



**ARIZONA STATE SENATE**  
*Fifty-Second Legislature, Second Regular Session*

FACT SHEET FOR S.B. 1532  
criminal justice; budget reconciliation; 2016-2017

Purpose

Makes statutory and session law changes related to the criminal justice system necessary to implement the FY 2017 state budget.

Background

The Arizona Constitution prohibits substantive law from being included in the general appropriations, capital outlay appropriations and supplemental appropriations bills. However, it is often necessary to make statutory and session law changes to effectuate the budget. Thus, separate bills called budget reconciliation bills (BRBs) are introduced to enact these provisions. Because BRBs contain substantive law changes, the Arizona Constitution provides that they become effective on the general effective date, unless an emergency clause is enacted.

S.B. 1532 contains the budget reconciliation provisions for changes relating to criminal justice.

Provisions

*Arizona Department of Corrections (ADC)*

Monies

1. Requires ADC to administer the Corrections Fund, and subjects it to legislative appropriation.
2. Permits ADC to transfer monies from the Special Services Fund to the Automation Projects Fund in FY 2017 for costs related to the replacement of the Adult Inmate Management System.
3. Requires ADC to report actual FY 2016, estimated FY 2017 and requested FY 2018 expenditures as delineated in the prior year's submission when submitting its FY 2018 budget request.

Transition Program (Program)

4. Requires ADC to provide information about the Program to:
  - a) all inmates who are not serving a life sentence on prison admission; and
  - b) any inmate who is potentially eligible six months before the inmate's eligibility date.

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5. Requires the information to include all of the admission requirements, including disqualifying factors.
6. Permits DUI offenders to participate in the Program by removing the restriction.
7. Requires inmates to be classified as low *violence* risk to the community to participate.
8. Removes the following qualification factors for Program eligibility:
  - a) a nonviolent risk score as determined by ADC;
  - b) maintaining civil behavior while incarcerated as determined by ADC;
  - c) being current on restitution payments; and
  - d) a need and ability to benefit from the Program as determined by ADC.
9. Adds the following inmate requirements in place of the above criteria:
  - a) the person must be classified by ADC as minimum or medium custody as determined by an objective risk assessment; and
  - b) the person must not have been found in violation of any major violent rule during the inmate's current period of incarceration or in violation of any other major rule within the previous six months.
10. Specifies that an accumulation of minor rule violations does not equal a major rule violation for the purposes of Program qualification.
11. Requires the Program services to include psychoeducational counseling and case management services as determined by ADC.
12. Allows the counseling and services to include substance abuse treatment, anger management, cognitive behavioral therapy, parenting skills and family reunification training, further education and job placement.
13. Clarifies that the inmate must have made satisfactory progress on the inmate's individualized corrections plan *by complying with all programming*.
14. Clarifies the Program provides eligible inmates with transition services in the community for up to 90 days.
15. Requires ADC's annual Program study and report to include the recidivism rate of inmates for a minimum of three years after release and allows the report to be submitted electronically.
16. Defines *recidivism* as reincarceration in ADC for any reason.
17. Extends the Program for another two years, until July 1, 2020.

### **Community Supervision**

18. Permits the ADC Director, as a condition of Community Supervision, to order a prisoner to apply for healthcare benefits through the Arizona Health Care Cost Containment System (AHCCCS) before being released.
19. Requires ADC to enter into an enrollment suspense agreement with AHCCCS to reinstate benefits for prisoners who were:
  - a) sentenced to 12 months or less; and
  - b) previously enrolled in AHCCCS immediately before incarceration.
20. Requires ADC, for all other prisoners, to submit a prerelease application to AHCCCS at least 30 days before the prisoner's release date.
21. Allows ADC to coordinate with community-based organizations or the Department of Economic Security to assist prisoners in applying for enrollment in AHCCCS.
22. Permits the ADC Director to exchange a prisoner's healthcare information with the Regional Behavioral Health Authority (RBHA) or AHCCCS justice system contact to facilitate the transition regarding the released prisoner's access to behavioral and physical healthcare services.
23. Specifies such healthcare services may include medication, counseling, case management, substance abuse treatment and parenting skills and family reunification training.
24. Requires the ADC Director to adopt policies and procedures that establish a team to convene and discuss the services and resources, including housing and employment supports, that may be needed for the released prisoner to safely transition into the community.
25. Requires the team to include the RBHA or AHCCCS contractor and the healthcare provider.

### **Male Medium Security Prison Beds**

26. Requires ADC to report to the Joint Committee on Capital Review (JCCR), by November 30, 2016, if the male inmate population remains at least 1,000 inmates more than the April 22, 2016, level of 38,762 inmates for at least 30 consecutive days.
27. Requires JCCR, after such a notification and before the issuance of an RFP for a total of 1,000 male medium security prison beds, to review and approve ADC's plan to issue the RFP and timeline for opening the beds.
28. Sets a deadline of December 31, 2016, for JCCR to review or approve the RFP.
29. Requires ADC, after approval, to award a contract or contracts to open up to 1,000 male beds pursuant to the RFP at new or existing contracted bed facilities or expansions of such facilities.

30. Grants a county bidder the first right of refusal for at least 250 beds if the county's contract meets all of the RFP requirements and has a per diem equal to or less than other non-county bidders.
31. Specifies the authorization to enter into such a contract ceases if ADC does not provide the notice by November 30 and JCCR does not review and approve ADC's plan by December 31, 2016.
32. Retroactive to July 1, 2016, eliminates the option for the Legislature to authorize the remaining 1,000 medium security beds under the May 2015 RFP.

### **Financing Agreement**

33. Allows the Arizona Department of Administration (ADOA), in coordination with ADC, to enter into a financing agreement in FY 2017 that will generate a savings on the cost of housing prisoners by a combined total of at least \$25 million from FY 2017 to FY 2025.
34. Prohibits ADC's related cost reductions from varying by more than \$1 million in any fiscal year.
35. Requires any ADC contractual payments that are reduced as a direct result of the agreement to be included in calculating the savings.
36. Requires ADOA, before entering into an agreement, in coordination with ADC, to submit the following to JCCR for review:
  - a) the proposed agreement terms;
  - b) the total annual cost savings for the term of the agreement; and
  - c) ADC's allocation of these savings.

### ***Arizona Criminal Justice Commission (ACJC)***

37. Transforms the Drug and Gang Enforcement Account, currently within the Criminal Justice Enhancement Fund, into its own fund.
38. Clarifies that notary bond and court fees go directly to the Resource Center Fund, rather than routing the monies through the Drug and Gang Enforcement Account.
39. Specifies that ACJC administers the Drug and Gang Enforcement and the Resource Center Funds.
40. Requires ACJC to submit a copy of the report on specified law enforcement activities to the Secretary of State.

### ***Department of Public Safety (DPS)***

41. Suspends the \$10 million statutory cap and transfer of Highway User Revenue Fund monies available to fund DPS highway patrol costs in FY 2017.

42. Requires DPS to submit the Gang and Immigration Intelligence Team Enforcement Mission (GIITEM) Border Security and Law Enforcement Subaccount's entire expenditure plan to the Joint Legislative Budget Committee (JLBC) for review in FY 2017 before any expenditure.
43. Permits DPS, in FY 2017, to use up to \$137,700 of the amount appropriated to the GIITEM Subaccount for costs related to an increase in the Public Safety Personnel Retirement System (PSPRS) employer contribution rate.
44. Permits DPS to use monies in the State Aid to Indigent Defense Fund in FY 2017 for operating expenses.
45. Allows DPS to use monies in the Automobile Theft Authority Fund in FY 2017 to procure virtual training for law enforcement officers and for costs associated with the Border Strike Task Force.
46. Allows DPS to use monies in the Concealed Weapons Permit Fund and the Resource Center Fund in FY 2017 for costs associated with the Border Strike Task Force.

#### *Judiciary*

47. Suspends county non-supplanting requirements associated with funding for criminal case processing, alternative dispute resolution programs and probation services.
48. Requires the Arizona Supreme Court to submit a report to JLBC identifying any decrease in county funding related to the non-supplanting suspension, including the reasons for the decrease.
49. Extends the lapsing exemption, from June 30, 2016 to June 30, 2017, of \$250,000 appropriated in FY 2015 from the GF to Maricopa County Superior Court for integrated delivery of testing and treatment services.

#### *Study Committee*

50. Establishes the Study Committee on Incompetent, Nonrestorable and Dangerous Defendants (Study Committee), consisting of the following members:
  - a) one Senate member, appointed by the President of the Senate (President), who serves as cochairperson;
  - b) one House of Representatives (House) member, appointed by the Speaker of the House (Speaker), who serves as cochairperson;
  - c) the Director of the Department of Health Services or the Director's designee;
  - d) the Chief Medical Officer of the Arizona State Hospital or the Officer's designee;
  - e) the Director of AHCCCS or the Director's designee;
  - f) two county attorneys, one from Maricopa County and one from another county, or their designees, appointed by the Arizona Prosecuting Attorneys' Advisory Council;
  - g) the Chief Justice of the Arizona Supreme Court or his designee;

- h) an administrator of a jail-based restoration-to-competency program from a county not represented by a county attorney, appointed by the Speaker;
  - i) a private attorney with experience in behavioral health law, appointed by the President;
  - j) a licensed psychiatrist or psychologist with experience in court-ordered evaluation and treatment, appointed by the Speaker;
  - k) an administrator of an in-patient psychiatric facility or that person's designee, appointed by the President; and
  - l) a peace officer with experience in behavioral health programs, appointed by the Speaker.
51. Requires the Study Committee to research and make recommendations for a program to provide long-term treatment and supervision of persons charged with crimes involving violent or dangerous behavior and found incompetent to stand trial and nonrestorable, including:
- a) the legal and administrative framework of such a program;
  - b) the number of people who might be eligible;
  - c) the types of facilities, staffing and treatment services that would be necessary; and
  - d) the costs associated with the establishment, administration and staffing.
52. Allows the Study Committee to:
- a) request information, data and reports from any state agency or political subdivision, including the courts; and
  - b) hold hearings, conduct fact-finding tours and take testimony from witnesses, including participants in the criminal justice system, who may assist in fulfilling the Committee's responsibilities.
53. Requires the agencies or political subdivisions to provide the information electronically, if possible.
54. Requires all Study Committee hearings to be open to the public.
55. Requires the Legislature to provide staff and support services.
56. Requires the Study Committee to submit a report of its findings and recommendations by December 15, 2016, to the Governor, President, Speaker and Secretary of State.
57. Repeals the Study Committee on January 1, 2017.

*Miscellaneous*

58. Expresses the Legislature's intent that the Director of the Arizona Department of Juvenile Corrections assess each county a proportional share of \$11.26 million for the annual committed youth confinement cost sharing fee, using population data from the most recent decennial U.S. Census.
59. Removes the requirement for JLBC to review agency and department reports on funding sources for Attorney General legal services costs.

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60. Makes technical and conforming changes.

61. Becomes effective on the general effective date, with retroactive provisions as noted.

Prepared by Senate Research

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AW/rf