

PROPOSED
SENATE AMENDMENTS TO H.C.R. 2027
(Reference to House engrossed bill)

1 Strike everything after the enacting clause and insert:

2 "1. Under the power of the referendum, as vested in the Legislature,
3 the following measure, relating to first responders, is enacted to become
4 valid as a law if approved by the voters and on proclamation of the
5 Governor:

6 AN ACT

7 AMENDING SECTIONS 12-116.01 AND 13-1204, ARIZONA REVISED
8 STATUTES; AMENDING TITLE 38, CHAPTER 8, ARIZONA REVISED
9 STATUTES, BY ADDING ARTICLE 4; AMENDING SECTION 41-1730,
10 ARIZONA REVISED STATUTES; RELATING TO FIRST RESPONDERS.

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

12 Section 1. Section 12-116.01, Arizona Revised Statutes,
13 is amended to read:

14 12-116.01. Surcharges; remittance reports; fund deposits

15 A. In addition to any penalty provided by law, a
16 surcharge shall be levied in an amount of forty-two percent on
17 every fine, penalty and forfeiture imposed and collected by the
18 courts for criminal offenses and any civil penalty imposed and
19 collected for a civil traffic violation and fine, penalty or
20 forfeiture for a violation of the motor vehicle statutes, for
21 any local ordinance relating to the stopping, standing or
22 operation of a vehicle or for a violation of the game and fish
23 statutes in title 17.

24 B. In addition to any penalty provided by law, a
25 surcharge shall be levied in an amount of seven percent on

1 every fine, penalty and forfeiture imposed and collected by the
2 courts for criminal offenses and any civil penalty imposed and
3 collected for a civil traffic violation and fine, penalty or
4 forfeiture for a violation of the motor vehicle statutes, for
5 any local ordinance relating to the stopping, standing or
6 operation of a vehicle or for a violation of the game and fish
7 statutes in title 17.

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

17 ~~C.~~ D. In addition to any penalty provided by law, a
18 surcharge shall be levied in an amount of six percent, ~~—~~ on
19 every fine, penalty and forfeiture imposed and collected by the
20 courts for criminal offenses and any civil penalty imposed and
21 collected for a civil traffic violation and fine, penalty or
22 forfeiture for a violation of the motor vehicle statutes, for
23 any local ordinance relating to the stopping, standing or
24 operation of a vehicle or for a violation of the game and fish
25 statutes in title 17.

26 ~~D.~~ E. If any deposit of bail or bond or deposit for an
27 alleged civil traffic violation is to be made for a violation,
28 the court shall require a sufficient amount to include the
29 surcharge prescribed in this section for forfeited bail, bond
30 or deposit. If bail, bond or deposit is forfeited, the court
31 shall transmit the amount of the surcharge pursuant to
32 subsection ~~C.~~ H of this section. If bail, bond or deposit is

1 returned, the surcharge made pursuant to this article shall
2 also be returned.

3 ~~F.~~ F. After addition of the surcharge, the courts may
4 round the total amount due to the nearest one-quarter dollar.

5 ~~F.~~ G. The surcharge imposed by this section shall be
6 applied to the base fine, civil penalty or forfeiture and not
7 to any other surcharge imposed.

8 ~~G.~~ H. After a determination by the court of the amount
9 due, the court shall transmit, on the last day of each month,
10 the surcharges collected pursuant to subsections A, B, C, ~~and~~ D
11 AND E of this section and a remittance report of the fines,
12 civil penalties, assessments and surcharges collected pursuant
13 to subsections A, B, C, ~~and~~ D AND E of this section to the
14 county treasurer, except that municipal courts shall transmit
15 the surcharges and the remittance report of the fines, civil
16 penalties, assessments and surcharges to the city treasurer.

17 ~~H.~~ I. The appropriate authorities specified in
18 subsection ~~G~~ H of this section shall transmit the surcharge
19 prescribed in subsection A of this section and the remittance
20 report as required in subsection ~~G~~ H of this section to the
21 state treasurer on or before the fifteenth day of each month
22 for deposit in the criminal justice enhancement fund
23 established by section 41-2401.

24 ~~I.~~ J. The appropriate authorities specified in
25 subsection ~~G~~ H of this section shall transmit the seven
26 percent surcharge prescribed in subsection B of this section
27 and the remittance report as required in subsection ~~G~~ H of
28 this section to the state treasurer on or before the fifteenth
29 day of each month for allocation pursuant to section 41-2421,
30 subsection J.

31 K. THE APPROPRIATE AUTHORITIES SPECIFIED IN SUBSECTION H
32 OF THIS SECTION SHALL TRANSMIT THE TWO PERCENT SURCHARGE

1 PRESCRIBED IN SUBSECTION C OF THIS SECTION AND THE REMITTANCE
2 REPORT AS REQUIRED IN SUBSECTION H OF THIS SECTION TO THE STATE
3 TREASURER ON OR BEFORE THE FIFTEENTH DAY OF EACH MONTH FOR
4 DEPOSIT, PURSUANT TO SECTIONS 35-146 AND 35-147, IN THE STATE
5 SUPPLEMENTAL BENEFIT FUND ESTABLISHED BY SECTION 38-1173.

6 ~~g.~~ L. The appropriate authorities specified in
7 subsection ~~g.~~ H of this section shall transmit the surcharge
8 prescribed in subsection ~~e.~~ D of this section and the
9 remittance report as required in subsection ~~g.~~ H of this
10 section to the state treasurer on or before the fifteenth day
11 of each month for deposit in the department of public safety
12 forensics fund established by section 41-1730.

13 ~~k.~~ M. Partial payments of the amount due shall be
14 transmitted as prescribed in subsections ~~g.~~, H, I, ~~and~~ J AND K
15 of this section and shall be divided according to the
16 proportion that the civil penalty, fine, bail or bond and the
17 surcharge represent of the total amount due.

18 Sec. 2. Section 13-1204, Arizona Revised Statutes, is
19 amended to read:

20 13-1204. Aggravated assault; classification; definitions

21 A. A person commits aggravated assault if the person
22 commits assault as prescribed by section 13-1203 under any of
23 the following circumstances:

24 1. If the person causes serious physical injury to
25 another.

26 2. If the person uses a deadly weapon or dangerous
27 instrument.

28 3. If the person commits the assault by any means of
29 force that causes temporary but substantial disfigurement,
30 temporary but substantial loss or impairment of any body organ
31 or part or a fracture of any body part.

1 4. If the person commits the assault while the victim is
2 bound or otherwise physically restrained or while the victim's
3 capacity to resist is substantially impaired.

4 5. If the person commits the assault after entering the
5 private home of another with the intent to commit the assault.

6 6. If the person is eighteen years of age or older and
7 commits the assault on a minor under fifteen years of age.

8 7. If the person commits assault as prescribed by
9 section 13-1203, subsection A, paragraph 1 or 3 and the person
10 is in violation of an order of protection issued against the
11 person pursuant to section 13-3602 or 13-3624.

12 8. If the person commits the assault knowing or having
13 reason to know that the victim is any of the following:

14 (a) A ~~peace officer~~ FIRST RESPONDER or a person summoned
15 and directed by the ~~officer~~ FIRST RESPONDER.

16 (b) A constable or a person summoned and directed by the
17 constable while engaged in the execution of any official duties
18 or if the assault results from the execution of the constable's
19 official duties.

20 ~~(c) A firefighter, fire investigator, fire inspector,~~
21 ~~emergency medical technician or paramedic engaged in the~~
22 ~~execution of any official duties or a person summoned and~~
23 ~~directed by such individual while engaged in the execution of~~
24 ~~any official duties or if the assault results from the~~
25 ~~execution of the official duties of the firefighter, fire~~
26 ~~investigator, fire inspector, emergency medical technician or~~
27 ~~paramedic.~~

28 ~~(d)~~ (c) A teacher or other person employed by any
29 school and the teacher or other employee is on the grounds of a
30 school or grounds adjacent to the school or is in any part of a
31 building or vehicle used for school purposes, any teacher or
32 school nurse visiting a private home in the course of the

1 teacher's or nurse's professional duties or any teacher engaged
2 in any authorized and organized classroom activity held on
3 other than school grounds.

4 ~~(e)~~ (d) A health care practitioner who is certified or
5 licensed pursuant to title 32, chapter 13, 15, 17 or 25, or a
6 person summoned and directed by the licensed health care
7 practitioner while engaged in the person's professional
8 duties. This subdivision does not apply if the person who
9 commits the assault is seriously mentally ill, as defined in
10 section 36-550, or is afflicted with alzheimer's disease or
11 related dementia.

12 ~~(f)~~ (e) A prosecutor while engaged in the execution of
13 any official duties or if the assault results from the
14 execution of the prosecutor's official duties.

15 ~~(g)~~ (f) A code enforcement officer as defined in
16 section 39-123 while engaged in the execution of any official
17 duties or if the assault results from the execution of the code
18 enforcement officer's official duties.

19 ~~(h)~~ (g) A state or municipal park ranger while engaged
20 in the execution of any official duties or if the assault
21 results from the execution of the park ranger's official
22 duties.

23 ~~(i)~~ (h) A public defender while engaged in the
24 execution of any official duties or if the assault results from
25 the execution of the public defender's official duties.

26 ~~(j)~~ (i) A judicial officer while engaged in the
27 execution of any official duties or if the assault results from
28 the execution of the judicial officer's official duties.

29 9. If the person knowingly takes or attempts to exercise
30 control over any of the following:

31 (a) A ~~peace officer's~~ **FIRST RESPONDER'S** or other
32 officer's firearm and the person knows or has reason to know

1 that the victim is a ~~peace officer~~ FIRST RESPONDER or other
2 officer employed by one of the agencies listed in paragraph 10,
3 subdivision (a), item (i), (ii), (iii), (iv) or (v) of this
4 subsection.

5 (b) Any weapon other than a firearm that is being used
6 by a ~~peace officer~~ FIRST RESPONDER or other officer or that the
7 FIRST RESPONDER OR OTHER officer is attempting to use, and the
8 person knows or has reason to know that the victim is a ~~peace~~
9 ~~officer~~ FIRST RESPONDER or other officer employed by one of the
10 agencies listed in paragraph 10, subdivision (a), item (i),
11 (ii), (iii), (iv) or (v) of this subsection.

12 (c) Any implement that is being used by a ~~peace officer~~
13 FIRST RESPONDER or other officer or that the FIRST RESPONDER OR
14 OTHER officer is attempting to use, and the person knows or has
15 reason to know that the victim is a ~~peace officer~~ FIRST
16 RESPONDER or other officer employed by one of the agencies
17 listed in paragraph 10, subdivision (a), item (i), (ii), (iii),
18 (iv) or (v) of this subsection. For the purposes of this
19 subdivision, "implement" means an object that is designed for
20 or that is capable of restraining or injuring an
21 individual. Implement does not include handcuffs.

22 10. If the person meets both of the following
23 conditions:

24 (a) Is imprisoned or otherwise subject to the custody of
25 any of the following:

26 (i) The state department of corrections.

27 (ii) The department of juvenile corrections.

28 (iii) A law enforcement agency.

29 (iv) A county or city jail or an adult or juvenile
30 detention facility of a city or county.

31 (v) Any other entity that is contracting with the state
32 department of corrections, the department of juvenile

1 corrections, a law enforcement agency, another state, any
2 private correctional facility, a county, a city or the federal
3 bureau of prisons or other federal agency that has
4 responsibility for sentenced or unsentenced prisoners.

5 (b) Commits an assault knowing or having reason to know
6 that the victim is acting in an official capacity as an
7 employee of any of the entities listed in subdivision (a) of
8 this paragraph.

9 11. If the person uses a simulated deadly weapon.

10 B. A person commits aggravated assault if the person
11 commits assault by either intentionally, knowingly or
12 recklessly causing any physical injury to another person,
13 intentionally placing another person in reasonable apprehension
14 of imminent physical injury or knowingly touching another
15 person with the intent to injure the person, and both of the
16 following occur:

17 1. The person intentionally or knowingly impedes the
18 normal breathing or circulation of blood of another person by
19 applying pressure to the throat or neck or by obstructing the
20 nose and mouth either manually or through the use of an
21 instrument.

22 2. Any of the circumstances exists that are set forth in
23 section 13-3601, subsection A, paragraph 1, 2, 3, 4, 5 or 6.

24 C. A person who is convicted of intentionally or
25 knowingly committing aggravated assault on a ~~peace officer~~
26 **FIRST RESPONDER** pursuant to subsection A, paragraph 1 or 2 of
27 this section shall be sentenced to imprisonment for not less
28 than the presumptive sentence authorized under chapter 7 of
29 this title and is not eligible for suspension of sentence,
30 commutation or release on any basis until the sentence imposed
31 is served.

1 D. It is not a defense to a prosecution for assaulting a
2 peace officer or a mitigating circumstance that the peace
3 officer was not on duty or engaged in the execution of any
4 official duties.

5 E. Except pursuant to subsections F and G of this
6 section, aggravated assault pursuant to subsection A, paragraph
7 1 or 2, paragraph 9, subdivision (a) or paragraph 11 of this
8 section is a class 3 felony except if the aggravated assault is
9 a violation of subsection A, paragraph 1 or 2 of this section
10 and the victim is under fifteen years of age it is a class 2
11 felony punishable pursuant to section 13-705. Aggravated
12 assault pursuant to subsection A, paragraph 3 or subsection B
13 of this section is a class 4 felony. Aggravated assault
14 pursuant to subsection A, paragraph 9, subdivision (b) or
15 paragraph 10 of this section is a class 5 felony. Aggravated
16 assault pursuant to subsection A, paragraph 4, 5, 6, 7 or 8 or
17 paragraph 9, subdivision (c) of this section is a class 6
18 felony.

19 F. Aggravated assault pursuant to subsection A,
20 paragraph 1 or 2 of this section committed on a ~~peace officer~~
21 **FIRST RESPONDER** is a class 2 felony. Aggravated assault
22 pursuant to subsection A, paragraph 3 of this section committed
23 on a ~~peace officer~~ **FIRST RESPONDER** is a class 3
24 felony. Aggravated assault pursuant to subsection A, paragraph
25 8, subdivision (a) of this section committed on a ~~peace officer~~
26 **FIRST RESPONDER** is a class ~~5~~ 4 felony unless the assault
27 results in any physical injury to the ~~peace officer~~ **FIRST**
28 **RESPONDER**, in which case it is a class ~~4~~ 3 felony.

29 G. Aggravated assault pursuant to:

30 1. Subsection A, paragraph 1 or 2 of this section is a
31 class 2 felony if committed on a prosecutor.

1 2. Subsection A, paragraph 3 of this section is a class
2 felony if committed on a prosecutor.

3 3. Subsection A, paragraph 8, subdivision ~~(f)~~ (e) of
4 this section is a class 5 felony if the assault results in
5 physical injury to a prosecutor.

6 H. For the purposes of this section:

7 1. "FIRST RESPONDER" MEANS:

8 (a) A PEACE OFFICER.

9 (b) A FIREFIGHTER, A FIRE INVESTIGATOR, A FIRE
10 INSPECTOR, AN EMERGENCY MEDICAL CARE TECHNICIAN OR A PARAMEDIC
11 WHO IS ENGAGED IN THE EXECUTION OF ANY OFFICIAL DUTIES.

12 ~~1.~~ 2. "Judicial officer" means a justice of the supreme
13 court, judge, justice of the peace or magistrate or a
14 commissioner or hearing officer of a state, county or municipal
15 court.

16 ~~2.~~ 3. "Prosecutor" means a county attorney, a municipal
17 prosecutor or the attorney general and includes an assistant or
18 deputy county attorney, municipal prosecutor or attorney
19 general.

20 Sec. 3. Title 38, chapter 8, Arizona Revised Statutes,
21 is amended by adding article 4, to read:

22 ARTICLE 4. FIRST RESPONDERS

23 38-1171. Definitions

24 IN THIS ARTICLE, UNLESS THE CONTEXT OTHERWISE REQUIRES:

25 1. "FIRST RESPONDER" HAS THE SAME MEANING PRESCRIBED IN
26 SECTION 13-1204.

27 2. "KILLED IN THE LINE OF DUTY" MEANS A FIRST
28 RESPONDER'S DEATH WAS THE RESULT OF ANOTHER PERSON'S CRIMINAL
29 ACT.

30 38-1172. State death benefit

31 IN ADDITION TO ANY OTHER DEATH BENEFIT, BEGINNING FROM
32 AND AFTER THE EFFECTIVE DATE OF THIS SECTION, IF A FIRST

1 RESPONDER IS KILLED IN THE LINE OF DUTY, THIS STATE SHALL PAY
2 TO THE FIRST RESPONDER'S SURVIVING SPOUSE OR SURVIVING
3 DEPENDENT THE DIFFERENCE BETWEEN \$1,000,000 AND THE SUM OF THE
4 AMOUNTS RECEIVED FROM ANY ONETIME DEATH BENEFIT THAT IS PAID BY
5 ANY GOVERNMENTAL ENTITY.

6 38-1173. State supplemental benefit fund

7 THE STATE SUPPLEMENTAL BENEFIT FUND IS ESTABLISHED
8 CONSISTING OF MONIES DEPOSITED PURSUANT TO SECTION 12-116.01.
9 THE STATE TREASURER SHALL ADMINISTER THE FUND FOR THE PURPOSES
10 SPECIFIED IN SECTION 38-1172. MONIES IN THE FUND ARE
11 CONTINUOUSLY APPROPRIATED.

12 Sec. 4. Section 41-1730, Arizona Revised Statutes, is
13 amended to read:

14 41-1730. Department of public safety forensics fund;
15 purposes; distributions; annual adjustment

16 A. The department of public safety forensics fund is
17 established. The department shall administer the fund. Monies
18 in the fund are subject to legislative appropriation. The
19 department of public safety forensics fund consists of the
20 following:

21 1. Monies deposited pursuant to section 12-116.01,
22 subsection ~~J~~ L.

23 2. Monies deposited pursuant to section 41-2401,
24 subsection D, paragraphs 1 and 11.

25 3. Surcharge monies deposited pursuant to section
26 28-3396.

27 4. Monies contributed to the fund from any other source.

28 B. Monies in the department of public safety forensics
29 fund shall be used for the following purposes:

30 1. Purchasing and installing fingerprint identification
31 equipment.

1 2. Operating, maintaining and administering the Arizona
2 automated fingerprint identification system and the system's
3 remote terminals.

4 3. Crime laboratory operations and enhanced services.

5 4. Educating and training forensic scientists who are
6 regularly employed in a crime laboratory.

7 5. Purchasing and maintaining scientific equipment for
8 crime laboratory use.

9 6. Implementing, operating and maintaining
10 deoxyribonucleic acid testing and administering the Arizona
11 deoxyribonucleic acid identification system.

12 C. On a quarterly basis, the department of public safety
13 shall allocate and distribute the monies in the department of
14 public safety forensics fund that are collected pursuant to
15 section 12-116.01 and deposited pursuant to section 41-2401,
16 subsection D, paragraph 11. The department may use fifty-five
17 percent of the monies for the purposes prescribed in subsection
18 B of this section and shall distribute the remaining monies to
19 political subdivisions that operate a crime laboratory as
20 follows:

21 1. Twenty-two percent to the Phoenix police department.

22 2. Twelve percent to the Tucson police department.

23 3. Seven percent to the Mesa police department.

24 4. Four percent to the Scottsdale police department.

25 D. The distribution of monies pursuant to subsection C
26 of this section may be adjusted annually, if appropriate, based
27 on the crime laboratory services provided and the percentage of
28 the state population served by each crime laboratory. The
29 crime laboratory directors of the political subdivisions
30 providing crime laboratory services in this state must agree on
31 the distribution formula and allocation. The minimum

1 allocation for a political subdivision that provides crime
2 laboratory services is four percent.

3 E. For the purposes of subsections C and D of this
4 section, "crime laboratory" means a laboratory that meets all
5 of the following:

- 6 1. Is operated by a political subdivision.
- 7 2. Has at least one regularly employed forensic
8 scientist who holds a minimum of a bachelor's degree in a
9 physical or natural science.
- 10 3. Is registered as an analytical laboratory with the
11 drug enforcement administration of the United States department
12 of justice for the possession of all scheduled controlled
13 substances.

14 Sec. 5. Finding; intent; purpose

15 A. The people of this state find and declare that:

- 16 1. Arizona's first responders are the front lines for
17 public safety and the peaceful enjoyment of this state's civil
18 society.
- 19 2. First responders nationally and in this state have
20 become increasing targets for criminal assault, causing their
21 injury and death. This has resulted in both heightened early
22 retirements of first responders and difficulty in recruiting
23 new first responders.

24 B. The intent of this act is to increase the criminal
25 penalties against anyone who assaults a first responder in this
26 state and to increase the death benefits for the families of
27 first responders who are killed in the line of duty in this
28 state.

29 C. The purpose of this act is:

- 30 1. To stem the violence against first responders.
- 31 2. If first responders in this state know that their
32 families will be better provided for if a first responder is

1 killed in the line of duty, to help with the retention and
2 recruitment of first responders.

3 Sec. 6. Severability

4 If a provision of this act or its application to any
5 person or circumstance is held invalid, the invalidity does not
6 affect other provisions or application of the act that can be
7 given effect without the invalid provision or application, and
8 to this end the provisions of this act are severable.

9 Sec. 7. Short title

10 This act may be cited as the "Back the Blue Act".

11 2. The Secretary of State shall submit this proposition to the
12 voters at the next general election as provided by article IV, part 1,
13 section 1, Constitution of Arizona."

14 Amend title to conform

DAVID GOWAN

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