

ARIZONA STATE SENATE

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TO: MEMBERS OF THE SENATE
APPROPRIATIONS COMMITTEE

DATE: March 22, 2024

SUBJECT: Strike everything amendment to H.B. 2279, relating to homeless; fund; audit

Purpose

Outlines requirements in a drug-free homeless service zone and establishes the Homeless Shelter and Services Fund (Fund) to provide grants to outlined operators or providers within a drug-free homeless service zone. Transfers \$5,500,000 from the Housing Trust Fund deposit line item to the Office of the Auditor General (OAG) and Arizona Criminal Justice Commission (ACJC) and appropriates \$50,000,000 from the Consumer Remediation Subaccount (Subaccount) to the Arizona Health Care Cost Containment System (AHCCCS) for outlined purposes.

Background

It is unlawful for a person to intentionally be present in a drug-free school zone to sell or transfer marijuana, peyote, prescription-only drugs, dangerous drugs or narcotic drugs, to possess or use the prescribed drugs, or to manufacture these drugs in a drug-free school zone. A person who commits a prescribed offense is guilty of the same class of felony that the person would be guilty of had the offense occurred outside of the drug-free school zone, except that the presumptive, minimum and maximum sentence must be increased by one year. In addition to any other penalty, the court must order a person who is convicted of a violation in a drug-free school zone to pay a fine of at least \$2,000 or three times the amount of the value of the drug involved in the offense, whichever is greater, as determined by the court. A judge may not suspend any part or all of the fine ([A.R.S. § 13-3411](#)).

The duties of the ACJC include: 1) monitoring the progress and implementation of new and continuing criminal justice legislation; 2) facilitating coordinated statewide efforts to improve criminal justice information and data sharing; 3) preparing for the Governor a biennial justice system review report; 4) in coordination with other governmental agencies, gathering information on programs that are designed to effectuate community crime prevention and education; 5) making reports to the Governor and the Legislature as required; and 6) overseeing the research analyses, studies, reports and publication of crime and criminal justice statistics prepared by the Arizona Statistical analysis center ([A.R.S. § 41-2405](#)).

The Subaccount of the Consumer Restitution and Remediation Revolving Fund is administered by the Attorney General (AG) and consists of monies collected or received by the AG as the result of court order, or as the result of a settlement or compromise, to rectify violations or alleged violations of consumer protection laws, other than monies collected for the benefit of specific, identifiable persons and monies for investigative or court costs, attorney fees, civil penalties or other monies recovered as a result of the enforcement of consumer protection laws deposited in the Consumer Protection-Consumer Fraud Revolving Fund. Up to \$4,000,000 of the Subaccount monies related to opioid claims-related litigation or settlements are continuously appropriated and all monies in the Subaccount are exempt from lapsing. The AG may spend monies in the Subaccount for programs, including consumer fraud education programs, that are intended to rectify violations of consumer protection laws ([A.R.S. § 44-1531.02](#)).

The Housing Trust Fund is administered by the Director of the Arizona Department of Housing (ADOH) and consists of: 1) monies from unclaimed property; 2) the Arizona Industrial Development Authority single-family mortgage program year-end balance; and 3) investment earnings. The Housing Trust Fund provides grants for development projects and programs connected with providing housing opportunities for low- and moderate-income households and for housing affordability programs. A portion of the monies must be used exclusively for housing in rural areas. Housing Trust Fund monies may be spent on constructing or renovating facilities and on housing assistance, including support services, for persons who have been determined to be seriously mentally ill and to be chronically resistant to treatment. Monies in the Housing Trust Fund are exempt from lapsing, and up to 10 percent of the monies may be appropriated annually by the Legislature to the ADOH for administrative costs ([A.R.S. § 41-3955](#)).

There is no anticipated fiscal impact to the state General Fund associated with this strike-everything amendment.

Provisions

Drug-Free Homeless Service Zones

1. Requires an operator of facility-based services that serve homeless individuals to adopt a formal policy that prohibits the use or possession of dangerous drugs or narcotic drugs within drug-free homeless service zones.
2. Declares that it is unlawful for a person to:
 - a) intentionally be present in a drug-free homeless service zone to sell or transfer drugs or narcotic drugs; or
 - b) as employee of a facility-based service that primarily serves homeless individuals and that receives state, local or federal monies, knowingly violate any formal policy, including intentionally allowing the possession or use of dangerous drugs or narcotic drugs in a drug-free homeless service zone.
3. Deems a person who violates the prohibition on the sale or transfer of drugs as:
 - a) guilty of the same class of felony that the person would otherwise be guilty of had the violation not occurred within a drug-free homeless service zone, except that the presumptive, minimum and maximum sentences must be increased by one year; and
 - b) ineligible for suspension of sentence, probation, pardon or release from confinement, except under outlined laws relating to work release, until the imposed sentence imposed by the court has been served or commuted, unless outlined conditions apply.
4. Deems a person in violation of the prohibition on knowingly violating any formal policy as guilty of a class 1 misdemeanor.
5. Requires the court to order a person who is convicted of a violation to pay a fine of at least \$2,000 or three times the value, as determined by the court, of the drugs involved in or giving rise to the charge, whichever is greater, and up to the maximum authorized by law, in addition to any other prescribed penalty.
6. Prohibits a judge from suspending any part or all of the imposition of any required fine.

7. Requires each operator or provider of facility-based services that primarily serve homeless individuals to place and maintain a permanently affixed sign located in a visible manner inside the facility and outside the main entrance of the facility that identifies the building and its accompanying grounds as a drug-free zone.
8. Requires an operator or provider, if the operator or provider of facility-based services primarily serves domestic violence victims or families, to place and maintain a permanently affixed sign located in a visible manner inside the facility that identifies the building as a drug-free zone.

Homeless Shelter and Services Fund

9. Establishes the Fund, to be administered by the ADOH and consisting of and subject to legislative appropriations.
10. Exempts monies in the Fund from lapsing.
11. Requires all prior and future grants from the Fund to be made only to operators or providers within a drug-free homeless service zone.
12. Requires grants to be performance based and track each individual experiencing homelessness who receives services from the grantee for a period of three years on the following key metrics:
 - a) duration of time the individual has maintained stable housing;
 - b) duration of time and type of employment obtained by the individuals;
 - c) duration of time the individual has maintained sobriety; and
 - d) any instances and duration of time the individual has returned to homelessness.
13. Requires each grant recipient, by December 1, 2024, and each year thereafter for three years, to submit a report to ADOH that includes a summary of all of the tracked key metrics for each homeless individual on which grant monies were spent.
14. Requires ADOH to prescribe a simplified form and procedure to apply for and approve grants and establish requirements and criteria by which grants will be awarded.
15. Requires ADOH to prioritize providing grants for services for individuals experiencing homelessness who are:
 - a) children;
 - b) parents or legal guardians with children;
 - c) senior citizens; or
 - d) veterans.
16. Prohibits a person from using or allowing to be used state or local government-owned lands for any unauthorized sleeping, camping or long-term shelter.
17. Requires a person who violates the prohibition relating to unauthorized sleeping, camping or long-term shelter to receive a warning for any offense.
18. Prohibits a person who violates the prohibition relating to unauthorized sleeping, camping or long-term shelter from being issued a citation, except that services or shelter may be offered instead of a criminal citation if the individual does not continue to use the land for prohibited purposes.

19. Prohibits a political subdivision from:
 - a) adopting or enforcing any policies that directly prohibit or discourage enforcing any order or ordinance that prohibits public camping, sleeping or obstructing a public right-of-way, including roads and sidewalks; and
 - b) directly prohibiting or discouraging a peace officer or prosecuting attorney who is employed by or under the direction or control of the political subdivision from enforcing any order or ordinance that prohibits public camping, sleeping or obstructing a public right-of-way, including roads and sidewalks.
20. Prohibits any political subdivision that receives monies for grants from receiving any further funding until ADOH determines that the political subdivision is in compliance with the outlined prohibition on prohibiting public camping, sleeping or obstructing a public-right-of-way.
21. Stipulates that the outlined requirements and prohibitions do not prohibit a political subdivision from offering diversion programs or services instead of issuing a citation or making an arrest if the individual does not continue to use the land for prohibited purposes.
22. Allows a county attorney to bring a civil action in any court of competent jurisdiction against any political subdivision to enjoin the political subdivision from violating the outlined requirements and prohibitions.
23. Allows the county attorney to recover reasonable expenses incurred in any of the outlined civil actions, including court costs, attorney fees, investigative costs, witness fees and deposition costs.
24. Requires ADOH to provide a quarterly report to the Joint Legislative Budget Committee (JLBC) that outlines fund expenditures, grant recipients, the number of individuals served, selected vendors and other information as requested by the Chairperson of JLBC.

Mixed Hoteling

25. Requires a hotel owner, if the hotel owner engages in mixed hoteling, to post signs over each entrance and exit to the building and in a place clearly visible from the reception desk containing a prescribed statement that informs the reader that the business is being used to house homeless individuals alongside the general public and that it is recommended that all guests keep hotel doors locked, safely store belongings and report any health or safety concerns to local law enforcement.
26. Requires all required signs to be in red, 25-point highway gothic bolded font, on a white background and on a sign that is at least 18 inches in width and 24 inches in height.
27. Requires all hotels participating in mixed hoteling to disclose that the hotel is engaging in mixed hoteling and share the text of the sign with the customer at the time of arrival.
28. Requires any guest who objects to mixed hoteling to be issued a full refund at the time of arrival.
29. Prohibits state or local monies from being used for mixed hoteling.

30. Defines *mixed hoteling* as providing rooms or shelter services, whether emergency, temporary or transitional rooms or shelter, to homeless individuals while concurrently providing hotel services to the general public in the same building or on the same premises, not including providing emergency or temporary shelter to individuals who are victims of domestic violence or parents or legal guardians with children.

Special Audit

31. Requires the OAG to conduct a special audit which is limited in scope of the amount of monies spent on programs and services for individuals experiencing homelessness in Arizona, including:
- a) expenditures by the State of Arizona;
 - b) expenditures by municipalities, counties and political subdivisions, with homeless populations higher than the per capita average of Arizona; and
 - c) expenditures of federal monies allocated to Arizona for homeless programs, including:
 - i. transportation to emergency shelter;
 - ii. responding to crisis calls; providing overnight shelter in jail; and
 - iii. enforcing camping bans.
32. Requires all state and local governmental entities to cooperate with the special audit and grant access, at no cost, to all financial records and any other information necessary to complete the special audit.
33. Requires the special audit to examine:
- a) the awarding of any contracts and grants relating to homeless services and support;
 - b) any metrics used to examine the success of any expenditures;
 - c) the efficiency of the use of data management systems in relation to such programs; and
 - d) the expenditure for each individual experiencing homelessness for each service provided.
34. Requires the OAG, by December 31, 2025, to submit copies of the special audit report to the Governor, the President of the Senate, the Speaker of the House of Representatives and provide a copy of the report to the Secretary of State.

Applicability and Funding

35. Stipulates that any monies expended for programs that provide shelter and services to unsheltered persons who are experiencing homelessness are subject to the requirements of the Fund and may only be used for individuals who are U.S. citizens.
36. Transfers \$5,500,000 of the \$150,000,000 appropriation in the FY 2024 Housing Trust Fund deposit line item to the following agencies:
- a) \$5,000,000 to the OAG for all necessary costs to conduct the special audit of the monies spent on programs and services for individuals experiencing homelessness in Arizona; and
 - b) \$500,000 to ACJC to implement the outlined data collection requirements.
37. Appropriates \$50,000,000 from the Subaccount to AHCCCS to establish five additional secure behavioral health residential facilities for individuals experiencing homelessness and for provider support for the new facilities established.

Miscellaneous

38. Requires the ACJC to:
 - a) direct first responders, medical examiners and AHCCCS to provide information and data to the ACJC, on drug overdoses among individuals experiencing homelessness, including the number of drug overdoses and deaths caused by drug overdoses;
 - b) direct criminal justice agencies in Arizona to collect and provide information indicating crimes committed by individuals who are identified as homeless and crimes committed against individuals who are identified as homeless; and
 - c) submit an annual report regarding the provided information and data to the Governor, the President of the Senate and the Speaker of the House of Representatives and provide a copy of the report to the Secretary of State.
39. Defines *individual experiencing homelessness* as an individual who does not have a home or permanent of residence and who is a U.S. citizen.
40. Defines *dangerous drugs, drug-free homeless service zone, homeless individual* and *narcotic drugs*.
41. Makes technical and conforming changes.
42. Becomes effective on the general effective date.