

State of Arizona
Senate
Fiftieth Legislature
First Regular Session
2011

SENATE BILL 1398

AN ACT

AMENDING TITLE 12, CHAPTER 1, ARTICLE 1, ARIZONA REVISED STATUTES, BY ADDING SECTION 12-116.04; AMENDING SECTIONS 28-1201, 28-1592 AND 28-1593, ARIZONA REVISED STATUTES; REPEALING SECTION 28-1602, ARIZONA REVISED STATUTES; AMENDING TITLE 28, CHAPTER 5, ARTICLE 4, ARIZONA REVISED STATUTES, BY ADDING A NEW SECTION 28-1602; REPEALING SECTION 28-3323, ARIZONA REVISED STATUTES; PROVIDING FOR THE DELAYED REPEAL OF SECTION 41-1722, ARIZONA REVISED STATUTES; AMENDING SECTION 41-1723, ARIZONA REVISED STATUTES; AMENDING SECTION 41-1724, ARIZONA REVISED STATUTES, AS AMENDED BY LAWS 2011, CHAPTER 33, SECTION 20; AMENDING LAWS 2010, CHAPTER 266, SECTION 11; MAKING APPROPRIATIONS; RELATING TO LAW ENFORCEMENT.

(TEXT OF BILL BEGINS ON NEXT PAGE)

1 Be it enacted by the Legislature of the State of Arizona:

2 Section 1. Title 12, chapter 1, article 1, Arizona Revised Statutes,
3 is amended by adding section 12-116.04, to read:

4 12-116.04. Assessment; law enforcement officer equipment; gang
5 and immigration intelligence team enforcement
6 mission

7 A. IN ADDITION TO ANY OTHER PENALTY ASSESSMENT PROVIDED BY LAW, A
8 PENALTY ASSESSMENT SHALL BE LEVIED IN AN AMOUNT OF THIRTEEN DOLLARS ON EVERY
9 FINE, PENALTY AND FORFEITURE IMPOSED AND COLLECTED BY THE COURTS FOR CRIMINAL
10 OFFENSES AND ANY CIVIL PENALTY IMPOSED AND COLLECTED FOR A CIVIL TRAFFIC
11 VIOLATION AND FINE, PENALTY OR FORFEITURE FOR A VIOLATION OF THE MOTOR
12 VEHICLE STATUTES, FOR ANY LOCAL ORDINANCE RELATING TO THE STOPPING, STANDING
13 OR OPERATION OF A VEHICLE OR FOR A VIOLATION OF THE GAME AND FISH STATUTES IN
14 TITLE 17.

15 B. THE COURT SHALL TRANSMIT THE ASSESSMENTS COLLECTED PURSUANT TO THIS
16 SECTION AND A REMITTANCE REPORT OF THE FINES, CIVIL PENALTIES AND ASSESSMENTS
17 COLLECTED PURSUANT TO THIS SECTION TO THE COUNTY TREASURER, EXCEPT THAT
18 MUNICIPAL COURTS SHALL TRANSMIT THE ASSESSMENTS AND THE REMITTANCE REPORT OF
19 THE FINES, CIVIL PENALTIES AND ASSESSMENTS TO THE CITY TREASURER.

20 C. THE CITY OR COUNTY TREASURER SHALL TRANSMIT EIGHT DOLLARS OF THE
21 ASSESSMENT AND THE REMITTANCE REPORT TO THE STATE TREASURER. THE STATE
22 TREASURER SHALL DEPOSIT FOUR DOLLARS OF THE ASSESSMENT IN THE PUBLIC SAFETY
23 EQUIPMENT FUND ESTABLISHED BY SECTION 41-1723 AND THE REMAINING FOUR DOLLARS
24 OF THE ASSESSMENT IN THE GANG AND IMMIGRATION INTELLIGENCE TEAM ENFORCEMENT
25 MISSION BORDER SECURITY AND LAW ENFORCEMENT SUBACCOUNT ESTABLISHED BY SECTION
26 41-1724.

27 D. THE CITY OR COUNTY TREASURER SHALL TRANSMIT FOUR DOLLARS OF THE
28 ASSESSMENT AND THE REMITTANCE REPORT TO THE AGENCY THAT INVESTIGATED THE
29 OFFENSE OR ISSUED THE CITATION TO BE USED TO SUPPLEMENT, NOT SUPPLANT, MONIES
30 AVAILABLE FOR OFFICER SAFETY EQUIPMENT.

31 E. THE CITY TREASURER SHALL TRANSMIT ONE DOLLAR OF THE ASSESSMENT AND
32 THE REMITTANCE REPORT TO THE COUNTY TREASURER. THE COUNTY TREASURER SHALL
33 TRANSMIT ONE DOLLAR OF THE ASSESSMENT AND ANY MONIES RECEIVED FROM THE CITY
34 TREASURER PURSUANT TO THIS SUBSECTION TO THE FOLLOWING ENTITIES TO BE USED TO
35 IMPROVE, MAINTAIN AND ENHANCE THE ABILITY TO COLLECT AND MANAGE MONIES
36 ASSESSED OR RECEIVED BY THE COURTS, TO IMPROVE COURT AUTOMATION AND TO
37 IMPROVE CASE PROCESSING OR THE ADMINISTRATION OF JUSTICE:

38 1. IN A COUNTY WITH A POPULATION OF LESS THAN TWO MILLION PERSONS, TO
39 THE JUSTICE COURTS, DISTRIBUTED PROPORTIONALLY BASED ON THE JUDICIAL
40 PRODUCTIVITY CREDITS CALCULATED PURSUANT TO SECTION 22-125.

41 2. IN A COUNTY WITH A POPULATION OF TWO MILLION PERSONS OR MORE, TO
42 THE JUSTICE COURT ADMINISTRATION.

1 Sec. 2. Section 28-1201, Arizona Revised Statutes, is amended to read:
2 28-1201. Definition of photo enforcement system

3 In this article, unless the context otherwise requires, "photo
4 enforcement system" has the same meaning prescribed in section 28-601 ~~and~~
5 ~~includes a state photo enforcement system established pursuant to section~~
6 ~~41-1722.~~

7 Sec. 3. Section 28-1592, Arizona Revised Statutes, is amended to read:
8 28-1592. Commencement of action

9 A. A civil traffic violation case is commenced by issuance or filing
10 of a uniform traffic ticket and complaint as provided in this article.

11 B. A civil traffic violation case shall be commenced as follows:

12 1. If a case is commenced by issuance, it shall be issued within sixty
13 days of the alleged violation.

14 2. If the case is commenced by filing, it shall be filed within sixty
15 days of the alleged violation and shall be served within ninety days from the
16 filing date.

17 3. Except as provided in paragraph 4, within one hundred eighty days
18 of the alleged violation if the alleged violation is under investigation in
19 conjunction with a traffic accident.

20 4. Within one year of the alleged violation if the alleged violation
21 is under investigation in conjunction with a traffic accident resulting in
22 death.

23 ~~5. If the alleged violation is detected by the state photo enforcement~~
24 ~~system established pursuant to section 41-1722, the case shall be filed~~
25 ~~within one hundred twenty days of the alleged violation.~~

26 Sec. 4. Section 28-1593, Arizona Revised Statutes, is amended to read:
27 28-1593. Service of uniform traffic ticket and complaint

28 A. ~~Except as provided in section 28-1602,~~ A traffic complaint may be
29 served by delivering a copy of the uniform traffic ticket and complaint to
30 the person charged with the violation or by any means authorized by the rules
31 of civil procedure. At the discretion of the issuing authority, a complaint
32 for a violation issued after an investigation in conjunction with a traffic
33 accident may be sent by certified mail, return receipt requested and
34 delivered to addressee only, to the address provided by the person charged
35 with the violation. Service of the complaint is complete on filing the
36 receipt in the court having jurisdiction of the violation.

37 B. ~~Except as provided in section 28-1602, subsection A,~~ The original
38 complaint shall be filed in a court having jurisdiction of the violation
39 within ten court days of the time the complaint was issued. A peace officer,
40 or duly authorized agent or someone paid to act on behalf of a traffic
41 enforcement agency, may issue the traffic complaint.

42 ~~C. If a person fails to respond to a notice of violation or contests~~
43 ~~responsibility, a uniform traffic ticket and complaint shall be served and~~
44 ~~filed as otherwise provided in this section, except that the complaint~~
45 ~~resulting from the state photo enforcement system as defined in section~~

1 ~~28-1602 shall not be filed in court before the person is personally served~~
2 ~~with the complaint.~~

3 ~~D. The supreme court shall establish rules governing the issuance,~~
4 ~~service and processing of the notice of violation, including rules allowing a~~
5 ~~person to admit responsibility before a uniform traffic ticket and complaint~~
6 ~~is filed in court.~~

7 C. IF A LAW ENFORCEMENT AGENCY ISSUES A CITATION AS A RESULT OF A
8 PHOTO ENFORCEMENT SYSTEM AND SERVES THE CITATION IN A MANNER OTHER THAN WHAT
9 IS PRESCRIBED BY SUBSECTION A OF THIS SECTION, THE AGENCY SHALL INFORM THE
10 PERSON THAT THERE IS NO OBLIGATION TO IDENTIFY THE DRIVER OR RESPOND TO THE
11 CITATION. FAILURE TO RESPOND TO THE CITATION WILL RESULT IN THE PROBABILITY
12 THAT THE PERSON WILL BE FORMALLY SERVED PURSUANT TO STATE LAW AND THE ARIZONA
13 RULES OF CIVIL PROCEDURE WHICH WILL LIKELY RESULT IN THE PERSON BEING
14 REQUIRED TO PAY THE COST OF THE SERVICE.

15 Sec. 5. Repeal

16 Section 28-1602, Arizona Revised Statutes, is repealed.

17 Sec. 6. Title 28, chapter 5, article 4, Arizona Revised Statutes, is
18 amended by adding a new section 28-1602, to read:

19 28-1602. Photo enforcement violation; no duty to identify photo
20 or respond

21 A. NOTWITHSTANDING ANY OTHER LAW, IF A PERSON RECEIVES A NOTICE OF
22 VIOLATION IN THE MAIL FOR A VIOLATION OF CHAPTER 3, ARTICLE 3 OR 6 OF THIS
23 TITLE OR OF A CITY OR TOWN ORDINANCE FOR EXCESSIVE SPEED OR FAILURE TO OBEY A
24 TRAFFIC CONTROL DEVICE THAT IS OBTAINED USING A PHOTO ENFORCEMENT SYSTEM, THE
25 PERSON DOES NOT HAVE TO DO EITHER OF THE FOLLOWING:

- 26 1. IDENTIFY WHO IS IN THE PHOTO.
- 27 2. RESPOND TO THE NOTICE OF VIOLATION.

28 B. THE NOTICE OF VIOLATION THAT IS DESCRIBED IN SUBSECTION A OF THIS
29 SECTION MUST STATE THE FOLLOWING:

- 30 1. THE NOTICE IS NOT A COURT ISSUED DOCUMENT AND THE RECIPIENT IS
31 UNDER NO OBLIGATION TO IDENTIFY THE PERSON OR RESPOND TO THE NOTICE.
- 32 2. FAILURE TO RESPOND TO THE NOTICE MAY RESULT IN OFFICIAL SERVICE
33 THAT MAY RESULT IN AN ADDITIONAL FEE BEING LEVIED.

34 C. FOR THE PURPOSES OF THIS SECTION:

- 35 1. "NOTICE OF VIOLATION" MEANS A NOTICE ISSUED BY A PHOTO ENFORCEMENT
36 COMPANY OR MUNICIPALITY THAT IS NOT A UNIFORM TRAFFIC TICKET OR COMPLAINT.
- 37 2. "PHOTO ENFORCEMENT SYSTEM" HAS THE SAME MEANING PRESCRIBED IN
38 SECTION 28-601.

39 Sec. 7. Repeal

40 Section 28-3323, Arizona Revised Statutes, is repealed.

41 Sec. 8. Delayed repeal

42 Section 41-1722, Arizona Revised Statutes, is repealed from and after
43 June 30, 2012.

1 Sec. 9. Section 41-1723, Arizona Revised Statutes, is amended to read:

2 41-1723. Public safety equipment fund; distribution

3 A. The public safety equipment fund is established consisting of
4 monies deposited in the fund pursuant to sections 5-395.01, 5-396, 5-397,
5 12-116.04, 28-1381, 28-1382, 28-1383, 28-8284, 28-8286, 28-8287 and 28-8288.
6 The department shall administer the fund.

7 B. Monies DEPOSITED in the fund PURSUANT TO SECTIONS 5-395.01, 5-396,
8 5-397, 28-1381, 28-1382, 28-1383, 28-8284, 28-8286, 28-8287 AND 28-8288 shall
9 be distributed as follows:

10 1. The first one million two hundred thousand dollars received each
11 fiscal year as a continuing appropriation to the department for protective
12 armor, electronic stun devices and other safety equipment. Monies
13 appropriated pursuant to this paragraph are exempt from the provisions of
14 section 35-190 relating to lapsing of appropriations.

15 2. All other monies each fiscal year shall be deposited in the state
16 general fund.

17 C. MONIES DEPOSITED IN THE FUND PURSUANT TO SECTION 12-116.04 ARE
18 SUBJECT TO LEGISLATIVE APPROPRIATION AND SHALL BE USED BY THE DEPARTMENT FOR
19 PROTECTIVE ARMOR, ELECTRONIC STUN DEVICES AND OTHER SAFETY EQUIPMENT.

20 Sec. 10. Section 41-1724, Arizona Revised Statutes, as amended by Laws
21 2011, chapter 33, section 20, is amended to read:

22 41-1724. Gang and immigration intelligence team enforcement
23 mission fund; subaccount; use of monies; reporting
24 requirement

25 A. The gang and immigration intelligence team enforcement mission fund
26 is established consisting of monies deposited pursuant to section 11-1051 and
27 monies appropriated by the legislature. The department shall administer the
28 fund. Any monies distributed from the fund to a county sheriff shall go
29 directly to the county sheriff and are not subject to any form of approval by
30 the board of supervisors. Monies in the fund are subject to legislative
31 appropriation.

32 B. Monies in the fund shall be used for employer sanctions
33 enforcement, enforcing human smuggling and drug smuggling laws, gang and
34 strict immigration enforcement, ~~including border security and border~~
35 ~~personnel~~, county jail reimbursement costs relating to illegal immigration
36 and any other use previously authorized in an allocation made by law for the
37 gang and immigration intelligence team enforcement mission.

38 C. Each year that monies are available in the fund the first one
39 million six hundred thousand dollars shall be allocated to a county sheriff
40 of a county with a population of more than three million persons, then five
41 hundred thousand dollars shall be allocated to a county sheriff of a county
42 with a population of less than five hundred thousand persons but more than
43 three hundred thousand persons and any remaining monies shall be used for
44 agreements or contracts in accordance with subsection D of this section.

1 D. If the department uses monies from the fund for an agreement or
2 contract with a city, town, county or other entity to provide services for
3 the gang and immigration intelligence team enforcement mission, the city,
4 town, county or other entity shall provide not less than twenty-five per cent
5 of the cost of the services and the department shall provide not more than
6 seventy-five per cent of personal services and employee related expenditures
7 for each agreement or contract but may fund all capital related equipment.
8 This subsection does not apply to a county with a population of more than
9 three million persons or a county with a population of less than five hundred
10 thousand persons but more than three hundred thousand persons.

11 ~~E. A county official in a county with a population of more than five~~
12 ~~hundred thousand persons but less than two million persons shall not receive~~
13 ~~any monies from the gang and immigration intelligence team enforcement~~
14 ~~mission fund.~~

15 E. THE GANG AND IMMIGRATION INTELLIGENCE TEAM ENFORCEMENT MISSION
16 BORDER SECURITY AND LAW ENFORCEMENT SUBACCOUNT IS ESTABLISHED CONSISTING OF
17 MONIES DEPOSITED PURSUANT TO SECTION 12-116.04 AND MONIES APPROPRIATED BY THE
18 LEGISLATURE. THE DEPARTMENT SHALL ADMINISTER THE FUND. ANY MONIES
19 DISTRIBUTED FROM THE FUND TO A COUNTY SHERIFF SHALL GO DIRECTLY TO THE COUNTY
20 SHERIFF AND ARE NOT SUBJECT TO ANY FORM OF APPROVAL BY THE BOARD OF
21 SUPERVISORS. MONIES IN THE SUBACCOUNT ARE SUBJECT TO LEGISLATIVE
22 APPROPRIATION. MONIES IN THE SUBACCOUNT SHALL BE USED FOR LAW ENFORCEMENT
23 PURPOSES RELATED TO BORDER SECURITY, INCLUDING BORDER PERSONNEL.

24 F. A law enforcement agency shall not receive any monies from the fund
25 unless the law enforcement agency certifies each fiscal year in writing to
26 the director of the department of public safety that the law enforcement
27 agency is complying with section 11-1051 to the fullest extent allowed by
28 law.

29 G. The department shall submit an expenditure plan to the joint
30 legislative budget committee for review before expending any monies not
31 identified in the department's previous expenditure plans. Within thirty
32 days after the last day of each calendar quarter, the department shall
33 provide a summary of quarterly and year-to-date expenditures and progress to
34 the joint legislative budget committee, including any prior year
35 appropriations that were nonlapsing.

36 Sec. 11. Laws 2010, chapter 266, section 11 is amended to read:

37 Sec. 11. State photo enforcement system penalties; public
38 safety equipment fund

39 Notwithstanding ~~section~~ SECTIONS 41-1722, ~~Arizona Revised Statutes, as~~
40 ~~amended by this act,~~ and ~~section~~ 41-1723, Arizona Revised Statutes, in fiscal
41 ~~year~~ YEARS 2010-2011 AND 2011-2012, forty per cent of the monies remaining in
42 the photo enforcement fund after paying all expenses and court costs that
43 cover the processing of photo enforcement violations and citations, but not
44 to exceed seven million dollars, shall be deposited, pursuant to sections
45 35-146 and 35-147, Arizona Revised Statutes, in the public safety equipment

1 fund established by section 41-1723, Arizona Revised Statutes, and shall be
2 used for the purposes described in section 41-1723, SUBSECTION B,
3 paragraph 1, Arizona Revised Statutes.

4 Sec. 12. Department of public safety; public safety equipment
5 fund; appropriation

6 All monies deposited pursuant to section 12-116.04, Arizona Revised
7 Statutes, as added by this act, in the public safety equipment fund,
8 established pursuant to section 41-1723, Arizona Revised Statutes, in fiscal
9 year 2011-2012 are appropriated to the department of public safety and shall
10 be used by the department for protective armor, electronic stun devices and
11 other safety equipment.

12 Sec. 13. Appropriations; border security; assessment; deposit
13 in general fund

14 A. The sum of \$1,000,000 is appropriated from the state general fund
15 in fiscal year 2011-2012 to the department of public safety to be used by the
16 department of public safety to enter into a memorandum of understanding with
17 a county with a population of more than three hundred thousand persons but
18 less than five hundred thousand persons to purchase equipment and supplies
19 for deputies in the county for border security. On or before June 30, 2012,
20 the department of public safety shall report to the joint legislative budget
21 committee regarding the use of these monies.

22 B. Notwithstanding section 12-116.04, Arizona Revised Statutes, as
23 added by this act, the state treasurer shall deposit the first \$1,000,000
24 that would otherwise be deposited in the gang and immigration intelligence
25 team enforcement mission border security and law enforcement subaccount
26 established by section 41-1724, Arizona Revised Statutes, as amended by this
27 act, pursuant to section 12-116.04, subsection C, Arizona Revised Statutes,
28 as added by this act, in the state general fund.

29 C. Monies in the gang and immigration intelligence team enforcement
30 mission border security and law enforcement subaccount established by section
31 41-1724, Arizona Revised Statutes, as amended by this act, are appropriated
32 in fiscal year 2011-2012 to the department of public safety to be used by the
33 department of public safety for the purposes provided by section 41-1724,
34 subsection E, Arizona Revised Statutes, as amended by this act. On or before
35 June 30, 2012, the department of public safety shall report to the joint
36 legislative budget committee regarding the use of these monies.

37 Sec. 14. State aid to indigent defense fund; county

38 Notwithstanding section 11-588, Arizona Revised Statutes, in fiscal
39 year 2011-2012, any monies that are allocated to the state aid to indigent
40 defense fund pursuant to section 41-2421, subsections B and J, Arizona
41 Revised Statutes, shall be deposited in the gang and immigration intelligence
42 team enforcement mission border security and law enforcement subaccount
43 established by section 41-1724, Arizona Revised Statutes, as amended by this
44 act.