring | X | | | SB 1170 | DPA |
| Senator Gould, Vice Chairman | X | | | SB 1268 | DPA |
| Senator C. Gray, Chairman | X | | | SCR 1012 | DPA |

Chairman Gray called the meeting to order at 1:35 p.m., and attendance was taken.

Senator Gray moved the minutes of January, 8, 2007, January 18, 2007, and January 22, 2007 be approved. Without objection, the minutes were approved as distributed.

CONSIDERATION OF BILLS

SB 1268 – sex trafficking; child prostitution – DO PASS AMENDED

Ryan DeMenna, Assistant Research Analyst, explained SB 1268, the six line Chuck Gray amendment dated 1/26/07 at 11:11 a.m. (Attachment A), and the nine line Chuck Gray amendment dated 1/26/07 at 2:48 p.m. (Attachment B).

Peggy Bilsten, City Councilman, City of Phoenix, testified in support of SB 1268 and answered questions posed by the Committee members.

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

Senator Gould moved SB 1268 be returned with a DO PASS recommendation.

Senator Gould moved the nine line Chuck Gray amendment dated 1/26/07 at 2:48 p.m.

Senator Gould moved the following verbal amendment to the nine line Chuck Gray amendment dated 1/26/07 at 2:48 p.m. (Attachment D):

Page 1, lines 4 and 5, strike “WHO IS FIFTEEN, SIXTEEN OR SEVENTEEN YEARS OF AGE.”

The motion CARRIED by voice vote.

Senator Gould moved the nine line Chuck Gray amendment dated 1/26/07 at 2:48 p.m. AS AMENDED. The motion CARRIED by voice vote.

Senator Gould moved the six line Chuck Gray amendment dated 1/26/07 at 11:11 a.m. The motion CARRIED by voice vote.

Senator Gould moved SB 1268 be returned with an AS AMENDED, DO PASS, recommendation. The motion CARRIED with a roll call vote of 7-0-0 (Attachment 1).

In explanation of his vote, Senator Chevront stated “This is an issue, as I was explaining to Councilman Bilsten, very dear to my heart. In 1982-1983 I spent a year with an organization called Children of the Night in California which worked with child prostitutes. I did my senior thesis on this and it was truly an amazing experience for me because of what I learned from the kids. It is a sad situation when these kids get put into a situation where they have to sell their bodies and the repercussions for the rest of their life is incredible. Even after three months on the streets it is really difficult to reintegrate into society. I applaud you for your efforts and I do hope that they do go further and work with these kids because I did talk to some of the parents of these kids. I remember one

time I called this woman and told her that her daughter was on the streets and she said her other son was in prison for heroin trafficking and her other daughter just got out for something else and she did not know what went wrong. There are many issues that need to be addressed with this issue and I do hope we do take care of these kids and let them have a future and I vote 'Yes'."

In explanation of his vote, Senator Gray stated "I want to thank all of those on the task force that have brought this forward. This is an important issue and I cannot begin to express my thanks for all of the work that goes into this kind of a bill. I recognize every word has been scrutinized, every issue has been addressed and once they did that we did it again down here. I just want to thank all of those who participated in this and I hope that these animals go away for life and with that I vote 'Aye'."

SCR 1012 – superior court judges; vacancies – DO PASS AMENDED

Heather Owens, Judiciary Research Intern, explained SCR 1012, the ten line Chuck Gray amendment dated 1/26/07 at 2:32 p.m. (Attachment E), and the twenty-five line Chuck Gray amendment dated 1/26/07 at 4:16 p.m. (Attachment F).

Ruth McGregor, Chief Justice, Arizona Supreme Court and Arizona Judicial Council, testified in opposition to SCR 1012 and answered questions posed by the Committee members.

Barbara Mundell, Presiding Judge of Maricopa County Superior Court, testified in opposition to SCR 1012.

Virginia Simpson, Town Council, Town of Paradise Valley, testified in opposition to SCR 1012 and answered questions posed by the Committee members.

Don Myles, Attorney, AADC, testified in opposition to SCR 1012 and answered questions posed by the Committee members.

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

Senator Gould moved SCR 1012 be returned with a DO PASS recommendation.

Senator Gray announced the twenty-five line Chuck Gray amendment dated 1/26/07 at 4:16 p.m. would not be offered.

Senator Gould moved the ten line Chuck Gray amendment dated 1/26/07 at 2:32 p.m. The motion CARRIED by voice vote.

Senator Gould moved SCR 1012 be returned with an AS AMENDED, DO PASS, recommendation. The motion CARRIED with a roll call vote of 4-3-0 (Attachment 2).

In explanation of his vote, Senator Chevront stated "Although only two counties have this system they comprise over eighty percent of the population. I think this system has worked very well and I would hate to see a situation where counties grow and grow and grow and these individuals get elected because of politics and not because of judicial temperament. Many times we do not like the judges because they are called activist judges and I have realized that activist judges are just judges whose opinions we do not agree with. I would hate to see that we started disagreeing with their opinions and throw them out of office when they are supposed to be impartial and I vote 'No'."

In explanation of his vote, Senator Hale stated "I haven't heard anything in support of making changes and that tells me the system is not broke and we do not need to change it and I vote 'No'."

In explanation of her vote, Senator Johnson stated "First of all, activist judges to me are judges that interpret the constitution how they feel it should be interpreted and they do not follow, what I think, is the basic constitution of the law and that has been a problem. Judges, I do not believe, have the right to appropriate money and that certainly has been done many times from the bench. I am going to go ahead and vote 'Yes' but I would ask that maybe you look at a possible amendment that might speed up the process if there is an opening and instead of having to wait too long to go ahead and approve somebody that the governor would come up with. This way we would not be leaving the openings just sitting there for a long period of time. I will vote 'Aye' in deference to the Chairman."

In explanation of his vote, Senator Miranda stated "Not to get stuck on activist judges but sometimes we need a judge to intervene and interpret actions by the state or by the federal government and that is why we had Brown versus the Board of Education so I vote 'No'."

In explanation of his vote, Senator Waring stated "I would echo Senator Johnson's call for an amendment to deal with the timeliness issue. I am sort of conflicted on the bill. You heard my questions and I have talked about this with the judiciary folks before. I think some of the testimony was overblown but I am not sure this necessarily a finished product either and maybe at another time we can talk about where you intend to go with this. I don't know if this is exactly what you intended. I saw a few gaps that you are committing. I know this is an issue that you have worked on a great deal and is important to you so I am going to vote 'Aye' today. Just to be clear I do not want you to count on me all the way though as always being an 'Aye' vote. But I do not want to kill your bill today because I know you have worked hard on it. Please keep me posted on what has happened and there might be a couple of changes that I might suggest as well but I will vote 'Aye'."

In explanation of his vote, Senator Gould stated "Some comments were made about activist judges earlier. Let me give you a prime example of activist judiciary. The supposed right to privacy morphing into the right to murder the unborn. That is an activist judge. Activist judges not only interpret law they create law out of thin air. I am not saying that is what is going on and that is not what is influencing my vote today but I am going to vote 'Aye'."

In explanation of his vote, Senator Gray stated "Number one, this applies only to the superior court judges in the two larger counties and there is reason for that. The other judges, the appellate court judges, who are not influenced by the electorate, who are appointed, except for retention, until they reach age seventy are a check and balance on those who might rule one way or the other according to the constituencies that they would, under this bill, be deemed to be catering to. I would say that the election of judges or this kind of hybrid system would be a system where the judges would actually be accountable to the people and if judges are afraid to be accountable to the people that they serve I take umbrage with that. There are ways to get rid of them but apparently so far in the last over twenty-five years not one has been not retained at the superior court level or at any level. Number two, with respect to Judge Sargeant, there was testimony here today that he did nothing illegal and I agree. He did everything legal. Number one, the judges decide what is legal and not legal. Number two, he shipped her out of the state, or ordered her to be shipped out of the state, or allowed her to be shipped out of the state. The fact is in this state she could not get the abortion which means he was circumventing, which is what I said. He was circumventing state law by shipping her out because in this state she could not have that operation done. So while he did nothing, quote unquote, illegal, he did circumvent our laws by shipping her to another state where that

procedure could be facilitated. This may be a work in progress. Obviously this is a new idea that has never been breached before and I wanted to have the hearing to let the word get out so that people can understand it and talk about it. Many times we do bills that get the public talking about the different opportunities that we have to see if we can make government better. Maybe this will not make government better, maybe it will make it worse, but I certainly take umbrage with the idea that the other thirteen counties have a worse system than we have and with that I vote 'Aye'."

SB 1021 – aggravated assault; strangulation and suffocation – DO PASS AMENDED/STRIKE EVERYTHING

Christina Estes-Werther, Judiciary Research Analyst, explained SB 1021, the nine page Chuck Gray strike everything amendment dated 1/25/07 at 9:31 a.m. (Attachment G), and the three page Chuck Gray amendment to the strike everything amendment dated 1/26/07 at 1:57 p.m. (Attachment H).

Chris Groninger, Systems Advocate, Arizona Coalition Against Domestic Violence, testified in support of SB 1021 and answered questions posed by the Committee members.

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

Lauri Soczka-Shepherd, representing self, testified in support of SB 1021 and answered questions posed by the Committee members.

Amy Bain, Assistant City Prosecutor, City of Phoenix Prosecutor's Office, answered questions posed by the Committee members.

Heather Maldonado, representing self, testified in support of SB 1021.

Amilia Duchon, representing self, testified in support of SB 1021.

Senator Gould moved SB 1021 be returned with a DO PASS recommendation.

Senator Gould moved the nine page Chuck Gray strike everything amendment dated 1/25/07 at 9:31 a.m. The motion CARRIED by voice vote.

Senator Gould moved the three page Chuck Gray amendment to the strike everything amendment dated 1/26/07 at 1:57 p.m. The motion CARRIED by voice vote.

Senator Gould moved the nine page Chuck Gray strike everything amendment dated 1/25/07 at 9:31 a.m. AS AMENDED. The motion CARRIED by voice vote.

Senator Gould moved SB 1021 be returned with an AS AMENDED, DO PASS, recommendation. The motion CARRIED with a roll call vote of 7-0-0 (Attachment 3).

SB 1106 – liquefied petroleum gas; limited liability – DO PASS

Christina Estes-Werther, Judiciary Research Analyst, explained SB 1106.

Barry Aarons, Arizona Propane Gas Association, testified in support of SB 1106.

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

Senator Gould moved SB 1106 be returned with a DO PASS recommendation. The motion CARRIED with a roll call vote of 7-0-0 (Attachment 4).

SB 1167 – criminal case information; disclosure – DO PASS AMENDED

Heather Owens, Judiciary Research Intern, explained SB 1167 and the fourteen line Chuck Gray amendment dated 1/26/06 at 2:13 p.m. (Attachment I).

Michael Jeanes, representing self, testified in opposition to SB 1167 and in support of the fourteen line Chuck Gray amendment dated 1/26/06 at 2:13 p.m. Mr. Jeanes also answered questions posed by the Committee members.

Jerry Landau, Legislative Liaison, Arizona Supreme Court, Administrative Office of the Courts, testified as neutral to SB 1167 and answered questions posed by the Committee members.

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

Senator Gould moved SB 1167 be returned with a DO PASS recommendation.

Senator Gould moved the fourteen line Chuck Gray amendment dated 1/26/06 at 2:13 p.m. The motion CARRIED by voice vote.

Senator Gould moved SB 1167 be returned with an AS AMENDED, DO PASS, recommendation. The motion CARRIED with a roll call vote of 7-0-0 (Attachment 5).

SB 1170 – public safety employees; disease testing – DO PASS AMENDED

Ariel Serafin, Health Research Intern, explained SB 1170 and the two line Chuck Gray amendment dated 1/26/07 at 2:58 p.m. (Attachment J).

Thomas Van Dorn, Detective-Attorney, Arizona Association of Chiefs of Police and Phoenix Police, testified in support of SB 1170.

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

Senator Gould moved SB 1170 be returned with a DO PASS recommendation.

Senator Gould moved the two line Chuck Gray amendment dated 1/26/07 at 2:58 p.m. The motion CARRIED by voice vote.

Senator Gould moved SB 1170 be returned with an AS AMENDED, DO PASS, recommendation. The motion CARRIED with a roll call vote of 7-0-0 (Attachment 6).

SB 1134 – bad checks; classification – DO PASS

Ryan DeMenna, Senate Research Assistant Analyst, explained SB 1134.

Senator Arzberger further explained SB 1134 and distributed two handouts to the Committee members. One handout was a letter of support from **Edward G. Rheinheimer, Cochise County Attorney** (Attachment K) and the other was a memo from Senator Arzberger (Attachment L).

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

**Senator Gould moved SB 1134 be returned with a DO PASS recommendation.
The motion CARRIED with a roll call vote of 7-0-0 (Attachment 7).**

There being no further business, the meeting was adjourned at 4:11 p.m.

Respectfully submitted,

Bill Ritz
Committee Secretary

(Audio recordings and attachments on file in the Secretary of Senate's Office/Resource Center, Room 115. Audio archives are available at <http://www.azsenate.gov>).