

ARIZONA HOUSE OF REPRESENTATIVES
Fifty-second Legislature – First Regular Session

COMMITTEE ON JUDICIARY

Report of Regular Meeting
Wednesday, February 4, 2015
House Hearing Room 3 -- 10:00 a.m.

Convened 10:07 a.m.

Recessed

Reconvened

Adjourned 10:34 a.m.

Members Present

Mr. Friese
Mr. Kern
Mr. Mesnard
Mr. Borrelli, Vice-Chairman
Mr. Farnsworth, Chairman

Members Absent

Mr. Hale

Request to Speak

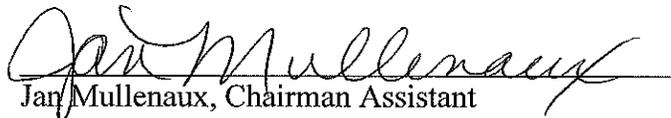
Report – Attachment 1

Presentations

<u>Name</u>	<u>Organization</u>	<u>Attachments (Handouts)</u>
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Committee Action

<u>Bill</u>	<u>Action</u>	<u>Vote</u>	<u>Attachments (Summaries, Amendments, Roll Call)</u>
HB2164	DP	5-0-0-1	2, 3
HB2203	DP	5-0-0-1	4, 5
HB2214	DP	4-0-0-2	6, 7
HB2291	DP	5-0-0-1	8, 9
HB2301	DP	5-0-0-1	10, 11
HB2310	DPA	5-0-0-1	12, 13, 14
HB2374	DP	5-0-0-1	15, 16
HB2578	HELD		


Jan Mullenau, Chairman Assistant
February 4, 2015

(Original attachments on file in the Office of the Chief Clerk; video archives available at <http://www.azleg.gov>)

Information Registered on the Request to Speak System

House Judiciary (2/4/2015)

HB2310, mental health courts; establishment

Support:

Barry Aarons, AMER FRIENDS SERVICE COMTE; Theresa Ulmer, AMER FRIENDS SERVICE COMTE; Jeff Taylor, THE SALVATION ARMY

All Comments:

Jeff Taylor, THE SALVATION ARMY: The Salvation Army has partnered with similar very successful specialty courts.

HB2301, historical prior felony conviction; sentencing

Support:

kathleen mayer, Pima County Attorney's Office; Rebecca Baker, Maricopa County Attorney's Office

Oppose:

Tom Woodrow, representing self

HB2374, wrongful death actions; disqualified party

Support:

Lori Jeanne Lustig, representing self

All Comments:

Lori Jeanne Lustig, Self: This bill corrects a terrible outcome.

HB2164, release; bailable offenses; evidence

Support:

kathleen mayer, Pima County Attorney's Office; Kimberly MacEachern, Arizona Prosecuting Attorneys' Advisory Council; Rebecca Baker, Maricopa County Attorney's Office; Shannon Rich, AZ COALITION TO END SEXUAL AND DOMESTIC VIOLENCE

Neutral:

Jerry Landau, Administrative Office Of The Courts

HB2578, real property; purchaser dwelling actions

Support:

Stan Barnes, SOUTHERN AZ HOMEBUILDERS ASSN; Courtney Gilstrap LeVinus, Arizona Multihousing Association; Mark Minter, EXECUTIVE DIRECTOR, Arizona Builders' Alliance; Spencer Kamps, HOME BUILDERS ASSOCIATION OF CENTRAL AZ; Brian Tassinari, ARIZONA MASONRY CONTRACTORS ASSOCIATION; Scot Mussi, Arizona Free Enterprise Club; Jeff Sandquist, ROBSON COMMUNITIES; Steve Trussell, Arizona Rock Products Association; kevinomalley, representing self

Oppose:

Mike Williams, Kasdan Weber Turner; Stephen Weber, representing self; Michael Wales, representing self; Barry Schneider, representing self



HOUSE OF REPRESENTATIVES

HB 2164

release; bailable offenses; evidence

Sponsor: Representative Borrelli

X Committee on Judiciary

Caucus and COW

House Engrossed

OVERVIEW

HB 2164 specifies that prior to setting bail, the court is required to take into account whether the accused has prior convictions for crimes of violence or other evidence that the accused poses a danger to others in the community.

HISTORY

When a person is placed under arrest, the person is usually taken into police custody and processed. Processing involves recording information about a crime, collecting fingerprints, taking photographs and confiscating any personal property.

After being processed, the next step is to arrange the person's release. When considering a person's release, the main concern is ensuring that the person will appear at future court dates. Judges decide whether to release individuals on their own recognizance, which means the individual promises in writing to appear in court at a later date, or requires a person to make a financial guarantee to appear in court.

Bail is a process by which a person pays a set amount of money to obtain release from police custody. The court will have a bail hearing and will decide whether to grant bail and what amount is appropriate. The court may consider several factors, such as a person's mental condition, financial resources, family ties, drug or alcohol abuse, criminal history, etc. As part of the release, a promise to appear in court for all scheduled hearings is required. If the person appears in court at the scheduled hearings, the bail is returned. If the person does not appear, the person will be subject to arrest and the bail amount will be forfeited.

PROVISIONS

1. Specifies that prior to setting bail, the court is required to take into account whether the accused has prior convictions for crimes of violence or other evidence that the accused poses a danger to others in the community, including the results of a risk or lethality assessment in a misdemeanor or felony domestic violence charge.

Attachment 2

ARIZONA HOUSE OF REPRESENTATIVES
Fifty-second Legislature - First Regular Session

ROLL CALL VOTE

COMMITTEE ON JUDICIARY BILL NO. HB 2164

DATE February 4, 2015 MOTION: dp

	PASS	AYE	NAY	PRESENT	ABSENT
Mr. Friese		✓			
Mr. Hale					✓
Mr. Kern		✓			
Mr. Mesnard		✓			
Mr. Borrelli, Vice-Chairman		✓			
Mr. Farnsworth E, Chairman		✓			
		5	0	0	1

APPROVED:

 EDWIN W. FARNSWORTH, Chairman
 SONNY BORRELLI, Vice-Chairman


 COMMITTEE SECRETARY

ATTACHMENT 3



HOUSE OF REPRESENTATIVES

HB 2203

postconviction release hearings; recordings; free

Sponsor: Representative Boyer

X Committee on Judiciary

Caucus and COW

House Engrossed

OVERVIEW

HB 2203 specifies that any electronic recordings made of postconviction and postadjudication release hearings shall be provided for victims, free of charge.

HISTORY

Arizona Revised Statutes (A.R.S.) § 8-395 was added by Laws 1995, Chapter 197, § 1. The statute allows the crime victim the right to be present and heard at any of the defendant's postadjudication release proceedings pursuant to § 41-2820. The law states that if the victim submits a postadjudication notice request 15 days prior to the hearing or the juvenile's discharge, the Department of Juvenile Correction (DJC) must give the victim written notice of their right to be present and heard at a defendant's hearing and notice of the juvenile's discharge. The request for notice also requires the DJC to inform the victim of the decision reached by the department within 15 days after the decision has been reached.

A.R.S. § 13-4414 was added by Laws 1991, Chapter 229, § 7. This statute allows the victim to be present and heard at any postconviction hearing pursuant to section 31-233, 31-236, or 31-411. If the victim has submitted a request for a postconviction hearing notice at least 15 days before the hearing, the Board of Executive Clemency (BOEC) is required to inform the victim of the right to be present and heard at the hearing. The request for notice also requires the BOEC to inform the victim of the BOEC's decision within 15 days after the decision has been reached.

PROVISIONS

1. Specifies that any electronic recordings made of postconviction and postadjudication release hearings shall be provided for victims, free of charge.
2. Makes technical and conforming changes.

Attachment 4

**ARIZONA HOUSE OF REPRESENTATIVES
Fifty-second Legislature - First Regular Session**

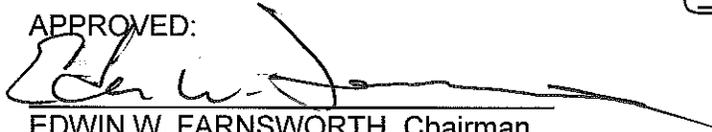
ROLL CALL VOTE

COMMITTEE ON JUDICIARY BILL NO. HB 2203

DATE February 4, 2015 MOTION: Sp

	PASS	AYE	NAY	PRESENT	ABSENT
Mr. Friese		✓			
Mr. Hale					✓
Mr. Kern		✓			
Mr. Mesnard		✓			
Mr. Borrelli, Vice-Chairman		✓			
Mr. Farnsworth E, Chairman		✓			
		5	0	0	1

APPROVED:



EDWIN W. FARNSWORTH, Chairman
SONNY BORRELLI, Vice-Chairman



COMMITTEE SECRETARY

ATTACHMENT 5



HOUSE OF REPRESENTATIVES

HB 2214

notice; attorney general; trial court

Sponsor: Representative Petersen

X Committee on Judiciary

Caucus and COW

House Engrossed

OVERVIEW

HB 2214 provides the attorney general 20 days' notice for further proceedings after the original trial and sentencing.

HISTORY

A.R.S. § 13-121 was added by Laws 1958, Chapter 79, § 1. Current statute requires that if further proceedings are instituted before the trial court after the original trial and sentencing has occurred, proof must be provided to the court that the attorney general has been notified of the hearing at least ten days before its occurrence. This does not apply to motions for a new trial made within one year after the rendition of the verdict or the finding of the court.

PROVISIONS

1. Provides the Attorney General 20 days' notice for further proceedings after the original trial and sentencing, as opposed to ten days.
2. Makes technical changes.

Attachment 6

**ARIZONA HOUSE OF REPRESENTATIVES
Fifty-second Legislature - First Regular Session**

ROLL CALL VOTE

COMMITTEE ON JUDICIARY BILL NO. HB 2214

DATE February 4, 2015 MOTION: dp

	PASS	AYE	NAY	PRESENT	ABSENT
Mr. Friese		✓			
Mr. Hale					✓
Mr. Kern		✓			
Mr. Mesnard					✓
Mr. Borrelli, Vice-Chairman		✓			
Mr. Farnsworth E, Chairman		✓			
		4	0	0	2

APPROVED:

 EDWIN W. FARNSWORTH, Chairman
 SONNY BORRELLI, Vice-Chairman


 COMMITTEE SECRETARY

Attachment 7



HOUSE OF REPRESENTATIVES

HB 2291

probation standards; annual report; counties

Sponsor: Representative Farnsworth E

X Committee on Judiciary

Caucus and COW

House Engrossed

OVERVIEW

HB 2291 requires Maricopa County to submit annual report on probation standards by December 1st of each year, rather than October 1st.

HISTORY

Arizona Revised Statutes (A.R.S.) § 12-269 was added by Laws 2006, Chapter 261, § 4. Current law states that direct state aid for probation services appropriated for juvenile intensive probation services pursuant to § 8-353, state aid for probation services pursuant to § 12-262, adult intensive probation services pursuant to Title 13, Chapter 9, and community punishment programs pursuant to Title 12, Chapter 2, Article 11 shall not be disbursed to a county with a population of two million or more persons. It also mandates that counties with two million or more people must maintain probation standards and submit an annual report of probation standards by October 1st of each year.

PROVISIONS

1. Requires Maricopa County to submit its annual report of probation standards by December 1st of each year, rather than October 1st.

Attachment 8

**ARIZONA HOUSE OF REPRESENTATIVES
Fifty-second Legislature - First Regular Session**

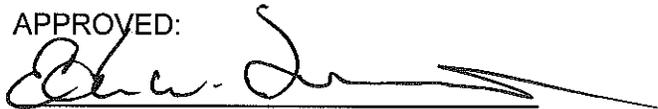
ROLL CALL VOTE

COMMITTEE ON JUDICIARY BILL NO. HB 2291

DATE February 4, 2015 MOTION: dp

	PASS	AYE	NAY	PRESENT	ABSENT
Mr. Friese		✓			
Mr. Hale					✓
Mr. Kern		✓			
Mr. Mesnard		✓			
Mr. Borrelli, Vice-Chairman		✓			
Mr. Farnsworth E, Chairman		✓			
		5	0	0	1

APPROVED:



EDWIN W. FARNSWORTH, Chairman
SONNY BORRELLI, Vice-Chairman


COMMITTEE SECRETARY

ATTACHMENT 9



HOUSE OF REPRESENTATIVES

HB 2301

historical prior felony conviction; sentencing
Sponsors: Representative Farnsworth E

X Committee on Judiciary

Caucus and COW

House Engrossed

OVERVIEW

HB 2301 defines *historical prior felony conviction* to include any felony conviction that is a third or more prior felony conviction, including felony convictions in another state.

HISTORY

Arizona Revised Statutes (A.R.S.) § 13-105 was added by Laws 1977, Chapter 142, § 39 and is the definition section for criminal code. *Historical prior felony conviction* was added by Laws 2008, Chapter 301, § 10. Historical prior felony convictions are used by prosecutors to enhance/increase criminal sentences for defendants with prior criminal convictions and are based on the details of the offense.

Pursuant to A.R.S. § 13-703, repetitive offenders are sentenced to increased penalties. There are different categories of repetitive offenders. A person's conviction of a felony in another state is considered in the determination of whether a person should be sentenced as a category three repetitive offender or if a person who is convicted of a felony and has one historical conviction should be sentenced as a category two repetitive offender.

PROVISIONS

1. Defines *historical prior felony conviction* to include any felony conviction that is a third or more prior felony conviction, including felony convictions in another state.
2. Allows a person's conviction for a felony in another state to be considered in classifying a person as a category one repetitive offender or classifying a person as a category two offender if the person has three or more felony convictions that were not committed on the same occasion, but that are consolidated for trial or are not historical prior felony convictions.

Attachment 10

**ARIZONA HOUSE OF REPRESENTATIVES
Fifty-second Legislature - First Regular Session**

ROLL CALL VOTE

COMMITTEE ON JUDICIARY BILL NO. HB 2301

DATE February 4, 2015 MOTION: d/p

	PASS	AYE	NAY	PRESENT	ABSENT
Mr. Friese		✓			
Mr. Hale					✓
Mr. Kern		✓			
Mr. Mesnard		✓			
Mr. Borrelli, Vice-Chairman		✓			
Mr. Farnsworth E, Chairman		✓			
		5	0	0	1

APPROVED:


EDWIN W. FARNSWORTH, Chairman
SONNY BORRELLI, Vice-Chairman


COMMITTEE SECRETARY

ATTACHMENT 11



HOUSE OF REPRESENTATIVES

HB 2310

mental health courts; establishment
Sponsors: Representative Farnsworth E

X Committee on Judiciary

Caucus and COW

House Engrossed

OVERVIEW

HB 2310 establishes mental health courts and allows counties to enter into intergovernmental agreements to establish regional mental health courts.

HISTORY

Mental health courts are specialized courts designed to address the unique needs of offenders with serious mental illness (SMI) or who are developmentally disabled, provide appropriate services that will reduce the possibility of recidivism, improve public safety through improved monitoring, reduce the number of jail days spent in custody, and provide accessible treatment and support services to clients. In order to qualify for mental health court, a defendant must be enrolled in and have their case managed by a local Regional Behavioral Health Authorities, the Division of Developmental Disabilities or the Veterans Administration or have a private provider that is willing to meet monthly.

The purpose of these specialized courts is to provide individualized treatment and services by a mental health team composed of the judge, the prosecutor, the public defender and a treatment team representative to address the defendant's psychological needs and make assessments for treatment referrals. Defendants are monitored during the time that their case is pending and, upon successful completion of the program, the charges will be dismissed. Completion dates are occasionally extended to allow defendants more time to meet requirements. If a defendant is unsuccessful, the defendant will be removed and the case will resume with regular court proceedings.

PROVISIONS

1. Allows the presiding judge of the superior court in each county to establish a mental health court to adjudicate cases filed in the county.
2. Requires the presiding judge to establish the eligibility criteria for referral.
3. Allows judges with proper jurisdiction to refer cases where defendants meet the eligibility criteria.
4. Requires originating courts to notify the prosecutor of any criminal case referral.
5. Allows the presiding judges in counties with a population of less than 250,000 to enter into intergovernmental agreements with each other to establish a regional mental health court and refer and adjudicate cases.

Attachment 12

COMMITTEE ON JUDICIARY

HOUSE OF REPRESENTATIVES AMENDMENTS TO H.B. 2310

(Reference to printed bill)

1 Page 1, strike lines 4 through 15; line 16, strike "E." insert:

2 "12-132. Regional mental health courts; establishment; authority to
3 adjudicate

4 A."

5 Lines 17 and 18, strike "ENTER INTO AN INTERGOVERNMENTAL AGREEMENT WITH EACH
6 OTHER" insert "AGREE"

7 Lines 19 and 20, strike "IN A COUNTY THAT HAS ENTERED INTO AN INTERGOVERNMENTAL
8 AGREEMENT" insert "OF A COURT THAT PARTICIPATES IN A REGIONAL MENTAL HEALTH
9 COURT"

10 Line 21, strike "ANY" insert "A"; after "THAT" strike remainder of line; line
11 22, strike "INTERGOVERNMENTAL AGREEMENT" insert "PARTICIPATES IN A REGIONAL
12 MENTAL HEALTH COURT"

13 After line 23, insert:

14 "B. THE ORIGINATING COURT SHALL NOTIFY THE PROSECUTOR OF ANY CRIMINAL
15 CASE REFERRED TO THE MENTAL HEALTH COURT."

16 Amend title to conform

and, as so amended, it do pass

EDWIN W. FARNSWORTH
Chairman

2310-jud
2/4/15
H:laa

**ARIZONA HOUSE OF REPRESENTATIVES
Fifty-second Legislature - First Regular Session**

ROLL CALL VOTE

COMMITTEE ON JUDICIARY BILL NO. HB 2310

DATE February 4, 2015 MOTION: dpa

	PASS	AYE	NAY	PRESENT	ABSENT
Mr. Friese		✓			
Mr. Hale					✓
Mr. Kern		✓			
Mr. Mesnard		✓			
Mr. Borrelli, Vice-Chairman		✓			
Mr. Farnsworth E, Chairman		✓			
		5	0	0	1

APPROVED:


EDWIN W. FARNSWORTH, Chairman
SONNY BORRELLI, Vice-Chairman


COMMITTEE SECRETARY

ATTACHMENT 14



HOUSE OF REPRESENTATIVES

HB 2374

wrongful death actions; disqualified party

Sponsors: Representative Brophy McGee, Senator Pancrazi: Representative Carter, et al.

X Committee on Judiciary

Caucus and COW

House Engrossed

OVERVIEW

HB 2374 disqualifies a person who is found guilty of, plead guilty or no contest to, intentionally causing the death of a decedent when recovering wrongful death benefits.

HISTORY

Arizona Revised Statutes § 14-2803 specifies that a person who feloniously and intentionally kills the decedent forfeits all benefits with respect to the decedent's estate by will or intestate succession. The Arizona Court of Appeals held that this provision does not apply to wrongful death actions in *Carrasco v. State of Arizona*.

PROVISIONS

1. Disqualifies a person who is found guilty of, plead guilty or no contest to, intentionally causing the death of a decedent when recovering wrongful death benefits.

Attachment 13

**ARIZONA HOUSE OF REPRESENTATIVES
Fifty-second Legislature - First Regular Session**

ROLL CALL VOTE

COMMITTEE ON JUDICIARY BILL NO. HB 2374

DATE February 4, 2015 MOTION: dp

	PASS	AYE	NAY	PRESENT	ABSENT
Mr. Friese		✓			
Mr. Hale					✓
Mr. Kern		✓			
Mr. Mesnard		✓			
Mr. Borrelli, Vice-Chairman		✓			
Mr. Farnsworth E, Chairman		✓			
		5	0	0	1

APPROVED:



EDWIN W. FARNSWORTH, Chairman
SONNY BORRELLI, Vice-Chairman



COMMITTEE SECRETARY

ATTACHMENT 16