



HOUSE OF REPRESENTATIVES

HB 2288

constables; duties; training; discipline

Prime Sponsor: Representative Bowers, LD 25

DPA Committee on Military Affairs and Public Safety

DPA Caucus and COW

X As Transmitted to the Governor

OVERVIEW

HB 2288 makes changes to statute relating to constables and the Constable Ethics Standards and Training Board (Board).

PROVISIONS

1. Requires constables, within their counties, to execute, serve and return all criminal processes, warrants and notices directed or delivered to them by a Justice of the Peace of the county, or by a competent authority.
2. Expands the Board's ability to remedy inappropriate behavior by suspending a constable with or without pay.
3. Requires the board of supervisors to withhold a constable's salary during the time that the constable is suspended without pay.
4. Specifies that a county board of supervisors must not withhold a constable's pay, if the constable is suspended without pay, for more than 30 consecutive days for each incident of inappropriate behavior.
5. Stipulates that the Board must adopt a standardized daily log for a constable that is approved by the Arizona Peace Officer Standards and Training Board.
6. Requires constables to maintain a standardized daily log of work related activities and file them monthly by the tenth day of the following month.
7. Removes the requirement that a constable must file a daily log with the clerk of the justice court.
8. Stipulates that the board of supervisors must determine the method for filing the standardized daily log.
9. Requires the constables of a county with four or more constables to elect by a majority vote, one constable to serve as the presiding constable and another to act as the associate presiding constable.
10. Stipulates that the associate presiding constable must perform the duties and exercise the powers of the presiding constable during the absence or inability to act of the presiding constable.
11. Allows a majority of the constables within a county to vote to remove the presiding constable or associate presiding constable and select a new constable to complete the term.

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12. Sets the terms of the presiding constable and associate presiding constable at two-year terms.
13. Prescribes that the duties of the presiding constable are:
 - a. To serve as the liaison between the constables within the county and the county manager or other departments;
 - b. To assign deputy constables within the county;
 - c. To assign and manage clerical staff for the county constables; and
 - d. To assign, in a constable's absence, any court orders in need of service to another constable within the county.
14. Exempts counties from having to pay any costs to support the duties of a presiding constable or associate presiding constable.
15. Decreases Board membership for counties with a population of less than 1,000,000 and counties with a population of more than 1,000,000, from two constables to one.
16. Eliminates a governor appointed county sheriff from Board membership.
17. Includes the Director of the Arizona Peace Officer Standards and Training Board or the Director's designee as a member of the Board.
18. Allows a statewide constables association established prior to January 1, 2010, rather than the Arizona Association of Counties to appoint members of the Board.
19. Requires the Board to remedy a constable's inappropriate behavior by:
 - a. Urging them to resign rather than retire from office;
 - b. Placing a constable on probation for not more than 30 days, unless the constable is making progress but is not yet compliant, in which case the probation may be extended, in 30 day increments, for up to 180 days; or
 - c. Recommending to the board of supervisors that a constable who has been previously suspended, be suspended without pay for any specified length of time not to exceed the remainder of their term.
20. Specifies that final order relating to a constables behavior is to be issued by the county board of supervisors.
21. Allows a board of supervisors to modify or accept a recommendation to suspend a constable without pay, unless judicial review is requested by the affected constable.
22. Asserts that all current Board members are allowed to continue to serve until the end of their respective terms and any subsequent memberships or appointments must be made pursuant to statute.
23. Allows the Board to subpoena constables relating to any investigation or hearing.
24. Removes the requirement that the Board submit a report to the county attorney, if the Board is not satisfied with statutory remedies for inappropriate behavior by a constable.
25. Requires the Board to refer a criminal investigation and their findings to the appropriate county attorney's office, if the Board determines that a constable has committed a criminal act.

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26. Specifies that the Board must adjudicate a complaint if the county attorney determines that a crime has not been committed.
27. Allows a constable to seek judicial review of a final order suspending the constable and the review must be conducted and commenced in accordance with statute.
28. Provides that a prosecuting agency is not precluded from filing charges against a constable.
29. Defines *constable*.
30. Makes technical and conforming changes.

CURRENT LAW

Constables are required to attend the courts of justices of the peace, within their respective precincts and counties, by serving, executing and returning all processes, warrants and notices directed to them by a justice of the peace or by a competent authority. Statute also outlines training requirements and salaries for constables (A.R.S. § 22-131). Constable training and administrative matters are overseen by the Board. Statute prescribes a variety of remedies that the Board may use to address inappropriate behavior by a constable. These remedies include mediating, issuing warnings or reprimands, instructing constables to take educational classes and urging a constable to retire. If the Board is not satisfied with the statutory remedies for misconduct, they must submit a report to the county attorney. The Board is also allowed to take and hear evidence, administer oaths and affirmations and subpoena witnesses and production of various records (A.R.S. § 22-131).