

<p><u>CATEGORIES</u></p> <p>CIVIL</p> <p>CIVIL TRAFFIC</p> <p>ADMINISTRATIVE</p> <p>CRIMINAL</p> <p>DOMESTIC VIOLENCE</p> <p>FAMILY LAW</p> <p>PROBATE</p>	<p>End-of Session Legislative Report</p>  <p>Arizona Supreme Court Administrative Office of the Courts • Executive Office</p>	<p><u>CATEGORIES</u></p> <p>JUVENILE</p> <p>TAX</p> <p>OTHER</p> <p>ALL COURTS</p> <p>JUSTICE COURT</p> <p>MUNICIPAL COURT</p> <p>SUPERIOR COURT</p>
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[2009](#) | [2010](#) | [2011](#)

2011 LEGISLATION WITH COURT IMPACT

<p style="text-align: center;">Chapter 1 SB1101</p> <p style="text-align: center;">Effective Date 01/11/2011</p> <p style="text-align: center; color: red;">Emergency</p> <p>Item of interest to:</p> <div style="background-color: #99cc99; padding: 5px; margin-bottom: 5px;"> <p>Superior Court:</p> </div> <div style="background-color: #ccccff; padding: 5px; margin-bottom: 5px;"> <p>Justice Court:</p> <ol style="list-style-type: none"> 1. Justice of the Peace Court Administrator 2. Justice of the Peace Court Clerk 3. Justice of the Peace </div> <div style="background-color: #009999; color: white; padding: 5px; margin-bottom: 5px;"> <p>Municipal Court:</p> <ol style="list-style-type: none"> 1. Municipal Court Administrator 2. Municipal Court Clerk 3. Municipal Court Judge/Magistrate </div> <div style="background-color: #cccccc; padding: 5px;"> <p>Administrative Office of the Courts</p> </div>	<p style="text-align: center;">PROTEST ACTIVITY; PROHIBITION Senator Krysten Sinema</p> <p>Summary:</p> <p>Prohibits picketing or other protest activities within 300 feet of the property line of any residence, cemetery, funeral home, church, synagogue or other establishment in which a funeral or burial service is occurring. Applicable one hour before, during, and after the service. Classified as a Class 1 Misdemeanor.</p> <p>"Other protest activities" is defined as any action that is disruptive or that is undertaken to disrupt or disturb a funeral or burial.</p> <p>Contains an emergency clause.</p> <p>Statute Impacts: Statutes enacted: A.R.S. § 13-2930</p> <p>Court Impact:</p> <p>Adds A.R.S. § 13-2930 for unlawful protest activities as a class 1 misdemeanor. The bill prohibits picketing or other protest activities within 300 feet of the location of a funeral or burial services one hour before or after the service. The bill contains an emergency effective date, signed by the Governor 01/11/2011.</p> <p>The change requires courts to update their automation system.</p> <p style="text-align: right;">Back to Top</p>
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Chapter 6
HB2167

Effective Date
02/18/2011

Emergency

Item of interest to:

Superior Court:

1. Superior Court Chief Probation Officer
2. Clerk of Superior Court
3. Superior Court Administrator
4. Superior Court Judge
5. Superior Court Jury Commissioner/Manager

Justice Court:

Municipal Court:

Administrative Office of the Courts

DEFINITION OF DANGEROUS DRUGS; SYNTHETIC
Representative Amanda Reeve

Summary:

Adds the chemical components of spice, also known as synthetic THC, into the definition of dangerous drugs in A.R.S. § 13-3401 and into the Uniform Controlled Substances Act in A.R.S. § 36-2512. Substances in schedule 1. Contains an emergency clause.

Statute Impacts:

Statutes amended: A.R.S. §§ 13-3401, 36-2512

Court Impact:

Information only. The bill contains an emergency effective date, signed by the Governor 02/18/2011.

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Chapter 9
HB2443

Effective Date
07/20/2011

General

Item of interest to:

Superior Court:

1. Superior Court Chief Probation Officer
2. Clerk of Superior Court
3. Superior Court Administrator
4. Superior Court Judge
5. Superior Court Jury Commissioner/Manager

Justice Court:

1. Justice of the Peace Court Administrator
2. Justice of the Peace Court Clerk
3. Justice of the Peace
4. Justice of the Peace Jury Commissioner/Manager

Municipal Court:

Administrative Office of the Courts

ABORTION; SEX; RACE SELECTION; PROHIBITION
Representative Steve Montenegro

Summary:

Establishes a Class 3 Felony for a person who knowingly does any of the following:

- Performs an abortion knowing the abortion is sought based on the sex or race of the child or the race of a parent of that child.
- Uses force or threatens to intentionally injure or intimidate any person for the purpose of coercing a sex-selection or race-selection abortion.
- Solicits or accepts monies to finance a sex-selection or race-selection abortion.

The Attorney General or the County Attorney may bring an action in the Superior Court to enjoin the above conduct.

The husband of the mother or the maternal grandparents of a mother who has not attained 18 years of age who had a sex-selection or race-selection abortion may bring a civil action on behalf of the unborn child to obtain appropriate relief. Permits the court to award reasonable attorneys fees. "Appropriate relief" includes monetary damages for all injuries, whether psychological, physical or financial, including loss of companionship and support.

A physician, physician's assistant, nurse, counselor or other medical or mental health professional who does not report known violations to law enforcement is subject to a civil fine of not more than \$10,000. A woman who has a sex-selection or race-selection abortion is not subject to criminal prosecution or civil liability for a violation or conspiracy to violate the statute.

An affidavit must be completed and signed by the person performing the abortion before the person knowingly performs or induces an abortion. The affidavit must state the person making the affidavit is not obtaining an abortion based on the child's sex or race and the person has no knowledge that the child being aborted is being aborted

An affidavit must be completed and signed by the person performing the abortion before the person knowingly performs or induces an abortion. The affidavit must state the person making the affidavit is not obtaining an abortion based on the child's sex or race and the person has no knowledge that the child being aborted is being aborted

because of its sex or race.

Construction: This act does not establish or recognize a right to an abortion and does not make lawful an abortion that is currently unlawful. Contains a severability clause.

Statute Impacts:

Statutes enacted: [A.R.S. §§ 13-3603.02, 36-2156](#)

Court Impact:

Adds A.R.S. §§ 13-3603.02(A1-A3) as felony 3 offenses for an abortion relating to a sex-selection or race selection. The changes require courts to update their automation system.

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Chapter 10

HB2416

Effective Date

07/20/2011

General

Item of interest to:

Superior Court:

1. Clerk of Superior Court
2. Superior Court Administrator
3. Superior Court Judge

Justice Court:

Municipal Court:

Administrative Office of the Courts

ABORTION

Representative Kimberly Yee

Summary:

In pertinent part:

Changes the definition of "abortion" by replacing the phrase "a surgical instrument or a machine" with "any means."

Requires the court to appoint a guardian ad litem in all judicial bypass abortion proceedings and permits a pregnant minor to participate in court proceedings regarding her ability to make an informed decision about an abortion.

An abortion cannot be performed or induced without the voluntary and informed consent (defined) of the woman on whom the abortion is to be performed or induced, except in the case of a medical emergency. A physician who knowingly performs such an abortion commits an act of unprofessional conduct and is subject to license suspension or revocation.

Permits the following individuals to file a civil action to obtain appropriate relief:

- A woman on whom an abortion has been performed without her informed consent.
- The father of an unborn child if married to the mother at the time she received the abortion, unless the pregnancy resulted from the plaintiff's criminal conduct.
- The maternal grandparents of the unborn child if the mother was not at least 18 years old, unless the pregnancy resulted from the plaintiff's criminal conduct.

A civil action must be brought in the superior court in the county in which the woman resides within 6 years of the violation and may be based on a claim that failure to obtain informed consent was a result of simple negligence, gross negligence, wantonness, willfulness, intention, or any other legal standard of care.

Relief granted may include:

- Monetary damages.
- Statutory damages in the amount equal to 5,000 dollars or three times the cost of the abortion, whichever is greater.
- Reasonable attorney fees and costs.

Repeals Laws 1999, chapter 311, section 12, Conditional repeal, and section 13, Conditional enactment. Section 12 addresses the definition of "abortion clinic" and states that it can only be repealed if there is a final court ruling that the definition is

unconstitutional. The definition in section 13 would become effective.
Contains a severability clause.

Statute Impacts:

Statutes amended: A.R.S. §§ 36-449.01, 36-2152

Statute enacted: A.R.S. §§ 36-2156, 36-3604

Statutes repealed: Laws 1999, chapter 311, sections 12 and 13

Court Impact:

Requires the court appoint a guardian ad litem in cases where a petition for a minor abortion has been filed unless the minor is represented by private counsel. Creates a new civil cause of action for enumerated parties against a physician or qualified person working with the physician for failure to comply with the requirements of A.R.S. § 36-2156.

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Chapter 18

SB1123

Effective Date

07/20/2011

General

Item of interest to:

Superior Court:

- 1. Superior Court Chief Probation Officer
- 2. Clerk of Superior Court
- 3. Superior Court Administrator
- 4. Superior Court Judge

Justice Court:

Municipal Court:

Administrative Office of the Courts

STATE LIBRARY AND ARCHIVES AMENDMENTS

Senator John McComish

Summary:

In pertinent part:

The Supreme Court is required to transmit a copy of juvenile intensive probation reports to the Secretary of State as well as to the Governor, the Speaker of the House, and the President of the Senate.

Statute Impacts:

Statute amended: A.R.S. §§ 8-358, 12-299.03

Court Impact:

Requires the Supreme Court shall electronically submit a copy of the report on juvenile intensive probation under A.R.S. § 8-358 and community punishment report under A.R.S. § 12-299.03 to the Secretary of State. State and local agencies are also required to designate an individual within the agency to manage the records management program of the agency and to reconfirm the identity of this individual to the the Arizona state library, archives and public records every other year.

Transfers and renumbers A.R.S. § 41-1346 as A.R.S. §41-151.14 and A.R.S. § 41-1348 as A.R.S. § 41-151.16 all misdemeanor 2 violations. The changes require courts to update their automation system.

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Chapter 26

SB1614

Effective Date

07/20/2011

General

Item of interest to:

Superior Court:

1. Superior Court Chief Probation Officer
2. Clerk of Superior Court
3. Superior Court Administrator
4. Superior Court Judge

Justice Court:

1. Justice of the Peace Court Administrator
2. Justice of the Peace Court Clerk
3. Justice of the Peace

Municipal Court:

1. Municipal Court Administrator
2. Municipal Court Clerk
3. Municipal Court Judge/Magistrate

Administrative Office of the Courts

STATE BUDGET PROCEDURES; 2011-2012

Senator Andy Biggs

Summary:

Any employee hired after the effective date of the bill is not eligible for state employee benefits until the employee has worked regularly for at least 90 days and any state employee is not eligible to become a member of the Arizona State Retirement System and the Long Term Disability program until the employee has worked regularly for at least 6 months.

Retroactive to July 1, 2011, in ASRS the 50/50 split of employee and employer contributions will change. The employee will now contribute 53% of the total required contributions and the employer will contribute 47% of the total contributions.

An agency director whose agency participates in ASRS may require agency covered employees to work reduced hours in order to comply with any reduction in appropriations.

For fiscal year 2010-2011 the six furlough days required is decreased to five days and the furlough days required in 2011-2012 are eliminated.

Statute Impacts:

Statutes amended: A.R.S. §§ 38-736, 38-737, 38-797.05, 38.797.06, Amending Laws 2010, 7th special session, Chapter 3, Section 9; relating to state budget procedures.

Statutes enacted: A.R.S. §§ 38-671, 41-763.05

Court Impact:

Makes multiple amendments to the Arizona State Retirement System; court administration and human resources departments should review pre-employment materials and benefits manuals for conforming changes. Contains retroactive effective dates for budget appropriations.

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Chapter 33

SB1621

Effective Date

07/20/2011

General

Item of interest to:

Superior Court:

1. Superior Court Chief Probation Officer
2. Clerk of Superior Court
3. Superior Court Administrator
4. Superior Court Judge

BUDGET RECONCILIATION; CRIMINAL JUSTICE; 2011-2012

Senator Andy Biggs

Summary:

Judicial

In pertinent part, adds A.R.S. § 12-119.05, Post of duty; Supreme Court justice. The designated post of duty of a Supreme Court justice who resides outside of Maricopa County shall be deemed to be the justice's place of physical residence at the time of the justice's appointment.

Repeals A.R.S. § 12-270, Probation revocation and crime reduction performance funding; reports.

Suspends the reporting requirements for the following sections of laws for FY 2011-2012:

- Annual Juvenile Intensive Probation Report
- Community Punishment Program Report
- Emancipation of Minors Report
- Annual Drug Treatment and Education Fund Report
- Annual Lengthy Trial Fund Report

Justice Court:

1. Justice of the Peace Court Administrator
2. Justice of the Peace Court Clerk
3. Justice of the Peace

Municipal Court:

1. Municipal Court Administrator
2. Municipal Court Clerk
3. Municipal Court Judge/Magistrate

Administrative Office of the Courts

- Annual Child Support Committee Report
- Annual Domestic Relations Committee Report Suspends the following:
- A.R.S. § 12-102.02, State aid to the courts fund, Subsection E:
 - All monies spent or distributed from the fund shall be used to supplement, not supplant, funding at the level provided in fiscal year 1997-1998 by the counties for the processing of criminal cases in the superior court, including the office of the clerk of the superior court, and justice courts.
- A.R.S. § 12-102.03, Local courts assistance fund, Subsection D:
 - All monies distributed or spent from the fund shall be used to supplement, not supplant, funding at the level provided in fiscal year 1997-1998 by the counties for the processing of criminal cases.
- A.R.S. § 12-135, Alternative dispute resolution fund, Subsection D:
 - Monies from the alternative dispute resolution fund that are provided to local courts shall be used to supplement, not supplant, local funding that would otherwise be made available for alternative dispute resolution programs.
- A.R.S. § 12-135.01, Local alternative dispute resolution fund; report, Subsection D:
 - Monies in the fund shall be used to supplement, not supplant, funding that would otherwise be made available for alternative dispute resolution programs.
- A.R.S. § 12-267, Adult probation services fund; Subsection D:
 - State monies expended from the adult probation services fund shall be used to supplement, not supplant, county appropriations for the superior court adult probation department.
- A.R.S. § 12-268, Juvenile probation fund; use, Subsection D:
 - State monies expended from the juvenile probation services fund shall be used to supplement, not supplant, county appropriations for the superior court juvenile probation department.
- A.R.S. § 12-299.01, Submission of plan; use of monies; prohibitions, Subsection C:
 - The plan shall include a proposed budget necessary to implement and operate the plan. All monies provided shall be used to supplement monies currently used for community based sentencing and adult probation programs and services.

The Supreme Court shall submit a report to the Joint Legislative Budget Committee identifying any decrease in county funding relating to these suspending provisions, including the reasons for the decrease.

The Supreme Court shall not reimburse counties the 50% requirement for state funded representation of indigent defendants in capital post conviction relief proceedings pursuant to A.R.S. § 13-4041 or for grand jury expenses pursuant to A.R.S. § 21-428 and requires reimbursement only in the amount provided in the FY 2011 and FY 2012 General Appropriations Act.

State Department of Corrections / County Jail

Effective July 1, 2012 if a person is sentenced to serve one year or less in the Arizona Department of Corrections (ADC), the person shall be committed to the custody of the county jail, unless the sheriff of the county has entered into an agreement to reimburse the ADC for the incarceration costs. The county must enter into a reimbursement agreement at least one month before a person is transferred into the custody of the ADC to serve their sentence and the county is prohibited from

cancelling a reimbursement agreement, unless it has provided ADC with at least a one month's notice.

A person sentenced to a concurrent term of incarceration for more than one year is to be incarcerated in ADC. Counties must make reimbursements within 30 days after a request by ADC and requires the Director of ADC, if the county fails to make the reimbursement, to notify the State Treasurer of the amount owed. The Treasurer must withhold the amount, including interest, from any transaction privilege tax distributions to the county. The Treasurer shall deposit the monies in the State General Fund.

The State Treasurer is required to deposit monies received from a county for the costs of incarcerating a person in the ADC who otherwise would be incarcerated in jail in the State General Fund. In session law, a sentencing county that does not intend to enter into an agreement with ADC must notify ADC by February 1, 2012.

Unless the Sheriff of the sentencing county has entered in an agreement to reimburse the ADC for the incarceration costs, a person who is convicted of the following violations must serve the required sentence in jail:

- Aggravated operation of watercraft while under the influence
- Aggravated DUI
- Operation of aircraft while under the influence

State Capital Postconviction Public Defender Office

Exempts the State Capital Post Conviction Relief Public Defender's Office from the Attorney General Legal Services Cost Allocation Fund pro rata charge.

Justice of the Peace Cost

Requires, in a county with a population of less than 1.5 million, the state to pay 19.25% of justice of the peace compensation and employee related expenditures.

Statute Impacts:

Statutes amended: A.R.S. §§ 5-396, 12-267, 13-701, 22-117, 28-1383, 28-8288, 31-201.01, 31-230, 41-191.09, 41-1604, 41-1604.02, 41-1604.03, 41-1624, 41-1723, 41-1724,

Amending Laws 2007, Chapter 6, Section 21 and Laws 2010, Seventh Special Session, Chapter 6, Section 24; making appropriations, relating to criminal justice budget reconciliation.

Statutes enacted: A.R.S. §§ 12-119.05, 31-133, 41-797, 41-1610.02

Statute repealed: A.R.S. § 12-270

Court Impact:



Budget bill impacting the courts including requiring counties other than Maricopa and Pima Counties to contribute 80.75% of the compensation and employee related expenses of the justice of the peace.

Also removes the non- supplanting provisions in statute for the following funds: state aid to the courts fund, local courts assistance fund, local alternative dispute resolution funds, adult probation services fund, juvenile probation services fund, community punishment plan program funds.

The Supreme Court shall submit a report of any decrease in county funding relating to these suspending provisions, including the reasons for the decrease to the Joint Legislative Budget Committee.

Contains a delayed effective date for sections relating to county contributions for the cost of defendant housed by the Department of Corrections for under the influence convictions, from and after June 30, 2012.

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Chapter 38
HB2351
 Effective Date
 07/20/2011
 General

Item of interest to:

Superior Court:

1. Superior Court Chief Probation Officer
2. Clerk of Superior Court
3. Superior Court Administrator
4. Superior Court Judge
5. Superior Court Jury Commissioner/Manager

Justice Court:

1. Justice of the Peace Court Administrator
2. Justice of the Peace Court Clerk
3. Justice of the Peace
4. Justice of the Peace Jury Commissioner/Manager

Municipal Court:

Administrative Office of the Courts

FAILURE; RETURN RENTED VEHICLE; CLASSIFICATION
 Representative Eddie Farnsworth

Summary:
 Unlawful failure to return a rented or leased motor vehicle is classified as a Class 5 Felony.

Statute Impacts:
Statute amended: A.R.S. § 13-1806

Court Impact:
 Adds a felony 5 to A.R.S. § 13-1806(E) for the failure to return a rented or leased motor vehicle. The change requires courts to update their automation system.

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Chapter 42
SB1245
Effective Date
Conditional

Item of interest to:

Superior Court:

1. Clerk of Superior Court
2. Superior Court Administrator
3. Superior Court Judge

Justice Court:

Municipal Court:

Administrative Office of the Courts

CAPITAL POSTCONVICTION PUBLIC DEFENDER;
CONTINUATION
Senator Ron Gould

Summary:

Continues the State Capital Postconviction Public Defender Office until July 1, 2016.

Statute Impacts:

Statute enacted: A.R.S. § 41- 3016.29

Statute repealed: A.R.S. § 41-3011.13

Court Impact:

Information only.

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Chapter 57
HB2412
Effective Date
07/20/2011
General

Item of interest to:

Superior Court:

1. Clerk of Superior Court
2. Superior Court Administrator
3. Superior Court Judge

Justice Court:

1. Justice of the Peace Court Administrator
2. Justice of the Peace Court Clerk
3. Justice of the Peace

Municipal Court:

Administrative Office of the Courts

CREDIT CARD AGREEMENTS
Representative Jim Weiers

Summary:

An action for debt shall be commenced and prosecuted within six years after the cause of action accrues if the indebtedness is founded on a contract in writing that is executed in this state or is founded on a credit card. If there is a conflict between this state and another jurisdiction relating to statute of limitations this state's law applies. "Credit card" is defined.

Statute Impacts:

Statute amended: A.R.S. § 12-548

Court Impact:

Expands A.R.S. § 12-548 to explicitly include indebtedness for credit cards as defined in A.R.S. § 13-2101.

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Chapter 58

HB2438

Effective Date

07/20/2011

General

Item of interest to:

Superior Court:

1. Superior Court Chief Probation Officer
2. Clerk of Superior Court
3. Superior Court Administrator
4. Superior Court Judge
5. Superior Court Jury Commissioner/Manager

Justice Court:

1. Justice of the Peace Court Administrator
2. Justice of the Peace Court Clerk
3. Justice of the Peace

Municipal Court:

Administrative Office of the Courts

SEXUAL CONDUCT; MINOR

Representative Steve Montenegro

Summary:

Sexual conduct with a minor who is at least 15 years old is a Class 2 Felony if the offender was the minor's parent, stepparent, adoptive parent, legal guardian, foster parent, teacher, clergyman, or priest. Expands the definition of "teacher" to include anyone who provides instruction to pupils, whether directly or not.

Statute Impacts:

Statute amended: A.R.S. § 13-1405

Court Impact:

Clarifies that the defendant's past status in one of the enumerated trusted classes qualifies them for prosecution of a felony 2 offense of sexual contact with a minor who is at least 15 year old.

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Chapter 63

SB1103

Effective Date

07/20/2011

General

Item of interest to:

Superior Court:

1. Clerk of Superior Court
2. Superior Court Administrator
3. Superior Court Judge

Justice Court:

Municipal Court:

Administrative Office of the Courts

UNCLAIMED PROPERTY; EXEMPT CHILD SUPPORT

Senator Steve Yarbrough

Summary:

Exempts child support payments from the definition of 'property' under the Revised Arizona Unclaimed Property Act.

Statute Impacts:

Statute amended: A.R.S. § 44-301

Court Impact:

Information only, exempts support monies processed by the central support payment clearinghouse from the requirements of the Arizona Unclaimed Property Act under Title 44.

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Chapter 69

SB1244

Effective Date

07/20/2011

General

Item of interest to:

Superior Court:

- 1. Superior Court Chief Probation Officer
- 2. Clerk of Superior Court
- 3. Superior Court Administrator
- 4. Superior Court Judge

Justice Court:

- 1. Justice of the Peace Court Administrator
- 2. Justice of the Peace

Municipal Court:

- 1. Municipal Court Administrator
- 2. Municipal Court Judge/Magistrate

Administrative Office of the Courts

PARENTS' RIGHTS; LAW ENFORCEMENT INVESTIGATION

Senator Ron Gould

Summary:

Authorizes law enforcement officers to make video or audio recordings of a minor without parental consent if the recording is made during or as part of a law enforcement investigation.

Statute Impacts:

Statute amended: A.R.S. § 1-602

Court Impact:

Information only, provides an exception to the Parents Bill of Rights for law enforcement investigations.

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Chapter 76

HB2064

Effective Date

07/20/2011

General

Item of interest to:

Superior Court:

- 1. Clerk of Superior Court
- 2. Superior Court Administrator
- 3. Superior Court Clerk
- 4. Superior Court Judge

Justice Court:

- 1. Justice of the Peace Court Administrator
- 2. Justice of the Peace Court Clerk
- 3. Justice of the Peace

FOREIGN LAW; CONFLICTS OF LAWS

Representative Judy Burges

Summary:

A court, arbitrator, administrative agency or other adjudicative, mediation or enforcement authority shall not enforce a foreign law if doing so would violate a right guaranteed by the Constitution of this state or of the United States or conflict with laws of this state or the United States. Applies only to actual violations of the constitutional rights of a person or actual conflict with the laws of this state caused by the application of the foreign law.

Defines "foreign law" as "any law, rule, or legal code or system other than the Constitution, laws and ratified treaties of the United States and the territories of the United States, or the Constitution and laws of this state".

Statute Impacts:

Statutes enacted: A.R.S. §§ 12-3101, 12-3102, 12-3103

Court Impact:

Information only.

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Municipal Court:

- 1. Municipal Court Administrator
- 2. Municipal Court Clerk
- 3. Municipal Court Judge/Magistrate

Administrative Office of the Courts

Chapter 78

HB2411

Effective Date

07/20/2011

General

Item of interest to:

Superior Court:

- 1. Superior Court Chief Probation Officer
- 2. Clerk of Superior Court
- 3. Superior Court Administrator
- 4. Superior Court Judge
- 5. Superior Court Jury Commissioner/Manager

Justice Court:

- 1. Justice of the Peace Court Administrator
- 2. Justice of the Peace Court Clerk
- 3. Justice of the Peace Jury Commissioner/Manager

Municipal Court:

Administrative Office of the Courts

Chapter 83

HB2016

Effective Date

07/20/2011

General

Item of interest to:

Superior Court:

- 1. Superior Court Chief Probation Officer
- 2. Superior Court Administrator
- 3. Superior Court Judge

Justice Court:

CHILD PROSTITUTION; CONSECUTIVE SENTENCES

Representative Eddie Farnsworth

Summary:

A sentence imposed on a person for engaging in child prostitution pursuant to § 13-3212 (A) or (B)(2) is consecutive to any other sentence imposed on the person at any time.

Statute Impacts:

Statute amended: A.R.S. § 13-3212

Court Impact:

Makes sentences for engaging in child prostitution consecutive sentences.

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JLBC; JCCR; REPORTS

Representative John Kavanagh

Summary:

In pertinent part:

Repeals the Supreme Court reporting requirement for the Arizona Lengthy Trial Fund.

Repeals the Adult Offender Compact State Council reporting requirement of an assessment increase for Interstate Adult Supervision.

Statute Impacts:

Municipal Court:

Administrative Office of the Courts

Statutes amended: A.R.S. §§ 5-507, 5-509, 5-557, 5-559, 12-284.03, 13-2314.01, 13-2314.03, 15-393, 15-1821.01, 15-1853, 15-2041, 21-222, 23-773, 27-935, 27-1234, 28-2404, 28-7009, 31-239, 31-285, 31-467, 35-142, 35-193, 36-2903.03, 36-2912, 37-106.01, 37-623.02, 38-658, 41-129, 41-178, 41-191.05, 41-545, 41-621, 41-712, 41-763.02, 41-792.01, 41-821, 41-986, 41-1509, 41-2401, 41-2402, 41-2826, 41-3542, 46-803, 49-545

Statute repealed: A.R.S. § 15-393

Court Impact:
Information only.

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Chapter 89

HB2213

Effective Date

07/20/2011

General

INTELLECTUALLY DISABLED; TERMINOLOGY

Representative Cecil Ash

Summary:

Updates terminology throughout the Arizona Revised Statutes, relating to individuals who are developmentally disabled.

Statute Impacts:

Statutes amended: A.R.S. §§ 4-116, 8-291, 11-251, 13-753, 13-4501, 15-761, 15-901, 15-943, 15-948, 15-976, 20-826, 20-1342.01, 20-1407, 23-503.01, 36-104, 36-137, 36-203, 36-261, 36-501, 36-551, 36-591, 36-712, 36-2936, 36-2939, 41-173, 41-1954, 41-1981

Statutes repealed: A.R.S. §§ 11-251, 15-901

Court Impact:

Removes the term "mental retardation" from multiple statutes. The change will require a change to Rules 8.4(a) and 32.10(A), Rules of Criminal Procedure. Section 11-251, Arizona Revised Statutes, as amended by Laws 2010, Chapter 238, section 1 and this act, is effective from and after September 30, 2011.

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Item of interest to:

Superior Court:

1. Superior Court Chief Probation Officer
2. Clerk of Superior Court
3. Superior Court Administrator
4. Superior Court Judge
5. Superior Court Jury Commissioner/Manager

Justice Court:

1. Justice of the Peace Court Administrator
2. Justice of the Peace Court Clerk
3. Justice of the Peace
4. Justice of the Peace Jury Commissioner/Manager

Municipal Court:

1. Municipal Court Administrator
2. Municipal Court Clerk
3. Municipal Court Judge/Magistrate
4. Municipal Court Jury Commissioner/Manager

Administrative Office of the Courts

Chapter 90

HB2353

Effective Date

07/20/2011

General

Item of interest to:

Superior Court:

- 1. Clerk of Superior Court
- 2. Superior Court Administrator
- 3. Superior Court Clerk

Justice Court:

- 1. Justice of the Peace Court Administrator
- 2. Justice of the Peace Court Clerk
- 3. Justice of the Peace

Municipal Court:

- 1. Municipal Court Administrator
- 2. Municipal Court Clerk
- 3. Municipal Court Judge/Magistrate

Administrative Office of the Courts

SENTENCING; DANGEROUS OFFENSES; PROBATION

Representative Eddie Farnsworth

Summary:

Includes within the definition of "dangerous offense" the "use or exhibition of a deadly weapon or dangerous instrument". This terminology was excluded in the criminal code sentencing reorganization because the word "threatening" was inadvertently not added to the phrase in a few sections when the definition of "dangerous offense" was modified in 1993. (Section 1, 5, 22, 23)

A person who is over 18 commits Aggravated Assault if the assault is on a child under 15, rather than 15 or under. (Section 6)

Removes the special sentencing sections for certain crimes added in the sentencing reorganization and reinserts the sentencing provisions in the actual criminal offense. The special sentencing provisions were placed together in order to make them more easily visible, however, were found not to be beneficial to the understanding of the code. (Section 3, 4, 8, 9, 10, 11, 12, 13, 15, 16, 17)

Resolves an issue created by the enactment of Laws, 2010, chapters 97, 241 and 276 that resulted in two provisions of A.R.S. § 13-1204, Aggravated Assault, having to do with code enforcement officers and park rangers not having a penalty provision. (Section 6, 7)

A person commits Aggravated Assault if the assault is on a public defender, a code enforcement officer, or a park ranger. (Section 6)

Removes the reference in the DUI treatment statute to alcohol or drug education and treatment ordered by MVD, as MVD only orders alcohol or drug screening, not education and treatment. (Section 18)

Repeals the version of the Adult Offender Compact that was superseded by a newer compact ratified in 2002. (Section 20, 21)

Makes conforming and technical changes. (Section 2, 14, 19)

Statute Impacts:

Statutes amended: A.R.S. §§ 13-105, 13-708, 13-709.02, 13-907, 13-1204, 13-1207, 13-1212, 13-1402, 13-1403, 13-2308.01, 13-2312, 13-3101, 13-3407, 13-3411, 13-3601, 13-3961, 28-1387, 31-418, 41-1604.10, 41-1604.13

Statutes repealed: A.R.S. §§ 13-709.01, 13-709.03, 13-709.04, 13-709.05, 13-1204, A.R.S. Title 31, Chapter 3, Article 4

Court Impact:

Adds A.R.S. § 13-1204(A)(8)(i) as a felony 6 offense for aggravated assault on a public defender.

The change requires courts to update their automation system.

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Chapter 91

HB2369

Effective Date

07/20/2011

General

Item of interest to:

Superior Court:

Justice Court:

1. Justice of the Peace Court Administrator
2. Justice of the Peace Court Clerk
3. Justice of the Peace

Municipal Court:

1. Municipal Court Administrator
2. Municipal Court Clerk
3. Municipal Court Judge/Magistrate

Administrative Office of the Courts

DUI; WORK RELEASE
Representative David Burnell Smith

Summary:

If a person is convicted under A.R.S. § 28-1381, subsection I or K, or A.R.S. § 28-1382, subsection D or E, and has served the requisite jail time and confirmed either employment or school attendance, the court shall allow the person to continue schooling or employment for no longer than 12 hours a day and 6 days a week, except if the court finds good cause to disallow the release and places its findings on the record.

Statute Impacts:

Statute amended: A.R.S. § 28-1387

Court Impact:

Permits the courts greater latitude in sentencing cases for first and second time DUI and extreme DUI offenders to continue their employment or schooling while serving out their jail sentence. The court may for good cause deny the release of the defendant for school or work if the court places its findings on the record.

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Chapter 94

HB2585

Effective Date

07/20/2011

General

Item of interest to:

Superior Court:

Justice Court:

Municipal Court:

Administrative Office of the Courts

CONTROLLED SUBSTANCES; MARIJUANA; MONITORING
Representative Matt Heinz

Summary:

The controlled substances prescription monitoring program, administered by the Arizona State Board of Pharmacy, must include data from the Department of Health Services that identifies residents who possess a valid registry identification card.

Statute Impacts:

Statute amended: A.R.S. § 36-2602

Court Impact:

Information only.

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Chapter 99

SB1212

Effective Date

07/20/2011

General

Item of interest to:

Superior Court:

1. Clerk of Superior Court
2. Superior Court Administrator
3. Superior Court Clerk
4. Superior Court Judge

Justice Court:

1. Justice of the Peace Court Administrator
2. Justice of the Peace Court Clerk
3. Justice of the Peace

Municipal Court:

1. Municipal Court Administrator
2. Municipal Court Clerk
3. Municipal Court Judge/Magistrate

Administrative Office of the Courts

CIVIL APPEAL BONDS; LIMITS

Senator Al Melvin

Summary:

Enforcement of a criminal restitution order or a juvenile restitution order by any person who is entitled to restitution or by the state includes the collection of interest, which accrues at 10% annum.

The rate for calculating interest that accrues from and after the date a medical malpractice judgment is entered shall be adjusted on June 30 and December 31 of each year to equal one percentage point, rather than three, above the federal post judgment interest rate.

Sets the bond that is necessary to stay execution during the course of all appeals or discretionary reviews of a civil judgment for damages as the lesser:

- The total amount of damages awarded excluding punitive damages
- 50% of the appellants net worth
- 25 million dollars

If the appellee proves by clear and convincing evidence that the appellant is intentionally dissipating assets outside the ordinary course of business to avoid payment of a judgment, the court may require the appellant to post a bond in an amount up to the full amount of the judgment. If an appellant proves by clear and convincing evidence that the appellant is likely to suffer substantial economic harm if required to post the required bond amount, the trial court may lower the bond amount to an amount that will not cause the appellant substantial economic harm.

Interest on any judgment that is based on a written agreement evidencing a loan, indebtedness or obligation that bears a rate of interest not in excess of the maximum shall be at the rate of interest provided in the agreement and shall be specified in the judgment. Unless otherwise provided by law, interest on any judgment is set at the lesser of 10% per annum or at a rate per annum that is equal to one percent plus the prime rate as published by the Board of Governors of the Federal Reserve System in Statistical Release H.15 or any other publication that supersedes it.

A court is precluded from awarding prejudgment interest for any unliquidated, future, punitive or exemplary damages that are found by the Trier of fact or interest for any future, punitive or exemplary damages that are found by the Trier of fact.

"Future damages" is defined. Prejudgment interest is set as above. Repeals A.R.S. § 38-849, Limitations on receiving pension.

Statute Impacts:

Statutes amended: A.R.S. §§ 8-344, 12-352, 13-805, 25-510, 32-2188, 32-2193.38, 32-2193.39, 36-3411, 38-809, 38-849, 38-897, 38-912, 44-1201

Statute enacted: A.R.S. § 12-2108

Statute repealed: A.R.S. § 38-849

Court Impact:



The addition of A.R.S. § 12-2108 to Title 12 may require a rule change to Rule 7, Arizona Rules of Civil Appellate Procedure. An emergency petition was filed by the Administrative office of the Courts on May 19, 2011. The Arizona Supreme Court considered the petition on June 1, 2011 and ordered the petition circulated for comments. Comments are due by November 1, 2011. Interested parties should check the [Supreme Court Rules Forum](#) for rule petitions.

The bill also includes specifies provisions that criminal restitution orders and child support judgments accrue interest at a rate of 10% per annum.

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Chapter 102
SB1291
Effective Date
07/20/2011
General

Item of interest to:

Superior Court:

1. Superior Court Chief Probation Officer
2. Clerk of Superior Court
3. Superior Court Administrator
4. Superior Court Judge

Justice Court:

1. Justice of the Peace Court Administrator
2. Justice of the Peace Court Clerk
3. Justice of the Peace

Municipal Court:

1. Municipal Court Administrator
2. Municipal Court Clerk
3. Municipal Court Judge/Magistrate

Administrative Office of the Courts

PRISONERS; CREDITS FOR FINES
Senator Gail Griffin

Summary:
A county jail prisoner sentenced to pay a fine shall be allowed up to a \$50 credit per day, rather than \$10, for each day employed at hard labor.

Statute Impacts:
Statute amended: A.R.S. § 31-145

Court Impact:
Increases the maximum the court may credit a defendant, imprisoned for each day he is employed at hard labor or committed for nonpayment to jail, to reduce the amount for fines owed from \$10 to \$50 per day.

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Chapter 104
SB1375
Effective Date
07/20/2011
General

LIVERY VEHICLES; TAXIS; LIMOUSINES; REGULATION
Senator Frank Antenori

Item of interest to:

Superior Court:

1. Superior Court Administrator
2. Superior Court Judge

Justice Court:

1. Justice of the Peace Court Administrator
2. Justice of the Peace Court Clerk
3. Justice of the Peace

Municipal Court:

1. Municipal Court Administrator
2. Municipal Court Clerk
3. Municipal Court Judge/Magistrate

Administrative Office of the Courts

Summary:

In pertinent part:

Livery vehicles, taxis and limousines and their use are not subject to further regulation by a county, city, town or other political subdivision of this state. A city, town, other political subdivision or a public body operating a public airport may continue to establish the number of vehicles that may conduct business at the airport or may set additional or more restrictive requirements for the conduct of that business at an airport.

Statute Impacts:

Statute amended: A.R.S. § 41-2096

Statutes enacted: A.R.S. §§ 28-142, 41-2052, 41-2097

Statutes repealed: A.R.S. § 28-142, 41-2052

Court Impact:

Cities, towns and counties should examine their violation tables to eliminate conflicting regulations or offenses except regulations governing livery vehicles, taxis and limousines and their use at a public airport. Adds multiple misdemeanor 2 violations under A.R.S. §§ 41-2096(A-D) and 41-2097(A&B) for unlawful signage, failure to have available criminal background checks for all drivers and maintaining vehicle maintenance records. The changes require courts to update their automation system.

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Chapter 105
SB1412
Effective Date
07/20/2011
General

EARLY VOTING; REVISIONS
Senator Don Shooter

Item of interest to:

Superior Court:

1. Superior Court Chief Probation Officer
2. Clerk of Superior Court
3. Superior Court Administrator
4. Superior Court Judge
5. Superior Court Jury Commissioner/Manager

Justice Court:

1. Justice of the Peace Court Administrator
2. Justice of the Peace Court Clerk
3. Justice of the Peace

Summary:

In regard to ballot abuse, the following is a Class 5 felony:

- A person knowingly marks a voted or unvoted ballot or ballot envelope with the intent to fix an election for either the persons or another person's benefit.
- To offer or provide any consideration to acquire either a voted or unvoted early ballot.
- To receive or agree to receive any consideration in exchange for a voted or unvoted ballot.
- To possess a voted or unvoted ballot with the intent to sell the ballot of another person.
- A person or entity who knowingly solicits the collection of voted or unvoted ballots by misrepresenting itself as an election official or as an official ballot repository or is found to be serving as a ballot drop off site, other than those established and staffed by election officials.
- A person who knowingly collects voted or unvoted ballots and does not turn the ballots in to an election official, the United States postal service or another entity permitted by law to transmit post.

A person who engages or participates in a pattern of ballot fraud is guilty of a Class 4 felony.

Municipal Court:
Administrative Office of the Courts

Defines "pattern of ballot fraud".

Statute Impacts:
Statutes amended: A.R.S. §§ 16-545, 16-547, 16-1005

Court Impact:
 Adds multiple felony violations under A.R.S. §§ 16-1005(A-C) and (E-H) for ballot abuse. The changes require courts to update their automation system.

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Chapter 107
 HB2068
 Effective Date
 07/20/2011
 General

Item of interest to:

Superior Court:
 1. Superior Court Administrator

Justice Court:
 1. Justice of the Peace Court Administrator

Municipal Court:
Administrative Office of the Courts

CONSTABLES; SALARIES
 Representative Judy Burges

Summary:
 In precincts with an average of 100 or fewer total documents served per year by a constable over the previous four years, a constable is entitled to receive an annual salary of not more than \$15,000.
 In precincts with an average of more than 100 total documents served per year by a constable over the previous four years the annual salary provisions are unchanged.

Statute Impacts:
Statute amended: A.R.S. § 11-424.01

Court Impact:
 Information only.

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Chapter 109
 HB2168
 Effective Date
 07/20/2011
 General

Item of interest to:

Superior Court:

Justice Court:
 1. Justice of the Peace Court Administrator
 2. Justice of the Peace Court Clerk
 3. Justice of the Peace

Municipal Court:
 1. Municipal Court Administrator
 2. Municipal Court Clerk
 3. Municipal Court Judge/Magistrate

BULK MERCHANDISE CONTAINERS; RECORDS
 Representative Bob Robson

Summary:
 Adds a new article to the Trade and Commerce statutes of Chapter 11, Regulations concerning particular businesses. A person who is in a business that recycles, shreds, resells, or destroys bulk merchandise containers is prohibited from buying five or more plastic containers that have a company name/logo or ten or more wooden containers at one time unless the person obtains specific identifying information from the seller and keeps record of the transactions. The person must keep a record for one year after the containers are purchased or delivered, whichever is later. The person cannot document purchases from the same person on the same day as multiple transactions. Violations of the provisions stated above are as follows:

- Class 2 Misdemeanor if the total purchase price of the containers is \$1,000 or more. A second or subsequent offense involving the same monetary prices is a Class 1 Misdemeanor.
- Petty offense if the total purchase price of the containers is less than \$1,000. A second or subsequent offense involving the same monetary price is a Class 2 Misdemeanor.

Statute Impacts:

Administrative Office of the Courts

Statute enacted: A.R.S. § 44-1799.81

Court Impact:

Adds A.R.S. § 44-1799.81 including multiple petty and misdemeanor offenses for purchasing plastic and wood bulk containers without obtaining and retaining the sellers identification information. Prescribes an additional civil penalty of up to \$10,000 per violation for a failure to obtain and retain the required information and an additional civil penalty of up to \$30,000 per violation for entering a single transaction as multiple transactions to skirt the requirements of the statute. The changes require courts to update their automation systems.

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Chapter 112
 HB2372
 Effective Date
 07/20/2011
 General

Item of interest to:

Superior Court:
 1. Clerk of Superior Court
 2. Superior Court Administrator
 3. Superior Court Judge

Justice Court:

Municipal Court:

Administrative Office of the Courts

CONSERVATORSHIPS; GUARDIANSHIPS; COUNTY REIMBURSEMENT

Senator Cecil Ash

Summary:

In regard to probate of wills, the county may charge the estate for reasonable compensation if the county pays for any of the following services from general fund appropriations:

- Compensation for services rendered for an investigator, accountant or lawyer appointed as a personal representative in a probate administration proceeding.
- Compensation for an investigator, accountant, lawyer, physician, registered nurse, psychologist or guardian who is appointed in a protective proceeding of an incapacitated person.
- Compensation for an investigator, accountant, lawyer, physician, registered nurse, psychologist or conservator who is appointed in a protective proceeding of a person with a disability or is a minor.

The county treasurer shall deposit monies in the same fund from which the expenditure was made.

Statute Impacts:

Statutes amended: A.R.S. §§ 14-3722, 14-5314, 14-5414, 14-5414.01

Court Impact:

Information only.

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Chapter 114
 HB2405
 Effective Date
 07/20/2011
 General

Item of interest to:

HUMAN SMUGGLING ORGANIZATION; OFFENSE; PENALTY

Representative Ted Vogt

Summary:

Superior Court:

1. Superior Court Chief Probation Officer
2. Clerk of Superior Court
3. Superior Court Administrator
4. Superior Court Judge
5. Superior Court Jury Commissioner/Manager

Justice Court:

1. Justice of the Peace Court Administrator
2. Justice of the Peace Court Clerk
3. Justice of the Peace

Municipal Court:

Administrative Office of the Courts

A person who is convicted of committing any felony offense with the intent to promote, further, or assist a human smuggling organization is not eligible for suspension of sentence, probation, pardon or release from confinement on any basis except as authorized by A.R.S. § 31-233, subsection A or B. The person is eligible for release pursuant to A.R.S. § 41-1604.07 or if the sentence is commuted. The presumptive, minimum, and maximum sentence shall be increased by 3 years for a Class 4, 5, or 6 Felony or by 5 years for a Class 1, 2, or 3 Felony. This is in addition to any enhanced sentence that may be applicable.

The crime of *Participating in or assisting a human smuggling organization* is established. Participating in a human smuggling organization is a Class 2 Felony. Assisting a human smuggling organization is a Class 3 Felony.

Statute Impacts:

Statute amended: A.R.S. § 13-105

Statutes enacted: A.R.S. §§ 13-709.06, 13-2323

Court Impact:

Adds A.R.S. §§ 13-2323(A1-A4) participating in a human smuggling organization, as a felony 2 and A.R.S. § 13-2323(B) assisting a human smuggling organization as a felony 3.

The changes require courts to update their automation system.

The [criminal code sentencing chart](#) is available for viewing on the Supreme Court publications page.

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Chapter 115

HB2406

Effective Date

01/01/2012

Delayed

Item of interest to:

Superior Court:

1. Superior Court Chief Probation Officer
2. Clerk of Superior Court
3. Superior Court Administrator
4. Superior Court Judge

Justice Court:

1. Justice of the Peace Court Administrator
2. Justice of the Peace Court Clerk
3. Justice of the Peace

Municipal Court:

CRIMES; FORENSIC INTERVIEWS; MANDATORY FINE

Representative Ted Vogt

Summary:

An assessment of \$500 is imposed on a person convicted or found delinquent of a Dangerous Crime Against Children (DCAC) or sexual assault. The assessment cannot be waived and is not subject to surcharge. The money collected is transmitted to the county treasurer to be used for the cost of medical expenses needed in the investigation of a DCAC or sexual assault.

Any forensic interview expense as well as medical expense that is needed in order to secure evidence that a person has been a victim of a DCAC shall be paid for by the county in which the offense occurred.

Statute Impacts:

Statute amended: A.R.S. § 13-1414

Statute enacted: A.R.S. § 13-824

Court Impact:

Adds a new mandatory \$500 assessment to the sentence of a person convicted or found delinquent of a Dangerous Crime Against Children (DCAC) or sexual assault to reimburse the county for expenses in investigating the offense, effective January 1, 2012. The assessment cannot be waived.

Administrative Office of the Courts

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Chapter 118
 HB2520
 Effective Date
 07/20/2011
 General

PROFESSIONAL BOARDS; ACTIONS; PUBLIC ACCESS
 Representative Matt Heinz

Summary:

Advisory letters and letters of concern that are issued by a professional regulatory board are no longer public records. However, documentation relating to an order that limits or restricts the professional's practice may appear on the board's website.

Item of interest to:

Superior Court:

Statute Impacts:

Sections amended: A.R.S. §§ 32-3214, 32-4404

Justice Court:

Court Impact:

Information only.

Municipal Court:

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Administrative Office of the Courts

Chapter 119
 HB2572
 Effective Date
 07/20/2011
 General

GOVERNMENT EXPENDITURE DATABASE; TRANSPARENCY; CAFR
 Representative Brenda Barton

Summary:

The Arizona Department of Administration (ADOA) and each town, city, and county must include the information as prescribed in a comprehensive annual financial report of a budget unit that has been made by a certified public accountant or public accountant who is not an employee of ADOA or the local government in their database. If ADOA or a local government already has a comprehensive annual financial report of a budget unit that has been presented with a certificate of achievement for excellence in financial reporting by the Governmental Finance Officers Association, ADOA or the local government may post such a financial report to satisfy the requirements. A local government must display a link to this data in a prominent place on the local government's website or on a website of an association of cities and towns for cities and towns that do not have official websites, as well as on AODA's website.

Item of interest to:

Superior Court:

1. Superior Court Chief Probation Officer
2. Clerk of Superior Court
3. Superior Court Administrator
4. Superior Court Judge

Statute Impacts:

Statute amended: A.R.S. § 41-725

Justice Court:

1. Justice of the Peace Court Administrator
2. Justice of the Peace

Court Impact:

Information only.

Municipal Court:

1. Municipal Court Administrator
2. Municipal Court Judge/Magistrate

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Administrative Office of the Courts

Chapter 121
 HB2675
 Effective Date
 07/20/2011
 General

Item of interest to:

Superior Court:

1. Superior Court Chief Probation Officer
2. Clerk of Superior Court
3. Superior Court Administrator
4. Superior Court Judge
5. Superior Court Jury Commissioner/Manager

Justice Court:

1. Justice of the Peace Court Administrator
2. Justice of the Peace Court Clerk
3. Justice of the Peace

Municipal Court:

Administrative Office of the Courts

FOOD STAMPS; BENEFIT CARDS; PENALTY
 Representative Jeff Dial

Summary:

A person commits unlawful use of food stamps if the person uses the food stamps of another person after an unlawful transfer.

Statute Impacts:

Statute amended: A.R.S. § 13-3701

Court Impact:

Adds A.R.S. § 13-3701(A)(4) as a felony 5 for the use of foodstamps after an unlawful transfer. The changes require courts to update their automation system.

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Chapter 130
 HB2462
 Effective Date
 07/20/2011
 General

Item of interest to:

Superior Court:

1. Superior Court Chief Probation Officer
2. Clerk of Superior Court
3. Superior Court Administrator
4. Superior Court Judge

Justice Court:

1. Justice of the Peace Court Administrator
2. Justice of the Peace

Municipal Court:

1. Municipal Court Administrator
2. Municipal Court Judge/Magistrate

Administrative Office of the Courts

JLBC; ANNUAL REPORT; DEBT
 Representative Vic Williams

Summary:

In pertinent part:

State government and all local governments shall report to the Department of Revenue all incurred debt.

"State government" is defined as any department, commission, board, institution or other agency of the state organization receiving, expending or disbursing state funds or incurring obligations against the state.

Statute Impacts:

Statutes amended: A.R.S. §§ 41-4601, 41-4604

Statute enacted: A.R.S. § 41-1277

Court Impact:

Information only.

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Chapter 131
 SB1133
 Effective Date
 07/20/2011
 General

Item of interest to:

Superior Court:

Justice Court:

1. Justice of the Peace Court Administrator
2. Justice of the Peace Court Clerk
3. Justice of the Peace

Municipal Court:

1. Municipal Court Administrator
2. Municipal Court Clerk
3. Municipal Court Judge/Magistrate

Administrative Office of the Courts

APPROACHING STATIONARY VEHICLES; YIELD RIGHT-OF-WAY
 Senator John Nelson

Summary:

A driver on a four lane highway with at least two lanes in the same direction who approaches a stationary vehicle displaying alternately flashing lights or warning lights must change lanes into a lane not adjacent to the stationary vehicle. If changing lanes would be impossible or unsafe, the driver must proceed with due caution and reduce the speed of the vehicle maintaining a safe speed for the road conditions. An addition to A.R.S. § 28-775. No change in penalty.

Statute Impacts:

Statute amended: A.R.S. § 28-775

Court Impact:

Formerly a lane change was only required if the flashing lights were displayed by an emergency vehicles. The statute now applies to all vehicles displaying warning or emergency lights.

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Chapter 137
 HB2191
 Effective Date
 Emergency

Item of interest to:

Superior Court:

1. Clerk of Superior Court
2. Superior Court Administrator
3. Superior Court Judge

Justice Court:

1. Justice of the Peace Court Administrator
2. Justice of the Peace Court Clerk
3. Justice of the Peace

Municipal Court:

Administrative Office of the Courts

PUNITIVE DAMAGES; UNLAWFUL ENTRY
 Representative Jim Weiers

Summary:

A person present in this state in violation of a federal immigration law related to improper entry by an alien shall not be awarded punitive damages in any action in any court in this state. Retroactive to any cause of action that accrues on or after January 1, 2004.

Statute Impacts:

Statute enacted: A.R.S. § 12-512

Court Impact:

Information only. Emergency effective date, signed by the Governor April 11, 2011.

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Chapter 140
 SB1023
 Effective Date
 07/20/2011
 General

Item of interest to:

Superior Court:

1. Superior Court Chief Probation Officer
2. Clerk of Superior Court
3. Superior Court Administrator
4. Superior Court Judge

Justice Court:

Municipal Court:

Administrative Office of the Courts

ENFORCEMENT OF PRETRIAL RELEASE CONDITIONS
 Senator Linda Gray

Summary:

In a county with a population of more than two million persons, an adult probation officer may serve warrants, make arrests and bring persons who are alleged to have violated a condition of pretrial release before the court. An officer enforcing pretrial release conditions has the authority of a peace officer in the performance of the officer's duty.

Statute Impacts:

Statute enacted: A.R.S. § 12-256

Court Impact:

Information only. This bill permits probation officers in Maricopa County greater latitude in enforcing pretrial release conditions.

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Chapter 146
 SB1171
 Effective Date
 07/20/2011
 General

Item of interest to:

Superior Court:

1. Clerk of Superior Court
2. Superior Court Administrator
3. Superior Court Judge

Justice Court:

Municipal Court:

Administrative Office of the Courts

CITIES; ACQUISITION OF WASTEWATER UTILITY
 Senator Frank Antenori

Summary:

In pertinent part:

A city or town can acquire all or any part of a sewage system from a county through outlined procedures. A city or town may bring a special action in the nature of mandamus against a county that fails to make a transfer that was requested and attorney fees must be awarded by the court to the city or town, if the municipality prevails in the action.

Statute Impacts:

Statutes amended: A.R.S. §§ 9-514, 11-264, 41-1279.03

Statute enacted: A.R.S. § 9-514.01

Court Impact:

Information only. This bill allows a city or town to file a special action in the superior court to compel transfer of ownership of a sewerage system, including the treatment facility, if the system is located in or serves the city or town.

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Chapter 147
 SB1188
 Effective Date
 07/20/2011
 General

Item of interest to:

Superior Court:

1. Clerk of Superior Court
2. Superior Court Administrator
3. Superior Court Judge

Justice Court:

Municipal Court:

Administrative Office of the Courts

MARITAL PREFERENCES; ADOPTION

Senator Linda Gray

Summary:

Requires the placement of a child in an adoptive home that best meets the safety, social, emotional, physical, and mental health needs of the child. Outlines relevant factors that must be considered in no particular order, including:

- Marital status and length and stability of the marriage
- Placement with the child's siblings
- Established relationships between the child and the prospective adoptive family
- The family's ability to meet the needs stated above and the ability to financially provide for the child
- The wishes of the child if 12 years or older
- The wishes of the child's birth parents unless the rights have been terminated or the court has established a case plan of severance and adoption

If all other factors are equal, placement preference shall be with a married man and woman over a single individual. The court shall make findings on the record regarding the best interests of the child in every adoption proceeding. Establishes reporting requirements for the Department of Economic Security.

Statute Impacts:

Statutes amended: A.R.S. §§ 8-103, 8-526

Court Impact:

Adds factors the court must consider when placing a child for adoption. Requires the court to make findings on the record regarding the best interests of the child in every adoption proceeding.

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Chapter 153
 SB1363
 Effective Date
 07/20/2011
 General

Item of interest to:

Superior Court:

Justice Court:

1. Justice of the Peace Court Administrator
2. Justice of the Peace Court Clerk
3. Justice of the Peace

EMPLOYER PROTECTIONS; LABOR RELATIONS

Senator Frank Antenori

Summary:

For the purposes of A.R.S. § 12-1809, *Injunction against harassment*, and A.R.S. § 12-810, *Injunction against workplace harassment*, the definition of "harassment" is expanded to include unlawful picketing, trespassory assembly, unlawful mass assembly, concerted interference with lawful exercise of business activity, and engaging in a secondary boycott and defamation.

Enacts new Title 23, Labor, provisions.

An employer shall not withhold wages under a written authorization from the employee past the date specified by the employee in a written revocation of the authorization, unless the withholding is to resolve a debt to the employer or if ordered by a court.

It is unlawful for a labor organization to picket or induce others into picketing for the purpose of coercing an employer or self-employed person to join or contribute to the labor organization.

A court may issue a temporary restraining order or injunction that prohibits unlawful picketing, trespassory assembly, unlawful mass assembly, concerted interference

Municipal Court:

1. Municipal Court Administrator
2. Municipal Court Clerk
3. Municipal Court Judge/Magistrate

Administrative Office of the Courts

with lawful exercise of business activity and engaging in a secondary boycott, defamation, or any actual or threatened misrepresentation of fraud, duress, violence, or breach of the peace. For the purposes of a defamation action, a labor union or subdivision of a labor organization is bound by and liable for the acts of its agents and may sue or be sued in its common name.

Persons who are targeted by or injured by unlawful picketing, trespassory assembly, unlawful mass assembly, concerted interference with lawful exercise of business activity, and engaging in a secondary boycott may file for injunctive relief. A person conducting such activities is liable for damages, prejudgment interest, litigation costs, reasonable attorney fees, and in some cases punitive damages. Employers may seek the same relief if targeted by or injured by defamation.

"Concerted interference with lawful business activity," "Trespassory assembly," "Unlawful mass assembly," "Unlawful picketing" and "Defamation" are defined. Provides for misdemeanor criminal penalties.

The Secretary of State (SOS) is required to establish a no trespass public notice list that will identify employers who have established private property rights. An employer must provide the SOS with appropriate documents that establish the employer's private property rights and pay a recording fee. Outlines requirements for SOS that includes providing a copy of the list to every law enforcement agency.

Statute Impacts:

Statutes amended: A.R.S. §§ 12-1809, 12-1810, 23-352, 23-1321, 23-1322, 23-1323, 23-1324

Statutes enacted: A.R.S. §§ 23-1325, 23-1326, 23-1327, 23-1328, 23-1329

Court Impact:

Adds multiple misdemeanor 2 violations under A.R.S. §§ 13-1322(A&B), -1327(A1-A5) and -1328 for unlawful picketing, assembly and trespass assembly. The changes require the courts to update their case management system.

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Chapter 157

SB1102

Effective Date

01/01/2013

Delayed

Item of interest to:

Superior Court:

1. Superior Court Chief Probation Officer
2. Clerk of Superior Court
3. Superior Court Administrator
4. Superior Court Judge
5. Superior Court Jury Commissioner/Manager

STATE COMPENSATION FUND; CONFORMING CHANGES

Senator John McComish

Summary:

It is a Class 6 Felony for an employer to willfully misrepresent to an insurance carrier information on which the premium for workers' compensation insurance to be paid to the insurance carrier is based. An employer who is guilty of this violation is liable for a penalty of up to three times the amount of the difference in the premium paid and the amount the employer should have paid.

Statute Impacts:

Statutes amended: A.R.S. §§ 20-156, 20-363, 20-367, 23-901, 23-961, 23-962, 23-963, 23-966, 23-1021, 23-1026, 23-1029, 23-1065, 23-1070, 23-1091, 41-791, 41-2501, 41-4151

Statute enacted: A.R.S. § 23-970

Statutes repealed: A.R.S. §§ 23-1005, 23-1006

Justice Court:

- 1. Justice of the Peace Court Administrator
- 2. Justice of the Peace Court Clerk
- 3. Justice of the Peace

Municipal Court:

Administrative Office of the Courts

Court Impact:

Adds A.R.S. § 23-970(A) as a felony 6, effective January 1, 2013, for an employer who wilfully misrepresents to an insurance carrier the amount of payroll, the job description or job function of an employee, or the employer's loss history, on which the premium for workers' compensation insurance to be paid to the insurance carrier is based.

The changes require courts to update their automation system.

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Chapter 159
SB1167

Effective Date
04/18/2011

Emergency

Item of interest to:

Superior Court:

- 1. Clerk of Superior Court
- 2. Superior Court Administrator
- 3. Superior Court Judge

Justice Court:

Municipal Court:

Administrative Office of the Courts

LEGISLATION; REFERENDA CHALLENGES

Senator Steve Yarbrough

Summary:

A challenge to the legal sufficiency of a measure referred by the legislature must be filed within:

- 20 days after the referendum is filed with the Secretary of State if the referendum is filed in an odd numbered year
- Ten days after the referendum is filed with the Secretary of State if the referendum is filed in an even numbered year

The court is required to hear and decide the action as soon as possible. Either party may appeal to the Supreme Court within five days after judgment. The Superior Court in Maricopa County has jurisdiction over the action. The President of the Senate or the Speaker of the House may intervene as a party, file briefs or choose not to participate.

Contains an emergency clause.

Statute Impacts:

Statute enacted: A.R.S. § 19-161

Court Impact:

Information only. Emergency effective date, signed by the Governor 4/18/2011.

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Chapter 161
SB1238

Effective Date
07/20/2011

General

Item of interest to:

Superior Court:

Justice Court:

- 1. Justice of the Peace Court Administrator
- 2. Justice of the Peace Court Clerk
- 3. Justice of the Peace

AUTO GLASS REPAIR

Senator John McComish

Summary:

Municipal Court:

- 1. Municipal Court Administrator
- 2. Municipal Court Judge/Magistrate

Administrative Office of the Courts

A third party administrator must inform a customer of the right to choose any glass repair facility for the repair of auto glass when recommending or providing information about a glass repair facility. An independent adjuster or third party administrator's appraiser or claims inspector for auto glass repair work cannot recommend any particular glass repair facility. This does not include employees of an insurer and insurance producers.

A person who knowingly violates this statute is guilty of a petty offense and shall pay a fine of \$300 for a first violation, \$1,500 for a second violation within 18 months, and \$3,000 for any subsequent violation within 18 months. The person is considered to have knowingly violated the statute if the person was engaged in a regular and consistent pattern of the prohibited activity.

Defines "third party administrator".

Statute Impacts:

Statute enacted: A.R.S. § 20-469.01

Court Impact:

Adds A.R.S. § 20-469.01(A) as a petty offense for a third party administrator who fails to inform a customer of the right to choose any glass repair facility for the repair of auto glass when recommending or providing information about a glass repair facility or an independent adjuster or third party administrator's appraiser or claims inspector for auto glass repair work who recommends a particular glass repair facility.

The changes require courts to update their automation system.

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Chapter 168

SB1559

Effective Date

07/20/2011

General

Item of interest to:

Superior Court:

- 1. Superior Court Chief Probation Officer
- 2. Clerk of Superior Court
- 3. Superior Court Administrator
- 4. Superior Court Judge

Justice Court:

Municipal Court:

Administrative Office of the Courts

JUVENILES; FEES; ADOPTIVE PARENTS; EXCEPTION

Senator Rick Murphy

Summary:

After considering the totality of the child's circumstances, the juvenile court or county attorney may waive part or all of the fees related to delinquency if a juvenile was adopted or placed in a permanent guardianship after the juvenile was determined to be a dependent child.

Statute Impacts:

Statutes amended: A.R.S. §§ 8-241, 8-243, 8-321

Court Impact:

Allows the juvenile court to waive all or part of a fee prescribed for a juvenile diverted from prosecution, adjudicated as delinquent or incorrigible and placed under supervision or in foster care, if the juvenile was adopted or placed in a permanent guardianship. The county attorney may waive part or all of the fees related to a delinquent or incorrigible act if a juvenile was adopted or placed in a permanent guardianship after the juvenile was determined to be a dependent child and the juvenile was diverted from prosecution.

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Chapter 170
 HB2015
 Effective Date
 07/20/2011
 General

Item of interest to:

Superior Court:

Justice Court:

1. Justice of the Peace Court Administrator
2. Justice of the Peace Court Clerk
3. Justice of the Peace
4. Justice of the Peace Jury Commissioner/Manager

Municipal Court:

Administrative Office of the Courts

COUNTY PARKS; JUSTICE COURT JURISDICTION
 Representative Judy Burges

Summary:

Extends the jurisdiction of justice of the peace courts pursuant to A.R.S. § 22-301, *Jurisdiction of criminal actions*, to include county parks that include a body of water located in two counties if one county has a population of more than 2,000,000 persons and one county has a population of between 200,000 and 300,000 persons.

Statute Impacts:

Statute amended: A.R.S. § 22-301

Court Impact:

Provides the Lake Pleasant Justice Court jurisdiction to adjudicate cases arising from actions that originate in the Lake Pleasant Regional Park in either Yavapai or Maricopa Counties.

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Chapter 171
 HB2109
 Effective Date
 07/20/2011
 General

Item of interest to:

Superior Court:

1. Clerk of Superior Court
2. Superior Court Administrator
3. Superior Court Judge

Justice Court:

1. Justice of the Peace Court Administrator
2. Justice of the Peace Court Clerk
3. Justice of the Peace

Municipal Court:

Administrative Office of the Courts

BAIL BOND AGENTS; CIVIL; LICENSING
 Representative Nancy McClain

Summary:

An applicant for a bail bond agent license is required to be a resident in this state for at least one year immediately preceding the application. Each applicant shall submit a full set of fingerprints to the Department of Insurance in order to obtain a state and federal criminal record check.

A person who is licensed as a bail bond agent is not permitted to transact civil bonds in connection with contracts, administrative proceedings, or other noncriminal matters on behalf of a surety insurer unless the bail bond agent is also licensed as a property and casualty producer.

Statute Impacts:

Statutes amended: A.R.S. §§ 20-340, 20-340.01

Court Impact:

Information only.

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Chapter 173

HB2302

Effective Date

01/01/2012

Delayed

Item of interest to:

Superior Court:

1. Superior Court Chief Probation Officer
2. Clerk of Superior Court
3. Superior Court Administrator
4. Superior Court Judge

Justice Court:

1. Justice of the Peace Court Administrator
2. Justice of the Peace Court Clerk
3. Justice of the Peace

Municipal Court:

1. Municipal Court Administrator
2. Municipal Court Clerk
3. Municipal Court Judge/Magistrate

Administrative Office of the Courts

PROTECTED ADDRESS; SECRETARY OF STATE

Representative J.D. Mesnard

Summary:

Amends A.R.S. § 16-153, Voter registration; *confidentiality*, to include border patrol agents in persons eligible to request that the general public be prohibited from accessing the address, telephone number, and voting precinct number contained in their voter registration record.

The court may seal the change of name application and judgment on request if a person is protected under an order of protection or is a victim of stalking pursuant to A.R.S. § 13-2923, *Stalking, classifications, definitions*. If the offense took place in another jurisdiction, but would be classified as a violation or attempted violation of A.R.S. § 13-2923 if committed in this state, these provisions still apply. A person who obtained a judgment on or after January 1, 2009, may request that the court seal the application and judgment pursuant to this section.

Directs the Secretary of State (SOS), by December 31, 2012, to establish the Address Confidentiality Program (ACP). The ACP allows victims of domestic violence, sexual offenses, or stalking to keep their residential address confidential, by giving them a substitute lawful address. Outlines what the application will include and what is considered evidence of domestic violence, a sexual offense, or stalking.

Allows an ACP participant to be served by certified or registered mail with any process, notice, or demand required by law and clarifies that this provision does not prescribe the only or necessary means of serving an ACP participant. Adds five days to the timeframe within which an ACP participant legally has a right to act, if they were served in accordance with law by mail or first-class mail. This provision does not apply if the time period is otherwise corrected by a court rule.

Individuals are certified into the ACP for four years following the date of filing. Certification may be renewed by filing a renewal application with the SOS within 30 days of the current certification expiring. ACP participants may withdraw certification by filing a request for withdrawal that is acknowledged before a notary public. If the ACP participant fails to notify the SOS of a change in legal name, current address, telephone number, or knowingly submits false information, certification of the program participant can be cancelled. Requires the SOS to send notice and the reason for cancellation to the program participant if it is determined that there is reason for cancelling certification. The program participant has 30 days to appeal the cancellation decision. Under A.R.S. § 41-155, the SOS cannot disclose any address or telephone number of an ACP participant except under the following circumstances:

- The information is required under a court order
- The SOS grants a request by a state or local government entity pursuant to A.R.S. § 41-157, *Request for disclosure*

Any person to whom an ACP participant's actual address or telephone number has been disclosed cannot further disclose the information to any other person unless required by court order or as otherwise provided by law. The SOS shall immediately notify an ACP participant if it has disclosed a participant's information.

If an ACP participant is involved in divorce proceedings, child support, or the allocation of parental responsibilities or parenting time, the SOS must notify the court that the participant has been certified and is part of the ACP.

Anyone who knowingly and intentionally obtains or discloses an ACP participant's information is guilty of a Class 1 Misdemeanor.

The ACP participant is responsible for requesting that a state or local government entity use the substitute address as the participant's residential, school, or work address.

Except as otherwise provided for in the statute or by order of the court, if a participant submits a current and valid address confidentiality program card to the court, the court shall accept the substitute address as the home, work, and school address for the participant. The court may make a photocopy of the card and shall return the card to the participant.

Outlines how participants shall be able to register to vote and to vote.

A state or local government agency requesting disclosure of an ACP program participant's actual address must make the request in writing on letterhead. This provision does not apply to the court. The SOS must notify the participant of a request for address disclosure and allow the participant an opportunity to be heard regarding the request. The SOS must provide the participant with written notification if a request for disclosure has been granted or denied. Notice or opportunity to be heard shall not be afforded to the participant if the request for disclosure is made by a state or local law enforcement agency conducting a criminal investigation or if providing notice would jeopardize an ongoing criminal investigation or the safety of law enforcement personnel. The director of the program, or the director's designee, must be available to state and local governments 24 hours a day for purposes of a request for disclosure.

Outlines an expedited disclosure process to be used by a court, criminal justice official or agency, or a probation department when disclosure is required pursuant to a trial, hearing, proceeding, or investigation involving an ACP participant. An official or agency obtaining information under the expedited disclosure process shall certify to the SOS that it has a system in place to protect the confidentiality of a participant's actual address from the public and personnel involved in the trial, hearing, proceeding, or investigation. A court or administrative tribunal may seal the portion of any record containing an actual address.

Permits a state or local government agency, at its discretion, to use an actual address in any document or record filed with a court or administrative tribunal if, at the time of filing, the document or record is not a public record.

Effective January 1, 2012, adds A.R.S. § 12-116.04, *Address confidentiality program assessment*, that adds a \$50 assessment for a person who is convicted of a domestic violence offense, a sexual offense, or stalking. The court may waive all or a portion of the assessment if the court finds that the defendant is unable to pay the assessment. 95% of the assessment goes to the address confidentiality fund and 5% is retained by the clerk of the court for administrative costs.

Defines "actual address," "address confidentiality program," "applicant," "application assistant," "domestic violence," "program participant," "public record," "sexual offense," "stalking," "state or local government entity," and "substitute address".

The SOS program sunsets July 1, 2021.

Statute Impacts:

Statutes amended: A.R.S. §§ 12-601, 16-153, 39-123, 39-124

Statute enacted: A.R.S. § 12-116.05

Court Impact:

Adds A.R.S. § 41-155(F) as a misdemeanor 1 for knowingly disclosing confidential information.

Adds A.R.S. § 12-116.05 with a new \$50 Address confidentiality program assessment that splits 95% to the "Address Confidentiality Fund" and 5% to a clerks administrative cost fund.

The clerk will need to work with their treasurer to establish a budget category for the administration funds.

The priority of payment for this assessment is after the prison construction fund and before DUI abatement fund. An amendment will need to be made to Section A.C.J.A.

§ 3-401: Priority of Offender Payments for Superior Court to accomodate the new assessment.

The changes require courts to update their automation system.

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Chapter 183

SB1120

Effective Date

07/20/2011

General

Item of interest to:

Superior Court:

1. Superior Court Chief Probation Officer
2. Clerk of Superior Court
3. Superior Court Administrator
4. Superior Court Judge

Justice Court:

1. Justice of the Peace Court Administrator
2. Justice of the Peace

Municipal Court:

Administrative Office of the Courts

CHIROPRACTIC SERVICES; BUSINESS ENTITIES

Senator Nancy Barto

Summary:

In pertinent part:

A business entity may not offer chiropractic services unless the entity is registered with the Board of Chiropractic Examiners (Board) and the services are conducted by a Doctor of Chiropractic who is licensed. The business entity must file a registration application and pay a fee as prescribed by the Board, must comply with Board rules, and must establish a written protocol for the secure storage and transfer of medical records. The business entity must notify the board within 30 days after the closing or relocation of any facility and tell the board how patients may obtain their records. Contains other requirements for the business entity. Current statute includes a Class 6 Felony provision, which would pick up the new requirements.

Statute Impacts:

Statute amended: A.R.S. § 32-934

Court Impact:

Adds A.R.S. § 32-934(A), as a felony 6 for a business entity offering chiropractic services without registering with the state Board of Chiropractic Examiners pursuant to this section and rules adopted pursuant to Title 32, Chapter 8.

The change requires courts to update their automation system.

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Chapter 185
SB1148
Effective Date
07/20/2011
General

Item of interest to:

Superior Court:

1. Clerk of Superior Court
2. Superior Court Administrator
3. Superior Court Clerk
4. Superior Court Judge

Justice Court:

Municipal Court:

Administrative Office of the Courts

HOMEOWNERS' ASSOCIATIONS; DISPUTES; ADMINISTRATIVE HEARINGS
Senator Andy Biggs

Summary:

An order issued by an administrative law judge pursuant to A.R.S. § 41-2198.02, having to do with condominiums, planned communities and mobile home parks is subject to judicial review pursuant to A.R.S. § 41-1092.08, *Review of administrative decisions*.

Statute Impacts:

Statutes amended: A.R.S. §§ 41-2141, 41-2198.02, 41-2198.04

Court Impact:

A party may appeal a final order by a administrative law judge in the Department of Fire, Building and Life Safety pursuant to Title 12, Chapter 7, Article 6, except as provided in section A.R.S. § 41-1092.09, subsection B and the party has not requested a hearing upon receipt of a notice of appealable agency action pursuant to section A.R.S. § 41-1092.03.

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Chapter 186
SB1175
Effective Date
07/20/2011
General

Item of interest to:

Superior Court:

1. Clerk of Superior Court
2. Superior Court Administrator
3. Superior Court Judge

Justice Court:

1. Justice of the Peace Court Administrator
2. Justice of the Peace Court Clerk
3. Justice of the Peace

Municipal Court:

1. Municipal Court Administrator
2. Municipal Court Clerk
3. Municipal Court Judge/Magistrate

Administrative Office of the Courts

CATEGORIES OF LICENSURE; HOMEOPATHS
Senator Nancy Barto

Summary:

In pertinent part:

The following is a Class 5 felony:

- Practicing medicine as a homeopathic doctor without being licensed or exempt from licensure.
- Securing a license to engage in the practice of homeopathic medicine by fraud or deceit.
- Impersonating a member of the Homeopathic board.

The following is a Class 2 Misdemeanor:

- Using the designation "doctor of homeopathy," "homeopathic doctor," "medical doctor-homeopathic," "doctor or osteopathy-homeopathic," or "homeopathic physician" without being licensed. Using any words, initials or symbols that lead the public to believe that a person is licensed to engage in the practice of homeopathic medicine in this state if this is not true.

Statute Impacts:

Statutes amended: A.R.S. §§ 32-2901, 32-2902, 32-2904, 32-2907, 32-2911, 32-2912, 32-2913, 32-2914, 32-2915, 32-2916, 32-2917, 32-2931, 32-2932, 32-2933, 32-2934, 32-2935, 32-2939, 32-2941, 32-2951

Court Impact:

Information only. No new offenses were created.

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Chapter 188
SB1243

Effective Date
07/20/2011

General

Item of interest to:

Superior Court:

1. Superior Court Chief Probation Officer
2. Clerk of Superior Court
3. Superior Court Administrator
4. Superior Court Clerk
5. Superior Court Judge
6. Superior Court Jury Commissioner/Manager

Justice Court:

1. Justice of the Peace Court Administrator
2. Justice of the Peace Court Clerk
3. Justice of the Peace
4. Justice of the Peace Jury Commissioner/Manager

Municipal Court:

Administrative Office of the Courts

BAD CHECKS; COUNTY ATTORNEY FEES

Senator Ron Gould

Summary:

If a defendant is alleged to have committed multiple violations of A.R.S § 13-1807, *Issuing a bad check; violation; classification*, within the same county, the county attorney may file a complaint charging all of the violations that have not been previously filed in the justice of the peace precinct in which the greatest number of violations occurred.

The fees that the county attorney may collect from a person who has issued or passed a check in violation of the specified statutes are increased as follows:

- From \$50 to \$75 if the face amount of the check is less than \$100
- From \$75 to \$100 if the face amount of the check is greater than \$100, but less than \$300
- From \$100 to \$125 if the face amount of the check is greater than \$300, but less than \$1,000
- From 15% to 20% if the face amount of the check is greater than \$1,000

Statute Impacts:

Statute amended: A.R.S. § 13-1809

Court Impact:

This bill increases fees that the County Attorney may collect and the court may order from a defendant for passing bad checks.

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Chapter 189
SB1247

Effective Date
07/20/2011

General

Item of interest to:

Superior Court:

1. Superior Court Chief Probation Officer
2. Clerk of Superior Court
3. Superior Court Administrator
4. Superior Court Judge
5. Superior Court Jury Commissioner/Manager

Justice Court:

Municipal Court:

Administrative Office of the Courts

SEXUALLY VIOLENT PERSONS; HEARINGS

Senator Nancy Barto

Summary:

Requires the court to order an evaluation of an alleged sexually violent person regardless of whether or not the person requests a probable cause hearing. A person whom the court selects from a list of competent professionals must conduct the evaluation and the county is responsible for paying the costs.

Statute Impacts:

Statute amended: A.R.S. § 36-3705

Court Impact:

Requires the court to order an evaluation in every case before the court determines if there is a basis to proceed to trial under A.R.S. § 36-3706.

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Chapter 190
 SB1270
 Effective Date
 07/20/2011
 General

Item of interest to:

Superior Court:

Justice Court:

1. Justice of the Peace Court Administrator
2. Justice of the Peace Court Clerk
3. Justice of the Peace

Municipal Court:

1. Municipal Court Administrator
2. Municipal Court Clerk
3. Municipal Court Judge/Magistrate

Administrative Office of the Courts

ARIZONA DEPARTMENT OF TRANSPORTATION; OMNIBUS
 Senator John Nelson

Summary:

In pertinent part:

It is currently a Class 3 Misdemeanor to drive a commercial motor vehicle on a highway without a valid and appropriate commercial driver license. A commercial driver license endorsement is now also acceptable.

Statute Impacts:

Statute amended: A.R.S. §§ 28-853, 28-959, 28-3481

Court Impact:

Adds or renumbers multiple civil traffic violations. The changes require courts to update their automation systems.

Section 32-2352, Arizona Revised Statutes, as amended by this act, is effective from and after March 31, 2012.

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Chapter 191
 SB1306
 Effective Date
 07/20/2011
 General

Item of interest to:

Superior Court:

1. Clerk of Superior Court
2. Superior Court Administrator
3. Superior Court Judge

Justice Court:

1. Justice of the Peace Court Administrator
2. Justice of the Peace

Municipal Court:

LANDLORDS; TENANTS; BEDBUG CONTROL
 Senator Michele Reagan

Summary:

The Board of Supervisors or a city or town may adopt requirements relating to the disposal of items infested with bedbugs. The Board of Supervisors or a city or town cannot adopt requirements by ordinance or for landlords or tenants that relate to the control of bedbugs other than what is permitted by statute A.R.S. § 33-1319, bed bug control.

These requirements do not limit any other rights, remedies or obligations in regard to bedbug control.

Except as specifically provided in A.R.S. § 33-1319, this section does not create a cause of action against landlords, the landlord's employees, officers, agents, directors or the tenants for damages caused by bedbugs.

Defines "Bedbugs," "infestation," and "infested".

Statute Impacts:

Statutes enacted: A.R.S. §§ 9-500.30, 11-269.10, 33-1319

Court Impact:

Information only.

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Chapter 192
SB1429
Effective Date
07/20/2011
General

Item of interest to:

Superior Court:
1. Clerk of Superior Court
2. Superior Court Administrator
3. Superior Court Judge

Justice Court:

Municipal Court:

Administrative Office of the Courts

HEALTH CARE ACTIONS; LIABILITY; STUDENTS
Senator John Nelson

Summary:
A medical student does not owe an independent duty of care and is not liable in a medical malpractice action for injury that occurs during or as a result of care that is provided while the student is in the program, unless gross negligence is established by clear and convincing evidence.

Statute Impacts:
Statute enacted: A.R.S. § 12-564

Court Impact:
Information only.

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Chapter 194
HB2227
Effective Date
07/20/2011
General

Item of interest to:

Superior Court:
1. Superior Court Administrator
2. Superior Court Judge

Justice Court:
1. Justice of the Peace Court Administrator
2. Justice of the Peace

Municipal Court:
1. Municipal Court Administrator
2. Municipal Court Judge/Magistrate

Administrative Office of the Courts

SEPARATE FUNDS; DONATIONS; TRANSFER PROHIBITED
Representative John Fillmore

Summary:
Monies received by a state agency or institution as a gift, devise or donation are not considered part of the state general fund and cannot be transferred to the state general fund unless the gift, devise or donation specifically authorizes a general state use for the monies. The agency or institution that receives a monetary gift, devise or donation must account for the monies separately.

Statute Impacts:
Statute amended: A.R.S. § 35-142

Court Impact:
Information only.

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Chapter 199
 HB2468
 Effective Date
 07/20/2011
 General

Item of interest to:

Superior Court:

Justice Court:

1. Justice of the Peace Court Administrator
2. Justice of the Peace Court Clerk
3. Justice of the Peace
4. Justice of the Peace Jury Commissioner/Manager

Municipal Court:

1. Municipal Court Administrator
2. Municipal Court Clerk
3. Municipal Court Judge/Magistrate
4. Municipal Court Jury Commissioner/Manager

Administrative Office of the Courts

COSMETOLOGIST LICENSES; BOARD POWERS; DUTIES
 Representative David Gowan

Summary:

In pertinent part:

A person who uses the title of "aesthetician," "cosmetologist," "nail technician" or any other title or term likely to be confused with these titles in any advertisement, statement or publication without having the appropriate license is guilty of a Class 1 Misdemeanor.

Statute Impacts:

Statutes amended: A.R.S. §§ 32-502, 32-504, 32-513, 32-518, 32-537, 32-545, 32-552, 32-574

Court Impact:

Adds A.R.S. § 32-574(A)(12) as a misdemeanor 1 offense for using the title of of "aesthetician," "cosmetologist," "nail technician" without having the appropriate license. The change requires courts to update their automation system.

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Chapter 202
 HB2623
 Effective Date
 07/20/2011
 General

Item of interest to:

Superior Court:

1. Superior Court Chief Probation Officer
2. Clerk of Superior Court
3. Superior Court Administrator
4. Superior Court Judge
5. Superior Court Jury Commissioner/Manager

Justice Court:

1. Justice of the Peace Court Administrator
2. Justice of the Peace Court Clerk
3. Justice of the Peace
4. Justice of the Peace Jury Commissioner/Manager

LANDOWNER PROHIBITION OF HUNTING; POSTING
 Representative Chester Crandell

Summary:

The entry of any person for taking of wildlife is not grounds for an action for criminal trespassing unless:

- The land has been properly posted to mark the boundary of the property and the signboards also contain the words "No Trespassing" or
- The person knowingly remains unlawfully on any real property after being reasonably requested to leave the property or knowingly disregards reasonable notice prohibiting trespass at the person's entry to any real property

Statute Impacts:

Statute amended: A.R.S. § 17-304

Court Impact:

Creates additional elements the court must consider in determining if the crime of criminal trespass was committed.

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Municipal Court:
 1. Municipal Court Administrator
 2. Municipal Court Clerk
 3. Municipal Court Judge/Magistrate
 4. Municipal Court Jury Commissioner/Manager

Administrative Office of the Courts

Chapter 204
 SB1054

Effective Date
 07/20/2011

General

Item of interest to:

Superior Court:
 1. Superior Court Chief Probation Officer
 2. Clerk of Superior Court
 3. Superior Court Administrator
 4. Superior Court Judge

Justice Court:

Municipal Court:

Administrative Office of the Courts

WAIVER, INTENSIVE PROBATION STANDARDS
 Senator Linda Gray

Summary:

Allows the Supreme Court to waive intensive probation caseload and supervision requirements for any county, rather than only counties with less than three hundred thousand persons, so long as probation officers do not supervise more than fifteen probationers and the program requires at least one visual contact a week. Makes a conforming change to A.R.S. § 12-269, regarding probation assessment to mirror the language of A.R.S. § 12-114.01, modified last year so that the application of the probation assessment is statewide.

Statute Impacts:

Statutes amended: A.R.S. §§ 8-356, 12-269, 13-919

Court Impact:

The Administrative Office of the Courts will submit conforming changes to the Code of Judicial Administration §§ 6-202: Adult Intensive Probation and 6-302: Adult Intensive Probation Supervision.

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Chapter 210
 SB1482

Effective Date
 07/20/2011

General

Item of interest to:

Superior Court:

Justice Court:

Municipal Court:

Administrative Office of the Courts

APPELLATE JUDGES; JUDICIAL PERFORMANCE REVIEWS
 Senator Ron Gould

Summary:

Within 60 days prior to the regular primary election for the retention of an appellate court judge, the Commission on Judicial Performance Review shall present a list on its website of the decisions of that judge, including the citation and an electronic copy of the text of the decision.

Statute Impacts:

Statute amended: A.R.S. § 12-120.07

Court Impact:

Information only. The Commission on Judicial Performance Review is evaluating how to prepare and publish a list of decisions made by an appellate court judge prior to the primary election for the judge's retention.

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Chapter 213
 HB2137
 Effective Date
 07/20/2011
 General

Item of interest to:

Superior Court:

1. Superior Court Chief Probation Officer
2. Clerk of Superior Court
3. Superior Court Administrator
4. Superior Court Judge
5. Superior Court Jury Commissioner/Manager

Justice Court:

1. Justice of the Peace Court Administrator
2. Justice of the Peace Court Clerk
3. Justice of the Peace

Municipal Court:

1. Municipal Court Administrator
2. Municipal Court Clerk
3. Municipal Court Judge/Magistrate

Administrative Office of the Courts

DOGS; CATS; STERILIZATION
 Representative Tom Chabin

Summary:

It is a Class 1 Misdemeanor to not prevent an aggressive dog from biting or attacking a pet or human outside of the dog's residence and a Class 3 Misdemeanor to not prohibit an aggressive dog from escaping from a residence. It is a Class 3 Felony to intentionally or knowingly cause a dog to inflict or cause injury to a human and a Class 5 Felony if an aggressive dog attacks, bites, or inflicts physical injury on human as provided for in statute.

Statute Impacts:

Statutes amended: A.R.S. §§ 11-1022, 13-1208

Statute enacted: A.R.S. § 11-1014.01

Court Impact:

Adds A.R.S. § 11-1014.01 to Title 11 and creates a misdemeanor 3 violation for failure to take reasonable care to prevent a vicious dog from escaping from a yard or a misdemeanor 1 for failure to prevent an aggressive dog from biting or attacking a pet or human outside of the dog owners or responsible persons property.

Adds A.R.S. § 13-1208(A), a felony 3, for a person who knowingly or intentionally causes a dog to inflict or cause a serious injury to a human being. The terms "reasonable care" and "aggressive dog" are defined in A.R.S. § 11-1014.01.

The changes require the courts to update their automation systems.

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Chapter 217
 HB2352
 Effective Date
 07/20/2011
 General

Item of interest to:

Superior Court:

1. Clerk of Superior Court
2. Superior Court Administrator
3. Superior Court Judge

Justice Court:

Municipal Court:

Administrative Office of the Courts

COURT COMMISSIONER; QUALIFICATIONS
 Representative Eddie Farnsworth

Summary:

Modifies the minimum qualifications for serving as a Superior Court Commissioner to mirror that of a Superior Court Judge. Requires an appointed Commissioner to be admitted to the practice of law in and be a resident of the state of Arizona for five years preceding the appointment. This language is taken word for word from the Arizona Constitution, Article VI, Section 22. The qualifications replace that of being engaged in the practice of law for not less than three years preceding the appointment.

Statute Impacts:

Statute amended: A.R.S. § 12-213

Court Impact:

Information only.

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Chapter 219
HB2635

Effective Date
04/25/2011

Emergency

Item of interest to:

Superior Court:

1. Superior Court Chief Probation Officer
2. Clerk of Superior Court
3. Superior Court Administrator
4. Superior Court Judge

Justice Court:

Municipal Court:

Administrative Office of the Courts

COURT-ORDERED EVALUATION
Representative Steve Court

Summary:

Requires the medical affidavits accompanying a petition for court-ordered treatment to include the results of a physical examination if it is relevant to the evaluation. Specifies who may conduct the physical examination and requires that it be consistent with existing standards of care.

A patient who is found to be gravely disabled and is undergoing court-ordered treatment does not have to undergo an annual physical examination, although it may be conducted if needed. There will still be an annual review of each individual to determine continuation.

Statute Impacts:

Statutes amended: A.R.S. §§ 36-501, 36-533, 36-539, 36-543

Court Impact:

Information only. Emergency effective date, signed by the Governor 04/25/2011.

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Chapter 224
SB1080

Effective Date
07/20/2011

General

Item of interest to:

Superior Court:

1. Clerk of Superior Court
2. Superior Court Administrator
3. Superior Court Judge

Justice Court:

1. Justice of the Peace Court Administrator
2. Justice of the Peace Court Clerk
3. Justice of the Peace

Municipal Court:

1. Municipal Court Administrator
2. Municipal Court Clerk
3. Municipal Court Judge/Magistrate

Administrative Office of the Courts

CUSTODIAL INTERFERENCE; CLASSIFICATION
Senator Linda Gray

Summary:

A parent who has no legal right to do so and either takes, entices, or withholds a child from the other parent before the entry of a court order, or has joint legal custody of the child and withholds the child from the other custodian, is not guilty of custodial interference if the person has filed an emergency petition regarding custodial rights, has received a hearing date and the person has a good faith and reasonable belief that the child will be in immediate danger if left with the other parent.

The law defining the crime of custodial interference is clarified to state that the Class 1 Misdemeanor classification applies only if the child or incompetent adult is returned by the parent or defendant, or the agent of either, no later than 48 hours after the child was taken.

It is a Class 1 Misdemeanor to intentionally make a false report of vulnerable adult abuse or neglect to a law enforcement agency or to a person who is required by law to report the information to a law enforcement agency.

Statute Impacts:

Statute amended: A.R.S. § 13-1302

Court Impact:

Adds A.R.S. § 13-2907.04(A) as a misdemeanor 1 offense for intentionally making a false report of vulnerable adult abuse or neglect to a law enforcement agency or to a person who is required by law to report the information to a law enforcement agency. The change requires courts to update their automation system.

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Chapter 225
SB1081

Effective Date
07/20/2011

General

Item of interest to:

Superior Court:

1. Superior Court Chief Probation Officer
2. Clerk of Superior Court
3. Superior Court Administrator
4. Superior Court Judge

Justice Court:

Municipal Court:

Administrative Office of the Courts

MINORS; PROTECTIVE PROCEEDINGS

Senator Linda Gray

Summary:

Repeals the existing A.R.S. § 14-5301.

A parent by will or other signed writing may appoint a guardian for an unmarried child who the parent believes is an incapacitated person. The parent may specify the limitations on the powers of the guardian and revoke or amend the appointment prior to confirmation by the court, spousal appointment, or upon appointment by the court. Those requesting guardianship may determine guardian's limitations. The guardianship continues until it is terminated, regardless of the location of the guardian or ward.

A person by will or other signed writing may appoint a guardian for a spouse who the appointing spouse believes is an incapacitated person. The spouse may specify the limitations on the powers of the guardian and revoke or amend the appointment prior to confirmation by the court.

The above language is a blend of the current A.R.S. § 14-5301 and UPC § 5-302. Prior to confirmation of the guardianship by the court the person having care or custody of the incapacitated person, or the adult nearest in kinship may file a written objection to the appointment. Sets forth the procedure once an objection is filed and provides for notice requirements.

If the appointing person is likely to become unable to care for the incapacitated within a 2 year period before the effective date of the appointment the court may confirm the appointing parent or spouse's selection of a guardian and terminate the rights of others to object. Specifies notice requirements.

Creates a new section, A.R.S. § 14-5301.01, governing the effective date and procedure for confirming the guardianship. Guardianship becomes effective either on the date of the appointee's death or when the appointee is deemed unable to care for the incapacitated person.

Creates a process for a parent to obtain a guardianship or conservatorship prior to an incapacitated child turning 18. Allows any party to initiate guardianship or conservatorship proceedings for a minor who is alleged incapacitated and is at least 17 years old. On petition and after a hearing, the court may decide that conservatorship can continue after the minor's 18th birthday if the court determines it is appropriate pursuant to A.R.S. § 14-5401, subsection A, paragraph 2. Any previous custodial order from a dissolution of marriage shall be disclosed in the petition. In guardianship cases, the party may also request that the court accept a professional evaluation of the minor conducted within the last six months in lieu of ordering an additional evaluation.

Statute Impacts:

Statute repealed: A.R.S. § 14-5301

Statutes amended: A.R.S. §§ 14-5303, 14-5401, 14-5405, 14-5407, 14-5416, 14-5430

Statutes enacted: A.R.S. §§ 14-5301, 14-5301.01, 14-5301.02, 14-5301.03, 14-5301.04

Court Impact:

Rule petition R-11-0020, Petition to Amend Rule 5, Arizona Rules of Probate Procedure was approved on an emergency basis by the Supreme Court, effective July 20, 2011, with a comment period to follow. Comments are due on or before November 1, 2011.

Multiple bills were passed this session addressing various issues of interest to the probate court, these bills include HB2211, HB2402, HB2403, HB2424, SB1081 and SB1499. The Committee on Improving Judicial Oversight and Processing of Probate Court Matters is preparing a final report for the Arizona Judicial Council, June 20, 2011, meeting and will be making recommendations for rule changes as the result of the work of the committee and these legislative enactments. Interested parties should check the [Committee web page](#) for additional details and the [Supreme Court Rules Forum](#) for probate rule petitions.

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Chapter 226
SB1130
Effective Date
07/20/2011
General

UNLAWFUL SEXUAL CONDUCT; PROBATION EMPLOYEES
Senator Linda Gray

Item of interest to:

Superior Court:

1. Superior Court Chief Probation Officer
2. Clerk of Superior Court
3. Superior Court Administrator
4. Superior Court Judge
5. Superior Court Jury Commissioner/Manager

Justice Court:

1. Justice of the Peace Court Administrator
2. Justice of the Peace Court Clerk
3. Justice of the Peace

Municipal Court:

1. Municipal Court Administrator
2. Municipal Court Clerk
3. Municipal Court Judge/Magistrate

Administrative Office of the Courts

Summary:

Establishes the offense of *Unlawful sexual conduct by an adult probation employee, juvenile court employee*. An adult probation department employee or juvenile court employee who knowingly coerces the victim to engage in sexual contact, oral sexual contact, or sexual intercourse by threatening to influence the victim's supervision or release status or offering to positively influence the offender's release commits the offense.

The level of felony is dependent upon the age of the victim, ranging from a Class 2 Felony to a Class 5 Felony. Defines "adult probation department employee or juvenile court employee" and "victim".

Applies the existing statute, *Unlawful sexual conduct corrections facilities* to employees, contractors or visitors of a juvenile detention facility.

Establishes the offense of *False reporting of an offense involving corrections or probation*, a Class 1 Misdemeanor. A person commits the offense by intentionally making a false report, or coercing another person to make a false report, of an offense listed in A.R.S. § 13-1409 or A.R.S. 13-1419.

Statute Impacts:

Statute amended: A.R.S. § 13-1419

Statutes enacted: A.R.S. §§ 13-1409, 13-2907.04

Court Impact:

Adds A.R.S. § 13-1409 defining three felony offenses for an adult probation department employee or juvenile court employee who commit unlawful sexual conduct. The classification of the offense depends on the age of the victim. Adds a misdemeanor 1 offense for a person who intentionally makes a false report of an offense listed in section A.R.S. § 13-1409 or A.R.S. § 13-1419 knowing the report is false or a person who coerces another person to make a false report of an offense listed in section A.R.S. § 13-1409 or A.R.S. § 13-1419 knowing the report is false. The changes require courts to update their automation system.

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Chapter 228
 SB1192
 Effective Date
 07/20/2011
 General

Item of interest to:

Superior Court:

1. Clerk of Superior Court
2. Superior Court Administrator
3. Superior Court Clerk
4. Superior Court Judge

Justice Court:

Municipal Court:

Administrative Office of the Courts

CHILD SUPPORT MODEL; REVIEW; REPORT
 Senator Linda Gray

Summary:

The Supreme Court shall not adopt the Child Outcome Based Support model (COBS) unless the court selects a nationally recognized independent research organization to review the methodology used in creating the COBS model and the effect the model would have on the courts and on child support for families in Arizona. Contains a legislative intent clause.

Statute Impacts:

Session Law, no statutes affected.

Court Impact:

Information only.

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Chapter 229
 SB1225
 Effective Date
 07/20/2011
 General

Item of interest to:

Superior Court:

1. Superior Court Chief Probation Officer
2. Clerk of Superior Court
3. Superior Court Administrator
4. Superior Court Judge
5. Superior Court Jury Commissioner/Manager

Justice Court:

1. Justice of the Peace Court Administrator
2. Justice of the Peace Court Clerk
3. Justice of the Peace

Municipal Court:

Administrative Office of the Courts

FORGERY; HUMAN SMUGGLING; CLASSIFICATION
 Senator Kyrsten Sinema

Summary:

Classifies as a Class 3 Felony the use of a forged instrument in connection with the purchase, lease, or renting of a drop house. "Drop house" is defined.

Statute Impacts:

Statute amended: A.R.S. § 13-2002

Court Impact:

Classifies forgery as a felony 3 if the forged instrument is used in connection with the purchase, lease, or renting of a dwelling used as a drop house. The changes require courts to update their automation system.

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Chapter 230

SB1235

Effective Date

07/20/2011

General

Item of interest to:

Superior Court:

1. Superior Court Chief Probation Officer
2. Clerk of Superior Court
3. Superior Court Administrator
4. Superior Court Judge

Justice Court:

1. Justice of the Peace Court Administrator
2. Justice of the Peace Court Clerk
3. Justice of the Peace

Municipal Court:

1. Municipal Court Administrator
2. Municipal Court Clerk
3. Municipal Court Judge/Magistrate

Administrative Office of the Courts

LAW ENFORCEMENT OFFICERS; DISCIPLINARY PROCEDURES

Senator Linda Gray

Summary:

After an employer completes an investigation of a law enforcement officer or probation officer, if the employer seeks disciplinary action, the employer must provide a basic summary or file copies of any discipline ordered against any other law enforcement officer or probation officer of generally similar rank and experience employed within the previous two years for a similar violation at the request of the officer. The employer cannot take final action or schedule the hearing until the summary or file copies have been provided. This provision does not apply if court rule prohibits the release of file copies of disciplinary cases.

In cases before the office of administrative hearings or if the employer is a county, city, or town, a party may request a change of hearing officer or administrative law judge, which shall be granted on the first request. A city or town with a population of less than 65,000 persons or a county with a population of less than 250,000 persons must provide for an alternative hearing officer by means of an interagency agreement. If the law enforcement officer or probation officer is the party who requested the alternate hearing, the officer shall pay ½ of the additional expenses. If the alternate hearing officer is requested by means of an interagency agreement, the law enforcement or probation officer or employer has the option to continue the hearing for an additional ten days.

Prohibits a critical incident stress management team member who acquires information from an emergency services medical technician, officer, firefighter, or probation officer secretly and in confidence in the course of the member's response to a critical incident from being compelled or allowed to disclose the information in a legal proceeding, trial, or investigation, except under these specified circumstances:

- The communication indicates a clear and present danger to the designated person who received crisis response services or other persons.
- The designated person who received crisis response services gives express consent to the testimony.
- The communication or advice is made during the course of a criminal investigation.
- The designated person who received crisis response services voluntarily testifies, therefore the team member may be compelled to testify on the same subject.
- There is a breach of department policy which is in violation of the law Defines "critical incident stress management team member," "law enforcement officer," and "probation officer".

Adds city and town law enforcement officers to the "whistle blower" statutes in Title 38.

Statute Impacts:

Statutes amended: A.R.S. §§ 38-531, 38-532, 38-534, 38-1101

Statute enacted: A.R.S. § 38-1105

Court Impact:

Information only.

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Chapter 235
 SB1382
 Effective Date
 07/20/2011
 General

Item of interest to:

Superior Court:

Justice Court:

1. Justice of the Peace Court Administrator
2. Justice of the Peace Court Clerk
3. Justice of the Peace

Municipal Court:

1. Municipal Court Administrator
2. Municipal Court Clerk
3. Municipal Court Judge/Magistrate

Administrative Office of the Courts

HOMEOPATHIC PHYSICIANS; USE OF TITLE
 Senator Paula Aboud

Summary:

It is no longer a Class 2 Misdemeanor to use the designation "homeopath" without being licensed as a doctor of homeopathy.

Statute Impacts:

Statute amended: A.R.S. § 32-2931

Court Impact:

Information only. Also see SB1175, Chapter 186, for additional regulations concerning the use of the terms relating to homeopathic doctors and medicine.

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Chapter 236
 SB1396
 Effective Date
 07/20/2011
 General

Item of interest to:

Superior Court:

1. Clerk of Superior Court
2. Superior Court Administrator
3. Superior Court Judge

Justice Court:

Municipal Court:

Administrative Office of the Courts

DOMESTIC RELATIONS; NOTIFICATION REQUIREMENTS
 Senator Sylvia Allen

Summary:

Requires the court to provide written notice to all parties in a custody proceeding of the right to request conclusions of fact and law regarding child custody, relocation requests, spousal maintenance, community property, community debt, and child support, if contested. One must file a written request with the court before the trial or evidentiary hearing to request conclusions of fact and law. If a request is submitted before the trial or evidentiary hearing, the court will make conclusions of fact and law as part of the final decision.

Statute Impacts:

Statute enacted: A.R.S. § 25-331

Court Impact:

Conforms Title 25 to Rule 82, Rules of Family Law Procedure.

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Chapter 241
 SB1474
 Effective Date
 07/20/2011
 General

Item of interest to:

Superior Court:

1. Clerk of Superior Court
2. Superior Court Administrator
3. Superior Court Judge

Justice Court:

1. Justice of the Peace Court Administrator
2. Justice of the Peace Court Clerk
3. Justice of the Peace

Municipal Court:

Administrative Office of the Courts

LANDLORD; TENANT; FIT AND HABITABLE
 Senator Ron Gould

Summary:

Adds the requirements of "promptly" and "in writing" in regards to a tenant notifying the landlord of a situation that requires maintenance or repairs or action as required by A.R.S. § 33-1324, *Landlord to maintain fit premises*.

A tenant may not repair at the landlord's expense if the condition does not constitute a breach of the fit and habitable condition of the premises.

Statute Impacts:

Statutes amended: A.R.S. §§ 33-1324, 33-1341, 33-1363

Court Impact:

Information only.

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Chapter 243
 SB1525
 Effective Date
 07/20/2011
 General

Item of interest to:

Superior Court:

1. Clerk of Superior Court
2. Superior Court Administrator
3. Superior Court Judge

Justice Court:

Municipal Court:

Administrative Office of the Courts

CITY; TOWN; DEVELOPMENT FEES
 Senator Russell Pearce

Summary:

When judicial action is taken to interpret A.R.S. § 9-463.05 regarding development fees, all powers conferred on municipal governments shall ensure that development fees are not used to impose a burden on new residents that all taxpayers of a municipality should bear equally.

Statute Impacts:

Statute amended: A.R.S. § 9-463.05

Court Impact:

Information only.

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Chapter 244
 SB1057
 Effective Date
 07/20/2011
 General

LAW ENFORCEMENT OFFICERS; DISCIPLINARY ACTION
 Senator Linda Gray

Item of interest to:

Superior Court:

1. Superior Court Chief Probation Officer
2. Clerk of Superior Court
3. Superior Court Administrator
4. Superior Court Judge

Justice Court:

Municipal Court:

Administrative Office of the Courts

Summary:

If a law enforcement officer has reason to believe the officer was terminated without just cause by the chief of a law enforcement agency or the chief executive officer of a city or town, thereby reversing the decision of a civil service board or merit commission, the officer may bring an action to the Superior Court for a new hearing.

If a law enforcement officer has reason to believe the officer was terminated without just cause by the chief of a law enforcement agency or the chief executive officer of a city or town and there is not a board or commission and the officer believes the termination was without just cause, the officer may bring an action to the Superior Court to review the agency's files to determine whether there was just cause. If the court does not find just cause from a review of the file the officer is entitled to a hearing on the termination.

If the court finds just cause for termination did not exist the officer must be reinstated and may be awarded monetary damages not to exceed the combined total of lost wages and benefits. The court may award attorney's fees and must award costs to the successful party.

This provision does not apply to probation officers.

Statute Impacts:

Statute amended: A.R.S. § 38-1104

Court Impact:

Allows for a civil action in superior court by a law enforcement officer for wrongful termination. This provision does not apply to probation officers.

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Chapter 253
 SB1560
 Effective Date
 07/20/2011
 General

DEPENDENT CHILDREN; HEARINGS; NOTICE
 Senator Rick Murphy

Item of interest to:

Superior Court:

1. Clerk of Superior Court
2. Superior Court Administrator
3. Superior Court Judge

Justice Court:

Municipal Court:

Administrative Office of the Courts

Summary:

Failing to take a paternity test requested by DES is prima facie evidence of abandonment unless the alleged parent shows good cause.

Once a child is placed in a prospective permanent placement (PPP), any action that is inconsistent with severance and adoption, including removal from the PPP, can only occur by court order or if requested by the PPP, unless the action is required by federal or state law or regulation. If a motion to change the case plan of a child is filed, the motion must be provided to the PPP 15 days before the hearing. The court may not take any action on the motion if the PPP does not appear at the hearing unless the court finds that good faith efforts were made to provide a copy of the motion to the PPP. Clarifies that a PPP has the right to be heard in the proceeding but this right does not require that the PPP be made a party to the proceeding. If a child is an Indian child pursuant to the Indian Child Welfare Act, the court and parties must comply with all applicable parts of the act.

The Department of Health Services shall require each contract that is awarded or renewed with any regional behavioral health authority or service provider to specify that every reasonable effort must be made to provide services outside of regular

school hours for any child who is placed in out-of-home care.

Statute Impacts:

Statutes amended: A.R.S. §§ 8-527, 8-533, 8-862, 36-3435

Court Impact:

Provides that the failure to take a paternity test, requested by the Department of Economic Security or ordered by the court, is prima facie evidence of abandonment and is grounds for the termination of parental rights, unless the alleged parent shows good cause for that failure. If a child is in a prospective permanent placement, notice is required to that party before the court changes the case plan unless the change is required by state or federal law or that a good faith effort was made to notify the party of the hearing.

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Chapter 257
HB2211

Effective Date
07/20/2011

General

Item of interest to:

Superior Court:

1. Clerk of Superior Court
2. Superior Court Administrator
3. Superior Court Judge

Justice Court:

Municipal Court:

Administrative Office of the Courts

INPATIENT EVALUATION OR TREATMENT

Representative Cecil Ash

Summary:

The ward's guardian shall place the ward in the least restrictive alternative within five days, rather than ten, after the guardian is notified by the medical director of the inpatient facility that the ward no longer needs inpatient care.

A.R.S. § 14-5312.02, *Conversion of guardianship for gravely disabled person; evaluation reports*, is repealed.

Adds A.R.S. § 14-5312.02, *Admission for evaluation or treatment*. If the guardian has reasonable cause to believe that the ward is in need of evaluation or treatment the guardian may apply for admission of the ward for evaluation or treatment at any level one behavioral health facility. The guardian must show authorization that the guardian may admit the ward to the health facility. The ward may be admitted if prior to admission a physician who is licensed pursuant to title 32 chapter 13, *medicine and surgery*, or chapter 17, *osteopathic physicians and surgery*, does the following:

- Conducts an investigation which carefully examines the ward's psychiatric and psychological history, diagnosis and treatment.
- Conducts a thorough interview with both the ward and the guardian.
- Obtains the guardian's informed consent.
- Makes a written determination that the ward needs an evaluation or will benefit from inpatient care and treatment of mental or personality disorder or emotional condition and that the evaluation or treatment cannot be accomplished in a less restrictive manner.
- Documents in the ward's medical chart a summary of the doctor's findings and treatment recommendations.

Except for involuntary court-ordered evaluations or treatment, if a mental health care power of attorney specifically authorizes the agent to admit the principal to a level one behavioral health facility and the agent has reasonable cause to believe the principle is in need of an evaluation or treatment, the agent may apply for admission of the principal in the level one behavioral health facility. The agent must show authorization that allows the agent to admit the principal in a level one behavioral health facility. If admission is requested the physician who is licensed pursuant to title

32 chapter 13, *medicine and surgery*, or chapter 17, *osteopathic physicians and surgery* must complete the necessary procedures before the principal is admitted.
 After admission, if the ward or patient refuses treatment and requests discharge and the treating physician believes further inpatient care is advisable, the guardian or agent will be relied upon when making treatment, release and discharge decisions.

Statute Impacts:

Statutes amended: A.R.S. §§ 14-5312.01, 36-3284

Statute repealed: A.R.S. § 14-5312.02

Statute enacted: A.R.S. § 14-5312.02

Court Impact:

Rewrites statutes relating to guardianships for gravely disabled wards in need of inpatient evaluation or treatment.

Multiple bills were passed this session addressing various issues of interest to the probate court, these bills include HB2211, HB2402, HB2403, HB2424, SB1081 and SB1499. The Committee on Improving Judicial Oversight and Processing of Probate Court Matters is preparing a final report for the Arizona Judicial Council June 20, 2011, meeting and will be making recommendations for rule changes as the result of the work of the committee and these legislative enactments. Interested parties should check the [Committee web page](#) for additional details and the [Supreme Court Rules Forum](#) for probate rule petitions.

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Chapter 260

HB2355

Effective Date

07/20/2011

General

Item of interest to:

Superior Court:

1. Superior Court Chief Probation Officer
2. Clerk of Superior Court
3. Superior Court Administrator
4. Superior Court Judge

Justice Court:

1. Justice of the Peace Court Administrator
2. Justice of the Peace Court Clerk
3. Justice of the Peace

COURT SURCHARGES

Representative Eddie Farnsworth

Summary:

Surcharges are applied to the base fine and not to any other surcharge. Replaces the words 'penalty assessment' and 'assessment' with 'surcharge' in A.R.S. § 12-116.01 and A.R.S. § 12-116.02.

Statute Impacts:

Statutes amended: A.R.S. §§ 12-114.01, 12-116.01, 12-116.02, 28-121, 28-702.01, 28-710, 28-797, 28-907, 28-1598, 41-2419, 41-2421

Court Impact:

Clarifies that surcharges are percentage increments added to base fines, civil penalties and forfeitures and that surcharges do not apply to any other surcharge. The change may require courts to modify language on their bond cards or sentencing documents.

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Municipal Court:

- 1. Municipal Court Administrator
- 2. Municipal Court Clerk
- 3. Municipal Court Judge/Magistrate

Administrative Office of the Courts

Chapter 261

HB2376

Effective Date

07/20/2011

General

Item of interest to:

Superior Court:

- 1. Superior Court Chief Probation Officer
- 2. Clerk of Superior Court
- 3. Superior Court Administrator
- 4. Superior Court Judge
- 5. Superior Court Jury Commissioner/Manager

Justice Court:

Municipal Court:

Administrative Office of the Courts

DEPARTMENT OF JUVENILE CORRECTIONS; CONTINUATION
Representative Cecil Ash

Summary:

Continues the Arizona Department of Juvenile Corrections (ADJC) until July 1, 2012.

Statute Impacts:

Statute enacted: A.R.S. § 41-3012.20

Statute repealed: A.R.S. § 41-3011.15

Court Impact:

Information only. The provisions of this bill are effective retroactively to July 1, 2011.

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Chapter 262

HB2402

Effective Date

07/20/2011

General

Item of interest to:

Superior Court:

- 1. Clerk of Superior Court
- 2. Superior Court Administrator
- 3. Superior Court Judge

Justice Court:

Municipal Court:

Administrative Office of the Courts

GUARDIANS OF INCAPACITATED PERSONS
Representative Ted Vogt

Summary:

Outlines when the court may order suspension or decline to suspend a ward's driver license or the ward's privilege to have a driver license. The Department of Motor Vehicles is prohibited from issuing a driver license to a person who has been adjudicated to be incapacitated and who has not obtained a court order that allows the person to drive or a termination of the incapacity as provided by law. Current statutes are silent with regard to the court procedures for determining whether an incapacitated individual's privilege to drive should be suspended or retained.

In accordance with the outlined requirements, the court may appoint a suitable person or a public fiduciary as an emergency and temporary guardian or conservator, or both, for a period of less than 30 days. If not represented by an independent counsel, the court shall appoint an attorney for the patient during the appointment proceedings and a hearing shall be scheduled within 14 days to consider the continuation of an emergency temporary guardian or conservator.

If a public fiduciary is not appointed at this time the patient's money and property is restricted from use, unless the court authorizes the use for medical care, treatment or welfare of the patient. The court also has the authority to terminate or continue

treatment if it is thought to be in the best interest of the ward.

Statute Impacts:

Statute enacted: A.R.S. § 14-5304.01

Statutes amended: A.R.S. §§ 14-5312.01, 36-509, 36-540

Court Impact:

If the court suspends the wards drivers license or revokes their privelege to drive, the minute entry or order should be sent to: Mail Drop 537M, Motor Vehicle Division, PO Box 2100, Phoenix, Arizona, 85001-2100.

Multiple bills were passed this session addressing various issues of interest to the probate court, these bills include HB2211, HB2402, HB2403, HB2424, SB1081 and SB1499. The Committee on Improving Judicial Oversight and Processing of Probate Court Matters is preparing a final report for the Arizona Judicial Council June 20, 2011, meeting and will be making recommendations for rule changes as the result of the work of the committee and these legislative enactments. Interested parties should check the [Committee web page](#) for additional details and the [Supreme Court Rules Forum](#) for probate rule petitions.

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Chapter 263

HB2404

Effective Date

07/20/2011

General

Item of interest to:

Superior Court:

1. Superior Court Chief Probation Officer
2. Clerk of Superior Court
3. Superior Court Administrator
4. Superior Court Judge

Justice Court:

1. Justice of the Peace Court Administrator
2. Justice of the Peace Court Clerk
3. Justice of the Peace

Municipal Court:

1. Municipal Court Administrator
2. Municipal Court Clerk
3. Municipal Court Judge/Magistrate

Administrative Office of the Courts

CRIMINAL RESTITUTION; VICTIM NOTIFICATION

Representative Ted Vogt

Summary:

If a defendant absconds from probation or from a sentence, the trial court retains jurisdiction and is required to enter a criminal restitution order in favor of the state for the unpaid balance of fines, costs, fees, surcharges, and assessments and also a criminal restitution order in favor of each person entitled to restitution for the unpaid balance.

On becoming aware of the date, time, and place of the initial appearance of the accused on a writ of habeas corpus, the prosecutor's office is required to inform the victim.

The sheriff or municipal jailer, on request, is required to notify the victim and the prosecutor's office of the release of the accused.

Statute Impacts:

Statutes amended: A.R.S. §§ 13-805, 13-4406, 13-4412

Court Impact:

Requires the clerk to notify each person entitled to restitution of the criminal restitution order. The Administrative Office of the Courts is currently assessing how courts are informed of the requirement for an absconder's criminal restitution order, either by amending the Arizona Code of Judicial Administration or Rule 27.10, Rules of Criminal Procedure.

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Chapter 272
SB1472
Effective Date
07/20/2011
General

Item of interest to:

Superior Court:

Justice Court:

Municipal Court:

Administrative Office of the Courts

PUBLICITY PAMPHLETS; JUDICIAL PERFORMANCE; COMMENT
Senator Ron Gould

Summary:
Within 60 days prior to the regular primary election, the Commission on Judicial Performance Review must prepare and file with the Secretary of State the following:

- The length of time a Supreme Court justice or Court of Appeals judge has served on the bench.
- The justice's or judge's educational background.
- A list of published decisions in which the justice or judge declared a statute constitutional or unconstitutional and the provision of the Constitution relied upon in making this determination.

Contains a legislative intent clause.

Statute Impacts:
Statute enacted: A.R.S. § 19-124.01

Court Impact:
Information only. The Commission on Judicial Performance Review is evaluating how to prepare and file with the Secretary of State the decisions where an appellate court judge declared a statute constitutional or unconstitutional and the provision of the Constitution relied upon in making this determination.

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Chapter 276
HB2006
Effective Date
07/20/2011
General

Item of interest to:

Superior Court:

Justice Court:

1. Justice of the Peace Court Administrator
2. Justice of the Peace Court Clerk
3. Justice of the Peace

Municipal Court:

1. Municipal Court Administrator
2. Municipal Court Clerk
3. Municipal Court Judge/Magistrate

Administrative Office of the Courts

FIREARMS WITHIN GAME REFUGES
Representative Jack Harper

Summary:
Eliminates as a Class 1 Misdemeanor the act of carrying or transportation of a device for taking game within or upon a game refuge except under seal or by written consent of the commission.

Statute Impacts:
Statute amended: A.R.S. § 17-231
Statute repealed: A.R.S. § 17-305,

Court Impact:
Repeals A.R.S. § 17-305 a misdemeanor violation of carrying transporting or possessing a device for taking game within a game refuge without proper consent of the Fish and Game Commission. The change requires courts to update their automation system.

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Chapter 277

HB2024

Effective Date

07/20/2011

General

Item of interest to:

Superior Court:

1. Clerk of Superior Court
2. Superior Court Administrator
3. Superior Court Clerk
4. Superior Court Judge
5. Superior Court Jury Commissioner/Manager

Justice Court:

1. Justice of the Peace Court Administrator
2. Justice of the Peace Court Clerk
3. Justice of the Peace
4. Justice of the Peace Jury Commissioner/Manager

Municipal Court:

1. Municipal Court Administrator
2. Municipal Court Clerk
3. Municipal Court Judge/Magistrate
4. Municipal Court Jury Commissioner/Manager

Administrative Office of the Courts

ASRS; AMENDMENTS
Representative Bob Robson

Summary:

Any employee hired on or after the effective date is not eligible for state employee benefits until the employee has worked for at least 90 days. Any state employee, not including current members, hired on or after the effective date is not eligible to become a member of any state retirement system until the 27th week of employment.

"State employee" means a person who is employed by an agency, department, board or commission of this state, a university under the jurisdiction of the Arizona Board of Regents, the Judicial Branch, the Arizona Corporation Commission or the Legislature.

"State employee benefits" means any coverage provided pursuant to Title 38, Chapter 4, Article 4 relating to health and accident coverage.

One provision under the definition of "current annual compensation" is changed to be equal to the annualized compensation of the partial year if the member has less than 12 months total compensation, rather than credited service, on the date of a request to purchase credited service.

All charter cities or ASRS retirement service credit transfers shall be made pursuant to A.R.S. § 38-922, *Transfer or redemption of service credits*.

An employer must pay interest on delinquent contribution payments or any other delinquent payments under Title 38 Chapter 5, Article 2.1, *Long term disability program, Article 7, Transfers of another retirement system or plan or Article 8, Supplemental defined contribution plans*. Employers must record delinquent payments.

A member who was previously a member of another public employee retirement system and who is either receiving or is eligible to receive retirement benefits from that system is ineligible to receive retirement benefits from ASRS for the same period.

Employer contributions for an active member who is called to active military service shall be for a period ending the date the member returns to employment or the date the member should have returned to employment, whichever is earlier. Also, the period in which the contributions shall be made may end either when the member is released from service related to hospitalization or two years after initiation of service related hospitalization, whichever is earlier.

On the death of a member who is not yet retired, the member's natural or adopted child under the age of 21 or the member's natural or adopted child of any age who is disabled is eligible to receive the member's survival benefits.

The lump sum retirement threshold is increased from a periodic payment of \$20 to an amount determined by the ASRS board. A member will continue to have rights to the ASRS Health Insurance Program, however the member will not be eligible for a permanent benefit increase.

For a member who elects to have any portion of an eligible rollover distribution paid directly to a retirement plan the definition "eligible retirement plan" includes, beginning Jan 1, 2008, a "Roth" IRA.

Under a Qualified Domestic Relations Order (QDROs) if an alternate payee dies before the member, the amount payable to the alternate payee ceases on the death of the alternate payee and the amount formerly payable to the alternate payee reverts

to the member.

Monthly Long Term Disability Program benefits are not payable to a member who files an initial claim for disability more than 12 months after the date of the disability, unless the member demonstrates to ASRS good cause for not filing the initial claim within the 12 months. ASRS may suspend or terminate a member's long term disability if the member fails to provide the necessary information requested by ASRS or the insurance company or claims administration. The benefits or claim will be retroactively reinstated once the member provides the information. ASRS is granted rule making authority.

Statute Impacts:

Statutes amended: A.R.S. §§ 38-711, 38-730, 38-735, 38-744, 38-745, 38-756, 38-762, 38-764, 38-770, 38-773, 38-797.07, 38-922

Statute enacted: A.R.S. § 28-671

Statute repealed: A.R.S. § 28-671 as enacted in Laws 2011, Chapter 26, Section 1

Court Impact:

Makes multiple amendments to the Arizona State Retirement System; court administration and human resources departments should review pre-employment materials and benefits manuals for conforming changes.

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Chapter 282
 HB2358
 Effective Date
 07/20/2011
 General

Item of interest to:

Superior Court:

- 1. Clerk of Superior Court
- 2. Superior Court Administrator
- 3. Superior Court Judge

Justice Court:

- 1. Justice of the Peace Court Administrator
- 2. Justice of the Peace Court Clerk
- 3. Justice of the Peace

Municipal Court:

- 1. Municipal Court Administrator
- 2. Municipal Court Clerk
- 3. Municipal Court Judge/Magistrate

Administrative Office of the Courts

WILDLIFE; GUIDES; WASTED MEAT
 Representative Jerry Weiers

Summary:

Expands the list of violations under A.R.S § 17-340 that enable the Game and Fish Commission to suspend or revoke a guide license. Current law provides that the taking of wildlife or attempting to obtain a license to take wildlife when the person's license is suspended, revoked or denied is a Class 1 Misdemeanor.

Statute Impacts:

Statutes amended: A.R.S. §§ 17-101, 17-340

Court Impact:

On conviction or after adjudication as a delinquent juvenile as defined in section 8-201 and in addition to other penalties prescribed by this title, the commission, after a public hearing, may revoke or suspend a license issued to any person under Title 17 and deny the person the right to secure another license to take or possess wildlife for a period of not to exceed five years. The bill expands the list of violations and allows the Arizona Game and Fish Commission to suspend a juvenile's license to possess or take wildlife after an adjudication as a delinquent juvenile for a waste of edible portions under A.R.S. § 17-309(A).

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Chapter 285
HB2424

Effective Date
07/20/2011

General

Item of interest to:

Superior Court:

1. Clerk of Superior Court
2. Superior Court Administrator
3. Superior Court Judge

Justice Court:

Municipal Court:

Administrative Office of the Courts

PROBATE; WARDS; RIGHTS
Representative David Burnell Smith

Summary:

Establishes a probate advisory panel. The panel will consist of the following members who will have staggered three year terms:

- The Chief Justice of the Supreme Court will appoint one judge and one Clerk of the Superior Court.
- The President of the Senate and the Speaker of the House of Representatives will each appoint one guardian and one conservator from members of the public.
- The Governor will appoint a public fiduciary from a county with a population less than 500,000 persons and a non-public fiduciary from a county with a population greater than 500,000 persons.
- The Governor will appoint an attorney with at least four years of experience in guardianship and conservatorship proceedings.

The panel will hold a public hearing at least once a year on how to improve the guardianship and conservatorship laws through statutory changes. The panel must submit a report of findings and recommendations to the Governor, Speaker of the House of Representatives, and President of the Senate.

Expires June 30, 2016.

Statute Impacts:

Statute enacted: A.R.S. § 14-1104

Statute repealed: A.R.S. § 14-1101

Court Impact:

Establishes a legislative committee required to hold an annual hearing on how to improve guardianship and conservatorship laws through statutory changes. The Chief Justice appoints two positions; a superior court judge and a Clerk of the Superior Court.

Multiple bills were passed this session addressing various issues of interest to the probate court, these bills include HB2211, HB2402, HB2403, HB2424, SB1081 and SB1499. The Committee on Improving Judicial Oversight and Processing of Probate Court Matters is preparing a final report for the Arizona Judicial Council June 20, 2011, meeting and will be making recommendations for rule changes as the result of the work of the committee and these legislative enactments. Interested parties should check the [Committee web page](#) for additional details and the [Supreme Court Rules Forum](#) for probate rule petitions.

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Chapter 286
 HB2523
 Effective Date
 07/20/2011
 General

Item of interest to:

Superior Court:

1. Superior Court Chief Probation Officer
2. Clerk of Superior Court
3. Superior Court Administrator
4. Superior Court Judge

Justice Court:

1. Justice of the Peace Court Administrator
2. Justice of the Peace Court Clerk
3. Justice of the Peace

Municipal Court:

Administrative Office of the Courts

VIOLATIONS; MOTOR VEHICLES; LICENSE SUSPENSION
 Representative Vic Williams

Summary:

Expands the violations in A.R.S. § 28-675, *Causing death by use of a vehicle* and A.R.S. § 28-676, *Causing serious injury by use of a vehicle*, by including as a predicate offense that the person's license was suspended more than once pursuant to A.R.S. § 28-675, relating to failure to appear in court.

Statute Impacts:

Statutes amended: A.R.S. §§ 28-675, 28-676

Court Impact:

Information only.

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Chapter 288
 HB2575
 Effective Date
 07/20/2011
 General

Item of interest to:

Superior Court:

Justice Court:

1. Justice of the Peace Court Administrator
2. Justice of the Peace Court Clerk
3. Justice of the Peace
4. Justice of the Peace Jury Commissioner/Manager

Municipal Court:

1. Municipal Court Administrator
2. Municipal Court Clerk
3. Municipal Court Judge/Magistrate
4. Municipal Court Jury Commissioner/Manager

Administrative Office of the Courts

VEHICLE; SALE; DISCLOSURE OF LIEN
 Representative John Fillmore

Summary:

Creates a new offense, sale or transfer of a *motor vehicle*, as a Class 1 Misdemeanor. It is unlawful for a person to knowingly sell or transfer the person's ownership of a motor vehicle without disclosing to the purchaser or transferee that the motor vehicle is subject to a restitution lien.

Statute Impacts:

Statute amended: A.R.S. § 13-3708

Court Impact:

Adds A.R.S. § 13-3708(A) as a misdemeanor 1 offense for the sale or transfer of a motor vehicle without disclosing the motor vehicle is subject to a restitution lien. The change requires courts to update their automation system.

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Chapter 293
SB1046

Effective Date
07/20/2011

General

Item of interest to:

Superior Court:

1. Clerk of Superior Court
2. Superior Court Administrator
3. Superior Court Judge

Justice Court:

1. Justice of the Peace Court Administrator
2. Justice of the Peace

Municipal Court:

1. Municipal Court Administrator
2. Municipal Court Judge/Magistrate

Administrative Office of the Courts

JUVENILE CORRECTIONS; DISCHARGE; I.C.E. DETAINERS

Senator Don Shooter

Summary:

A youth shall be conditionally discharged from the Department of Juvenile Corrections if all of the following requirements are met:

- The youth has completed the minimum length of stay assigned by the juvenile court in a secure care facility.
- The US Immigration and Customs Enforcement enforces a detainer demanding the custody of the youth for immigration proceedings.
- The youth has signed a condition that the youth's discharge will be vacated if the youth returns to the United States without legal authorization.

If the Department of Juvenile Corrections receives actual notice that a youth who received a discharge returned to the US without legal authorization prior to the youth's 18th birthday, the Department shall:

- Vacate the discharge.
- Place the youth on conditional liberty status.
- Issue a warrant for the apprehension of the youth.
- Notify the U.S. Immigration and Customs Enforcement.
- Take the youth into custody.

Statute Impacts:

Statute amended: A.R.S. § 41-2820

Court Impact:

Information only. Specifies duties for the Department of Juvenile Corrections when a juvenile is conditionally discharged, including issuing a warrant for juveniles who return to the United State without legal authorization.

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Chapter 296
SB1424

Effective Date
07/20/2011

General

Item of interest to:

Superior Court:

1. Clerk of Superior Court
2. Superior Court Administrator
3. Superior Court Judge

Justice Court:

1. Justice of the Peace Court Administrator
2. Justice of the Peace Court Clerk
3. Justice of the Peace

ASSESSMENT FOR FAMILY OFFENSES; STALKING

Senator John Nelson

Summary:

In addition to any other penalty, fine, fee, or assessment, a person convicted of a violation of A.R.S. §§ 13-2921,13-2921.01,13-2923, or an offense listed in Title 13, Chapter 36, (all related to harassment and stalking), shall pay an additional assessment of \$50 to be deposited into the Domestic Violence Shelter Fund. This is not subject to any additional surcharge.

Statute Impacts:

Statute amended: A.R.S. § 36-3002

Statute enacted: A.R.S. § 12-116.06

Court Impact:

Adds a \$50 assessment under A.R.S. § 12-116.06 for all violations listed in Title 13, Chapter 36, including A.R.S. § 13-3601(A).

The change requires courts to update their automation system.

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Municipal Court:
 1. Municipal Court Administrator
 2. Municipal Court Clerk
 3. Municipal Court Judge/Magistrate

Chapter 297
 SB1461
 Effective Date
 10/01/2013
 Delayed

Item of interest to:

Superior Court:
 1. Clerk of Superior Court
 2. Superior Court Administrator
 3. Superior Court Judge
 4. Superior Court Jury Commissioner/Manager

Justice Court:
 1. Justice of the Peace Court Administrator
 2. Justice of the Peace Court Clerk
 3. Justice of the Peace

Municipal Court:

Administrative Office of the Courts

LIFE SETTLEMENTS
 Senator Michele Reagan

Summary:
 In pertinent part:
 If a person violates any provision of the chapter or any rule adopted pursuant to the chapter, the Director of the Department of Insurance may seek an injunction in a court of competent jurisdiction in the county where the person resides or has a principal place of business and may apply for temporary and permanent orders that the Director determines are necessary to restrain the person from further committing the violation.
 It is a Class 6 Felony to commit a fraudulent life settlement act.

Statute Impacts:
 Statutes enacted A.R.S. §§ 20-3201, 20-3215

Court Impact:
 A person who violates this section with the intent to injure, defraud or deceive an insurer is subject to prosecution under A.R.S. § 20-466.01 a felony 6.
 This act is effective from and after September 30, 2013.
 The change will require courts to update their automation system at that time.

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Chapter 298
 SB1539
 Effective Date
 07/20/2011
 General

Item of interest to:

Superior Court:

Justice Court:

Municipal Court:

Administrative Office of the Courts

CORP; DESIGNATED POSITION; WAIVER
 Senator Al Melvin

Summary:
 Corrections employees with at least five years of service under the Corrections Officer Retirement Plan (CORP) and who are transferred or promoted to temporarily fill an ASRS designated position will maintain active status in CORP no matter how long the person is filling the position. Currently, the position can only be filled for not more than a year.

Statute Impacts:
 Statute amended: A.R.S. § 38-891

Court Impact:
 Information only. This act applies retroactively to September 30, 2009.

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Chapter 304

HB2645

Effective Date

07/20/2011

General

Item of interest to:

Superior Court:

1. Superior Court Chief Probation Officer
2. Clerk of Superior Court
3. Superior Court Administrator
4. Superior Court Clerk
5. Superior Court Jury Commissioner/Manager

Justice Court:

Municipal Court:

Administrative Office of the Courts

FIREARMS; RIGHTS RESTORATION; PEACE OFFICERS

Representative Michele Ugenti

Summary:

A person who is a prohibited possessor as a result of being found to constitute a danger to himself or others or to be persistently or acutely disabled or gravely disabled pursuant to court order under A.R.S. § 36-540, or who has been found to be a mental defective or was committed to a mental institution under federal law, 18 USC § 922(d)(4) or (g)(4) and whose right to possess a firearm has not been restored may petition the court that prohibited the person from possessing a firearm for restoration. The person or the person's guardian may file the petition. The petition is to be served on the attorney for the state who appeared in the underlying case.

The court must set a hearing. The person is required to present psychological or psychiatric evidence in support of the petition and the state is required to provide the court with the person's criminal history records, if any. The court is required to receive evidence and consider the following:

- The circumstances that resulted in the person being a prohibited possessor as defined in A.R.S. § 13-3101.(a)(7)(a) or subject to 18 USC § 922(d)(4) or (g)(4).
- The persons record, including the persons mental health record and criminal history record, if any.
- The persons reputation based on character witness statements, testimony or other character evidence.
- Whether the person is a danger to self or others, is persistently, acutely or gravely disabled or whether the circumstances that led to the original order, adjudication or finding remain in effect.
- Any change in the persons condition or circumstances that is relevant to the relief sought.
- Any other evidence deemed admissible by the court.

The petitioner shall prove by clear and convincing evidence that the petitioner is not likely to act in a manner that is dangerous to public safety and granting the requested relief is not contrary to the public interest. The court shall issue findings of fact and conclusions of law at the conclusion of the hearing.

A victim has the right to be present and heard at any of these proceedings. If the victim has made a request for post conviction notice, the attorney for the state is required to provide notice to the victim at least five days before the hearing.

If the court grants the petition for relief, the original order, finding or adjudication is deemed not to have occurred for the purposes of applying the prohibited possessor and federal statutes listed above to that person. The granting of a petition only restores the persons right to possess a firearm and does not apply to and has no affect on any other rights or benefits the person receives.

An appeal may be taken to the Court of Appeals from a final order granting or denying the petition.

The court is requested to promptly notify the Department of Public Safety, which shall update the person's record in any database that DPS maintains and make available to the national instant criminal background check system. Within ten days after receiving the notification from the court, DPS must notify the U.S. Attorney General.

A retired peace officer shall not be prohibited from carrying a firearm. Some exceptions apply. Defines "retired peace officer".

Statute Impacts:

Statutes amended: A.R.S. §§ 12-2101, 38-1102

Statute repealed: A.R.S. § 13-925

Statute enacted: A.R.S. § 13-4441; and adding a new A.R.S. § 13-925

Court Impact:

Establishes a court process by which a person, who was found to constitute a danger to himself or others or to be persistently or acutely disabled or gravely disabled pursuant to court order under A.R.S. § 36-540, or who has been found to be a mental defective or was committed to a mental institution under federal law, 18 USC § 922(d) (4) or (g)(4) may petition the court to restore the person's right to possess a firearm. The change conforms state statute to federal law.

There is no fee for filing for a restoration of civil rights under Rule 29.2, Rules of Criminal Procedure.

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Chapter 305
SB1187

Effective Date
07/20/2011

General

Item of interest to:

Superior Court:

1. Clerk of Superior Court
2. Superior Court Administrator
3. Superior Court Judge

Justice Court:

Municipal Court:

Administrative Office of the Courts

DISSOLUTION OF MARRIAGE; LEGAL SEPARATION
Senator Linda Gray

Summary:

Makes various changes to the required educational programs provided by each county's Superior Court regarding divorce. Specific standards must be implemented by January 1, 2013, including the following:

- The emotional, psychological, financial, physical and other effects of divorce on adults and children.
- Alternative options to divorce.
- Resources available to improve or strengthen marriage.
- The legal process of divorce and options available for mediation.
- Resources available after divorce.

If either party wishes to extend the 60 day waiting period after filing a petition for conciliation, they must file a petition with the court that explains the reason for the extension and includes a plan for reconciliation and counseling. The waiting period may be extended up to 120 days, for good cause, during which time neither party may file for annulment, dissolution of marriage, or legal separation. The court shall deny exemption if the other party objects with good cause.

Statute Impacts:

Statutes amended: A.R.S. §§ 25-351, 25-381.17, 25-381.18

Court Impact:

Modifies the standards for Parent Education programs requiring implementation by January 1, 2013. The changes will require a modification to A.C.J.A. §3-202: Parent Education Programs. The bill also extends the time a case may remain in conciliation court, with the permission of the court, by up to 120 days. The Arizona State Bar and Administrative Office of the Courts are evaluating the bill and plan to file a petition to amend the Arizona Rules of Family Law Procedure.

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Chapter 308
SB1398
Effective Date
07/20/2011
General

Item of interest to:

Superior Court:

1. Clerk of Superior Court
2. Superior Court Administrator
3. Superior Court Judge

Justice Court:

1. Justice of the Peace Court Administrator
2. Justice of the Peace Court Clerk
3. Justice of the Peace

Municipal Court:

1. Municipal Court Administrator
2. Municipal Court Clerk
3. Municipal Court Judge/Magistrate

Administrative Office of the Courts

MOVING VIOLATIONS; ASSESSMENT; EQUIPMENT; ENFORCEMENT
Senator Andy Biggs

Summary:

In pertinent part:

Levies a penalty assessment of \$13 on every fine, penalty and forfeiture imposed and collected by the courts for criminal offenses and civil penalties for a civil traffic violation and fine, penalty or forfeiture for a violation of the motor vehicle statutes, for any local ordinance relating to the stopping, standing or operation of a vehicle or for a violation of the game and fish statutes in Title 17. The assessment is distributed as follows:

- \$4 to the Department of Public Safety Equipment Fund to be used by the Department of Public Safety (DPS) for protective armor, electronic stun devices, and other safety equipment
- \$4 to Gang and Immigration Intelligence Team Enforcement Mission Fund (GIITEM)
- \$4 to the agency that issues the citation or investigates the offense
- \$1 to the Justice courts

(a) For counties with a population less than two million the monies are distributed to the Justice Courts proportionately based on the judicial productivity credits calculated pursuant to A.R.S. § 22-125

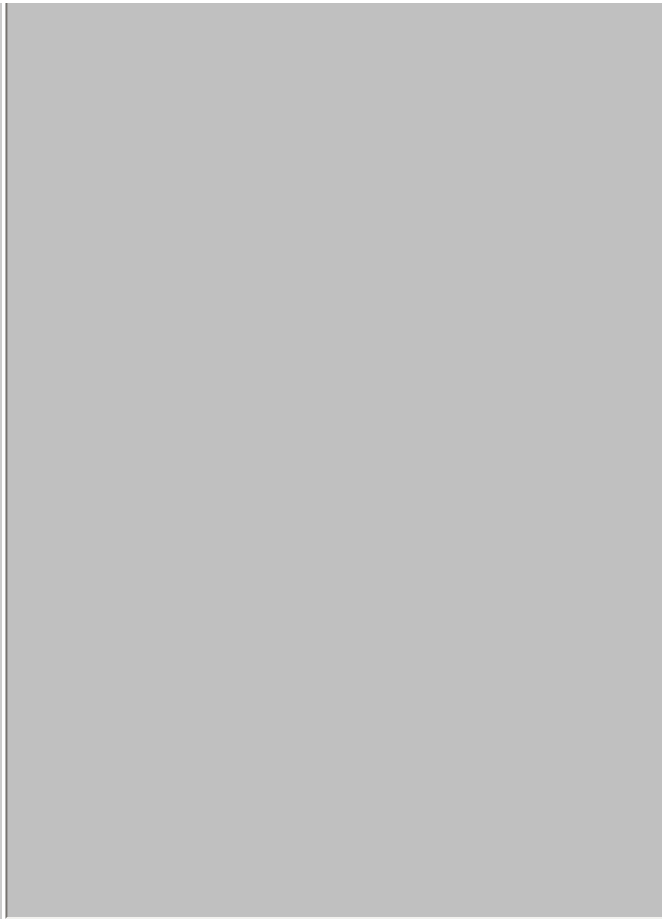
(b) For counties with a population of two million or more the monies are distributed to the Justice Court administration

If a law enforcement agency issues a photo enforcement system citation and serves the citation in a manner other than what is authorized by the Rules of Civil Procedure, the agency is required to inform the person that there is no obligation to identify the driver or respond to the citation. Failure to respond to the citation will result in the probability that the person will be formally served, which will likely result in the person being required to pay the cost of the service.

If a person receives a Notice of Violation by mail for a violation of Title 28, Chapter 3, Article 3 (Traffic, signs, signals and markings) or Article 6 (Speed restrictions) or for a violation of a city or town ordinance for excessive speed or failure to obey a traffic control device that is obtained using a photo enforcement system, the person is not required to identify who is in the photo or respond to the notice of violation. The Notice of Violation must state:

- The notice is not a court issued document and the recipient is under no obligation to identify the person or respond to the notice
- Failure to respond to the notice may result in official service that may result in an additional fee

"Notice of Violation" and "Photo enforcement system" are defined. Redirects FY



2011-12 monies from the State Aid to Indigent Defense Fund to the GIITEM Board Security sub account
 40% of the monies remaining in the Photo Enforcement Fund in FY 2011 and FY 2012, after paying expenses and court costs and not exceeding \$7 million, are deposited in the Public Safety Equipment Fund.

Statute Impacts:

Statutes amended: A.R.S. §§ 28-1592, 28-1593, 41-1723, and 41-1724

Statutes enacted: A.R.S. §§ 12-116.04, 28-1602

Repeals A.R.S. § 28-1602, Photo enforcement; notice of violation, complaint, penalties.

Repeals A.R.S. § 28-3323, Suspension or revocation of license; state photo enforcement system.

Repeals A.R.S. § 41-1722, State photo enforcement system; fund on July 1, 2012.

Court Impact:

Adds a new \$13 assessment for a defendant convicted of a criminal offense or found responsible for a civil traffic violation, or forfeiture for a violation of the motor vehicle statutes, for any local ordinance relating to the stopping, standing or operation of a vehicle or for a violation of the game and fish statutes in title 17.

\$8 is transmitted to the State Treasurer, \$4 is remitted to the city or county treasurer for distribution to the law enforcement agency that investigated/issued the citation and \$1 to the city or county treasurer for distribution to be distributed to the justice courts or justice court administration. Downlaod the statewide memo from the AOC website for [additional implementation instructions](#)

Modifies notice procedures for law enforcement photo enforcement programs.

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Chapter 326

SB1484

Effective Date

07/20/2011

General

Item of interest to:

Superior Court:

1. Superior Court Chief Probation Officer
2. Clerk of Superior Court
3. Superior Court Administrator
4. Superior Court Judge
5. Superior Court Jury Commissioner/Manager

TERRORISM, RADIOLOGICAL AGENT; INFECTIOUS SUBSTANCES

Senator Ron Gould

Summary:

Adds a number of new violations to the Terrorism statute, A.R.S. § 13-2308.01. The possession of any infectious biological substance or a radiological agent, unless satisfactorily explained, may give rise to an inference that the person in possession of the substance or agent is aware of the risk that the substance or agent may be used to commit an act in violation of the Terrorism statute.

The Terrorism statute does not apply to any person who is permitted or licensed pursuant to Title 30, Chapter 4, *Control of ionizing radiation*, and 10 CFR Part 30 if the person is lawfully executing responsibilities for employment and is within the confines of federal and state law.

Defines "Infectious biological substance" and "Radiological agent".

Statute Impacts:

Statute amended: A.R.S. § 13-2308.01

Court Impact:

Justice Court:

- 1. Justice of the Peace Court Administrator
- 2. Justice of the Peace Court Clerk
- 3. Justice of the Peace

Municipal Court:

Administrative Office of the Courts

Adds ten felony 2 offenses to A.R.S. § 13-2308.01(A) that constitute terrorism for prohibited acts relating to infectious biological substances or radiological agents. The changes require the courts to update their automation system.

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Chapter 332
HB2304

Effective Date
07/20/2011

General

Item of interest to:

Superior Court:

- 1. Superior Court Chief Probation Officer
- 2. Clerk of Superior Court
- 3. Superior Court Administrator
- 4. Superior Court Jury Commissioner/Manager

Justice Court:

- 1. Justice of the Peace Court Administrator
- 2. Justice of the Peace Court Clerk
- 3. Justice of the Peace
- 4. Justice of the Peace Jury Commissioner/Manager

Municipal Court:

- 1. Municipal Court Administrator
- 2. Municipal Court Clerk
- 3. Municipal Court Judge/Magistrate
- 4. Municipal Court Jury Commissioner/Manager

Administrative Office of the Courts

STATE ELECTIONS; OMNIBUS
Representative J.D. Mesnard

Summary:

In pertinent part:

Permits a corporation, limited liability company, or labor union to contribute to an independent expenditure committee. Clarifies that knowingly filling out a petition form with the intent to commit fraud is a Class 1 Misdemeanor. Removes residency requirements of petition circulators and replaces them with mandated registration with the Secretary of State. Modifies the definition of "electioneering" which is a Class 2 Misdemeanor under certain circumstances.

Statute Impacts:

Statutes amended: A.R.S. §§ 16-246, 16-315, 16-321, 16-341, 16-343, 16-411, 16-449, 16-502, 16-515, 16-542, 16-544, 16-602, 16-645, 16-801, 16-902.01, 16-903, 16-912, 16-915.01, 16-918, 16-919, 16-920, 16-924, 19-112, 19-115, 19-121.04, 38-542

Statute repealed: A.R.S. § 16-543.01

Court Impact:

Renumbers A.R.S. § 16-919(C), a misdemeanor 2, as section (D). Renumbers 16-919 (D), a felony 6, as section (E). The changes require courts to update their automation system.

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Chapter 334
 HB2403
 Effective Date
 07/20/2011
 General

Item of interest to:

Superior Court:

1. Clerk of Superior Court
2. Superior Court Administrator
3. Superior Court Judge

Justice Court:

Municipal Court:

Administrative Office of the Courts

TRUSTS AND ESTATES
 Representative Ted Vogt

Summary:

If a proceeding regarding a matter involving a trust is not pending in a court of this state, the trustee may declare that the trust is subject to the jurisdiction of the courts of this state, therefore the trustee gives the courts of this state jurisdiction regarding any matter involving their trust.

A creditor of the beneficiary or any creditor of the beneficiary who takes the name or rights of the beneficiary is limited in their ability to maintain a judicial proceeding against a trustee for an abuse of discretion or failure to comply with a standard for distribution.

Whether or not the terms of a trust contain a spendthrift provision, if a trust has more than one settlor or contributor, the amount the creditor or assignee of a particular settlor is no more than the settlor's interest in the portion of the trust attributable to that settlor's contribution. On the lapse, release or waiver of a power of withdrawal, the holder is not treated as the settlor of the trust. For the following trusts the person who would otherwise be treated as a settlor or a deemed settlor will not be treated as a settlor and the amounts and property contributed are not deemed to have been contributed by the settlor:

- An irrevocable inter vivos trust for the settlor's spouse if the settlor is a beneficiary of the trust after the death of the settlor's spouse.
- An irrevocable trust for the benefit of a person, the settlor of which is the person's spouse, regardless of whether or when the person was the settlor of an irrevocable trust for the benefit of the spouse.
- An irrevocable trust for the benefit of a person to the extent that the property of the trust was subject to a general power of appointment in another person.

The trustee may appoint all of the trust estate to another trust by restating the trust.

A trustee or the majority of the trustees who are not an interested trustee, in its sole discretion and without the approval of the court, may change the percentage used to calculate the unitrust amount or the method used to determine the fair market value of the trust or both, provided the trustee sends a written notice of the intention to take this action to the settlor of the trust and all qualified beneficiaries of the trust. This is also true if there is no trustee other than the interested trustee or interested trustees.

Any money or other assets payable to a participant in or beneficiary of, or any interest of any participant or beneficiary in, the specified retirement plans or a deferred compensation plan, whether the beneficiary's interest arises by inheritance, designation, appointment or otherwise, is exempt from all claims of creditors of the beneficiary or participant.

Statute Impacts:

Statutes amended: A.R.S. §§ 14-2712, 14-10202, 14-10504, 14-10505, 14-10819, 14-11014, 25-213, 28-2055, 33-1126

Court Impact:

Multiple bills were passed this session addressing various issues of interest to the probate court, these bills include HB2211, HB2402, HB2403, HB2424, SB1081 and SB1499. The Committee on Improving Judicial Oversight and Processing of Probate Court Matters is preparing a final report for the Arizona Judicial Council June 20, 2011, meeting and will be making recommendations for rule changes as the result of the work of the committee and these legislative enactments. Interested parties should check the [Committee web page](#) for additional details and the [Supreme Court Rules Forum](#) for probate rule petitions.

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Chapter 336
 HB2541
 Effective Date
 07/20/2011
 General

EMPLOYEE DRUG TESTING; MEDICAL MARIJUANA
 Representative Kimberly Yee

Item of interest to:

Superior Court:

1. Superior Court Chief Probation Officer
2. Clerk of Superior Court
3. Superior Court Administrator
4. Superior Court Judge

Justice Court:

1. Justice of the Peace Court Administrator
2. Justice of the Peace

Municipal Court:

1. Municipal Court Administrator
2. Municipal Court Judge/Magistrate

Administrative Office of the Courts

Summary:

The list of actions providing an employer with protection against litigation when dealing with employees intoxicated on the employer's premises or during hours of employment is expanded to include:

- Actions based on the employer's good faith belief that an employee used or possessed any drug while on the employer's premises or during the hours of employment.
- Actions taken in good faith by an employer against employees who exhibit symptoms of impairment.
- Actions excluding an employee from performing in a safety-sensitive position.

"Good faith" does not include gross negligence but may be a belief formed on observation, report, lawful surveillance, legal records or a result of a drug test.

"Drugs" includes any substance that is unlawful pursuant to the federal controlled substances act or Title 13, Chapter 34 or the metabolite of the drug.

"Current use of any drug" means drug use that has occurred recently enough to allow the employer to believe involvement with drugs is ongoing. The time will be based depending on each case's individual facts.

"Employer" means this state or any political subdivision of the state, any person, firm, company, corporation, labor organization, employment agency or joint labor-management committee, public utility, transit district or special taxing district that has one or more full-time employees employed in the same business, or the same establishment, under any contract of hire, express or implied, oral or written.

"Impairment" is defined as symptoms that an applicant or employee may be under the influence of drugs or alcohol that may decrease or lessen the employee's performance of the duties or tasks of the employee's job position.

"Safety-sensitive positions" is any job that includes tasks or duties that could affect the safety or health of the employee performing the task or others. This includes reassigning the employee to another position or placing an employee on paid or unpaid leave, based on the employers good faith belief that the employee is engaged in the current use of any drug. The use of drug can be legal, prescribed by a physician or otherwise, if the drug could cause impairment or otherwise decrease or lessen the employees job performance or ability to perform the employees job duties. The good faith belief can be based on information including results of an alcohol or drug test, warning labels, statements by the employee, information from a physician, pharmacist or reputable reference sources or other information the employer in good

faith believes to be reliable.

An employer is allowed to use the medical marijuana verification system to verify a registry identification card that is provided to the employer by an employee or applicant that has received a conditional offer of employment.

Pursuant to A.R.S. § 36-2807, *Verification System*, within 120 days of the effective date of the Medical Marijuana Act, the Department of Health Services is required to establish a secure web-based verification system for employers to use on a 24 hour basis to verify registry identification cards. Employers can only verify registry identification cards provided to the employer by a current employee or by an applicant who has received a conditional offer of employment.

Includes severability clause for the Title 23 provisions.

Statute Impacts:

Statutes amended: A.R.S. §§ 23-493, 23-493.06, 36-2807

Statute enacted: A.R.S. § 23-493.12

Court Impact:

Courts should consult with their political subdivision legal representatives to review hiring practices and personnel policies.

Becomes effective on the general effective date and is retroactive from and after April 12, 2011.

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Chapter 339
 HB2701
 Effective Date
 07/20/2011
 General

SECRETARY OF STATE; DATABASE
 Representative Jeff Dial

Item of interest to:

Superior Court:

1. Superior Court Chief Probation Officer
2. Clerk of Superior Court
3. Superior Court Administrator
4. Superior Court Judge
5. Superior Court Jury Commissioner/Manager

Justice Court:

1. Justice of the Peace Court Administrator
2. Justice of the Peace Court Clerk
3. Justice of the Peace
4. Justice of the Peace Jury Commissioner/Manager

Municipal Court:

Summary:

In pertinent part:

Makes numerous changes to election laws. Any person who knowingly fails to submit a completed early ballot request or a permanent early voting list request form before the submission deadline for the election immediately following the completion of the form is guilty of a Class 6 Felony. Any person, political committee, or other organization that fails to submit a completed early ballot request or a permanent early voting request form within the prescribed time is subject to a civil penalty of up to \$25 per day for each form withheld.

Statute Impacts:

Statutes amended: A.R.S. §§ 16-152, 16-168, 16-411, 16-542, 16-544, 16-912, 16-912.01, 16-917

Court Impact:

Adds A.R.S. §§ 16-542(J) and 16-544(M) as a felony 6 offenses for a failure to submit a request for an early ballot or to be on the permanent early voting list within the time limits in statute. Specifies that any person, political committee or other organization that fails to submit a completed permanent early voting list request form within the prescribed time is subject to a civil penalty of up to \$25 per day for each completed form withheld from submittal.

The changes require courts to update their automation system.

Administrative Office of the Courts

Chapter 340
SB1086

Effective Date
07/20/2011

General

Item of interest to:

Superior Court:

1. Clerk of Superior Court
2. Superior Court Administrator
3. Superior Court Judge

Justice Court:

1. Justice of the Peace Court Administrator
2. Justice of the Peace

Municipal Court:

1. Municipal Court Administrator
2. Municipal Court Judge/Magistrate

Administrative Office of the Courts

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TOBACCO PRODUCTS; PROHIBITIONS
Senator Michele Reagan

Summary:

A person under 18 who misrepresents the person's age by using fake identification with the intent to induce a person to sell, give, or furnish cigars, cigarettes, cigarette papers, or smoking or chewing tobacco, is guilty of a petty offense with a maximum fine of \$500.

Statute Impacts:

Statute amended: A.R.S. § 13-3622

Court Impact:

Adds A.R.S. § 13-3622(B) as a petty offense for misrepresenting a minors age by means of a written instrument to purchase cigars, cigarettes or cigarette papers, or smoking or chewing tobacco of any kind. The court may impose a fine of not more than \$500.

The change requires courts to update their automation system.

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Chapter 341
SB1200

Effective Date
01/01/2012

Delayed

Item of interest to:

Superior Court:

Justice Court:

1. Justice of the Peace Court Administrator
2. Justice of the Peace Court Clerk
3. Justice of the Peace

Municipal Court:

1. Municipal Court Administrator
2. Municipal Court Clerk
3. Municipal Court Judge/Magistrate

Administrative Office of the Courts

DRIVING UNDER THE INFLUENCE; INTERLOCK
Senator Linda Gray

Summary:

Intent: Utilize multiple levels of sanctions and new technologies including ignition interlock, alcohol and drug education, home detention and continuous alcohol monitoring in addition to incarceration and driver license suspension in order to reduce DUIs, reduce DUI recidivism and enhance highway safety.

1. Authorizes a City Council, County Sheriff and County Board of Supervisors to establish a continuous alcohol monitoring program with the approval of the Presiding Judge of the Municipal Court or the Presiding Justice of the Peace of the County, similar to a home detention program, for persons convicted of DUI. A person must pay all fees plus \$30 per month while in the program. Same requirements apply.

2. Modifies the requirements for the current home detention program and the new continuous alcohol monitoring program by permitting a person convicted of DUI with a prior or Extreme DUI to be placed in a program upon completion of 20% of the initial sentence.

3. Authorizes the County Board of Supervisors to establish a home detention program with the approval of the Presiding Justice of the Peace of the County. The requirements are identical to the current programs which can be established by a city council or sheriff.

4. Repeals the prohibition of home detention program use for persons convicted of Aggravated DUI.

5. Applies implied consent and administrative per se to drugs listed in A.R.S. § 13-3401 or their metabolites.

6. Modifies the requirement that a person convicted of first offense non-extreme DUI serve 24 consecutive hours in jail to state the person must serve one day in jail.

7. Removes the statutory requirement that a person charged with a first offense DUI be entitled to a jury trial except if the person is charged with Extreme DUI.

8. The court may suspend all but nine days of a sentence if the person is convicted of an Extreme DUI, A.R.S. § 28-1382 (A)(1), and all but 14 days of a sentence if the person is convicted of Extreme DUI, A.R.S. § 28-1382 (A)(2), if a person installs a certified ignition interlock device (CIID) for one year.

9. A person convicted of a second offense DUI or Extreme DUI is eligible for a CIID after a 45 day driver's license revocation.

10. Transfers the Aggravated DUI violation wherein a person required to equip a vehicle with a CIID because of a previous DUI conviction and refuses to submit to a blood alcohol test while under arrest for a subsequent DUI from the Aggravated DUI statute, A.R.S. § 28-1383, to the interlock violation statute, A.R.S. § 28-3319.

11. Reduces the driver license revocation upon a conviction for Aggravated DUI from three years to one year and clarifies that the CIID requirement for the defendant to obtain a license after revocation is twenty four months, not twelve months.

12. A person whose driver license is suspended pursuant to A.R.S. § 28-1385 is eligible for a CIID during a period of suspension if the requirements of A.R.S. § 28-1385 (G) are met.

13. An extension of the CIID requirement for violating an enumerated condition for driving with a CIID is set at six months. The CIID requirement is extended if the person attempts to operate a vehicle twice with a Blood Alcohol Content (BAC) of .08 or above, instead of the current three times. If a person with BAC of .08 or above attempts to operate a vehicle during a six month extension, the CIID requirement must be extended an additional six months.

14. ADOT is required to remove any interlock requirement if the person is convicted of a violation of A.R.S. § 28-1381(A) (3), DUI per se drugs and the court does not order alcohol education or treatment after screening.

15. Upon the completion of the following requirements, ADOT may defer the last six months, starting from the date the interlock was installed, of a one year CIID requirement.

- The person is sentenced pursuant to A.R.S. § 28-1381(I) first offense non-extreme DUI
- The person successfully completes an alcohol or drug education course
- The person has maintained a functioning interlock ignition device in any vehicle operated for at least six consecutive months
- The person has not attempted to operate a vehicle with a blood alcohol content of .08 or more two or more times
- The person is not involved in an injury or damage accident
- All necessary compliance information was provided to ADOT by the interlock provider

The deferment is permanent, unless the person is arrested for DUI, Extreme DUI or Aggravated DUI during the period of the deferment. In that case ADOT is required to

revoke the deferment and the person must complete the remainder of the CIID requirement.

16. Permits ADOT to substitute continuous alcohol monitoring for a CIID if the person is unable to use a CIID due to a medical or employment condition. During this period of continuous alcohol monitoring, the person must be tested for alcohol at a minimum of once a day. If the person tests positive for alcohol two times, ADOT is required to discontinue the continuous alcohol monitoring and require the person to install a CIID.

17. The Director of the Department of Corrections may authorize a person sentenced for Aggravated DUI and who is placed on probation to be released under a continuous alcohol monitoring program. The Director may require reimbursement.

18. Modifies legislation passed last year. An assessment of \$125, rather than a 10% surcharge on the amount of the fine, is added to a warrant issued by a superior court or justice court as the result of a failure to pay a fine. However, the assessment is now only applicable if the underlying charge is a Title 28 offense. The assessment is not subject to any surcharges.

19. Gives constables the power to serve warrants pursuant to A.R.S. § 22-131.

Statute Impacts:

Sections amended: A.R.S. §§ 5-3910.1, 9-499.07, 11-445, 11-459, 22-131, 28-1304, 28-1324, 28-1304, 28-1321, 28-1382, 28-1383, 28-1385, 28-1401, 28-1402, 28-1461, 28-1464, 28-1465, 28-2163, 28-3315, 28-3319, 31-233

Statutes enacted: A.R.S. §§ 11-251.14, 28-1525

Court Impact:

Adds A.R.S. §§ 28-1464(K) and (L) as misdemeanor 1 offenses for persons with an interlock device for failure to submit to a test or tests of the persons blood, breath, urine or other bodily substance for the purpose of determining alcohol concentration or drug content when under arrest or for failing to maintain continuous alcohol monitoring as ordered.

This act is effective from and after December 31, 2011. Removes the statutory right to a jury trial for a person charged with a first offense DUI except if the person is charged with Extreme DUI.

The change requires courts to update their automation system.

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Chapter 346
SB1283

Effective Date
07/20/2011

General

Item of interest to:

Superior Court:

1. Clerk of Superior Court
2. Superior Court Administrator
3. Superior Court Judge

Justice Court:

Municipal Court:

Administrative Office of the Courts

CHILD CUSTODY; MILITARY FAMILIES

Senator Kyrsten Sinema

Summary:

Removes the requirement that a custodial parent who is a member of the US armed forces file a military family care plan prior to any deployment. Requires the court to enter a temporary order modifying parental rights during a period of military deployment or mobilization on motion of either parent if the deployment or mobilization will have a material effect on the military parents ability to exercise parental rights and responsibilities or parent-child contact. Requires the court to allow a parent to present testimony and evidence by electronic means on motion of a deploying parent if reasonable advance notice is given and good cause is shown. The court is required to hear motions for modification due to deployment as expeditiously as possible.

Permits a military parent to request the court to delegate parenting time to a family member or other individual with whom the child has a close and substantial relationship if the court finds that doing so is in the child's best interest. Prohibits the court from delegating parenting time to a person who would otherwise be subject to limitations. Directs the parents to utilize the dispute resolution process outlined in their parenting plan unless excused by the court for good cause. Clarifies that a court order delegating parenting time does not establish a separate right to parenting time for a person other than the parent.

Temporary modification orders must include a specific transition schedule to facilitate a return to the redeployment order within ten days after the deployment ends, taking into consideration the child's best interests.

Prohibits the court from entering a final order to modify parental rights and parent-child contact in an existing order until 90 days after the end of temporary military duty, deployment, activation or mobilization orders. Applies to the parent with whom the child resides a majority of the time and an exemption is made if both parents agree to a modification.

Prohibits the court from considering absence caused by deployment or mobilization or the potential for future deployment or mobilization as the sole factor supporting a real, substantial and unanticipated change in circumstances.

Statute Impacts:

Statute amended: A.R.S. § 25-411

Court Impact:

Information only. No rules changes are anticipated.

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Chapter 349
 SB1334
 Effective Date
 07/20/2011
 General

Item of interest to:

Superior Court:

1. Clerk of Superior Court
2. Superior Court Administrator
3. Superior Court Judge

Justice Court:

1. Justice of the Peace Court Administrator
2. Justice of the Peace Court Clerk
3. Justice of the Peace

Municipal Court:

1. Municipal Court Administrator
2. Municipal Court Clerk
3. Municipal Court Judge/Magistrate

Administrative Office of the Courts

HUNTING WITHIN CITY LIMITS
 Senator Frank Antenori

Summary:

A.R.S. § 13-3107, *Unlawful discharge of a firearm* does not apply if the firearm is discharged to lawfully take wildlife during an open season established by the Arizona Game and Fish and subject to Arizona Game and Fish Commission rules. A city, town or county may adopt an ordinance or rule restricting the discharge of a firearm within a quarter mile of an occupied structure.

A political subdivision cannot establish an ordinance, rule, or regulation that limits the lawful taking of wildlife during an open season unless it is consistent with the state's hunting laws in Title 17 and the Arizona Game and Fish Commission rules, or it is an ordinance or rule that restricts the discharge of a firearm within a quarter mile of an occupied structure.

Statute Impacts:

Statutes amended: A.R.S. §§ 13-3107, 13-3108

Court Impact:

Information only. Creates an exception to the unlawful discharge of firearms in A.R.S. § 13-3107.

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Chapter 351
 SB1367
 Effective Date
 07/20/2011
 General

Item of interest to:

Superior Court:

1. Superior Court Chief Probation Officer
2. Clerk of Superior Court
3. Superior Court Judge

Justice Court:

Municipal Court:

Administrative Office of the Courts

JUVENILES; DNA TESTING
 Senator Frank Antenori

Summary:

Conforms the DNA testing requirements for juveniles pursuant to A.R.S. § 8-238 to that of adults, A.R.S. § 13-610. If a juvenile is charged with one of the enumerated offenses in A.R.S. § 8-238 and is required to appear at an advisory hearing, the court is required to order the juvenile to report to the law enforcement agency that investigated the offense. The investigating law enforcement agency must obtain a DNA sample for submission to the Department of Public Safety.

Statute Impacts:

Statutes amended: A.R.S. §§ 8-238, 13-610

Court Impact:

Information only.

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Chapter 352
 SB1368
 Effective Date
 07/20/2011
 General

Item of interest to:

Superior Court:

1. Superior Court Chief Probation Officer
2. Superior Court Administrator
3. Superior Court Judge

Justice Court:

Municipal Court:

Administrative Office of the Courts

PROBATION OFFICERS; DISCIPLINARY ACTIONS
 Senator Frank Antenori

Summary:

Adds A.R.S. § 38-1105, *Discipline for probation officers; definition*. A probation officer shall not be subject to disciplinary action except for just cause, except if a probation officer has not completed an initial probationary period required by the employer or for a dismissal that is for administrative purposes.

Defines "just cause" to mean:

- The probation officer was informed of possible disciplinary action resulting from the probation officer's conduct through department manuals, employee handbooks, rules and regulations that apply to probation officers or other communications to the probation officer or the conduct was such that the probation officer should have reasonably known disciplinary action could occur.
 - The disciplinary action is reasonably related to the professional standards of the probation officer, the department's mission, the orderly, efficient or safe operation of the department, the safety of the public or the probation officer's fitness for duty.
 - The discipline is supported by a preponderance of evidence that the conduct occurred.
 - The discipline is not excessive and is reasonably related to the seriousness of the offense or the probation officer's service record or any other relevant factor.
- "Probation officer" is defined.

Statute Impacts:

Statute enacted: A.R.S. § 38-1105

Court Impact:

Information only.

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Chapter 353
 SB1469
 Effective Date
 07/20/2011
 General

Item of interest to:

Superior Court:

1. Clerk of Superior Court
2. Superior Court Administrator
3. Superior Court Judge

Justice Court:

1. Justice of the Peace Court Administrator
2. Justice of the Peace Court Clerk
3. Justice of the Peace

JUSTIFICATION; USE OF FORCE
 Senator Ron Gould

Summary:

In the statute justifying the use of physical force or deadly force to protect a third person, removes the requirement that a reasonable person believes intervention is immediately necessary to protect the third person. In the statute relating to justification for the use of physical or deadly force adds that a person is presumed to be acting reasonably if the person acting to prevent what the person reasonably believes is the imminent or actual commission of a listed offense. In the statute relating to presumptions in the defense of a home or occupied vehicle, a person is presumed to reasonably believe that the threat or use of physical force or deadly force is immediately necessary for the purposes of the justification sections if the person knows or has reason to believe that the person against whom physical force or deadly force is threatened or used is unlawfully or forcefully entering or has unlawfully or forcefully entered and is present in the persons residential structure or occupied vehicle.

A person who is unlawfully or forcefully entering or who has unlawfully or forcefully entered and is present in a residential structure or occupied vehicle is presumed to

Municipal Court:

Administrative Office of the Courts

pose an imminent threat of unlawful deadly harm to any person who is in the residential structure or occupied vehicle. Sets forth when the presumptions do not apply.

Statute Impacts:

Sections amended: A.R.S. §§ 13-406, 13-411, 13-419

Court Impact:

Information only.

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Chapter 354
SB1499

Effective Date
07/20/2011

General

Item of interest to:

Superior Court:

1. Clerk of Superior Court
2. Superior Court Administrator
3. Superior Court Judge

Justice Court:

Municipal Court:

Administrative Office of the Courts

PROBATE PROCEEDINGS; OMNIBUS
Senator Adam Driggs

Summary:

Guardianship/Conservatorship Proceedings:

Permits the court to require additional information with the filing of a guardianship or conservatorship petition beyond what is enumerated in statute. Requires a guardian, conservator, attorney or guardian ad litem who intends to seek compensation from an estate to give written notice of their basis for compensation (defined) at the first appearance in the proceeding. The statement must include a general explanation of the compensation arrangement and how the compensation will be computed. If during the pendency of the action the basis for compensation is changed, notice of that change must be provided to all persons entitled to notice not less than thirty days before the change becomes effective.

Stipulates that any compensation paid from an estate to a guardian, conservator, attorney or guardian ad litem must be reasonable and necessary. Enumerates factors the court must consider when determining the reasonableness and necessity of compensation and places the burden of proof on the person seeking compensation.

Permits the court to appoint the qualified physician, psychologist or registered nurse of an alleged incapacitated person in lieu of seeking an independent evaluation of capacity.

Clarifies that fiduciaries must prudently manage costs, preserve the assets of the estate for the benefit of the ward or protected person, and protect against incurring any costs that exceed probable benefits to the estate or trust.

Outlines duties for fiduciaries, attorneys, and guardians' ad litem.

Billing and accounting:

Sets forth time frames and procedures for submittal of compensation claims by attorneys or guardians ad litem who intend to be paid by an estate. Failure to comply may waive the right to compensation unless otherwise ordered by the court. Exempts an attorney seeking compensation based on a contingency fee agreement. The conservator must attach to the inventory a copy of the protected persons consumer credit report dated within 90 days before the filing of the inventory.

Authorizes a person entitled to notice of the conservator's annual account to make a written request to the conservator in order to view the protected person's financial records, any billing statements, or other records related to the protected person under the conservator's control. Alternatively, the person may request that the conservator

provide copies of such documents or simply a report of receipts and disbursements related to the conservatorship.

Appointment, removal or substitution of a guardian or conservator:

Places the public fiduciary as the last priority for appointment of a guardian or conservator. Enumerates examples of good cause for the court to pass over an individual with a higher statutory priority of appointment. A person with statutory priority who was passed over for appointment may file a request within ten days for the court to make a specific finding regarding the good cause determination.

Allows the court, by its own motion or that of an interested party, to substitute a guardian or conservator if it is found to be in the best interest of the ward or protected person. The court need not find that the guardian or conservator acted inappropriately to find that the substitution is in the ward or protected person's best interest.

On petition of the guardian, the court may accept a resignation and make any other order which may be appropriate. Prohibits an interested person from filing a petition for adjudication that the ward is no longer incapacitated earlier than one year after the order adjudicating incapacity was entered, unless the court receives affidavits that there is reason to believe that the ward is no longer incapacitated. An interested person cannot file a petition to substitute a guardian earlier than one year after the order adjudicating incapacity was entered unless the court has reason to believe that the current guardian will endanger the ward's physical, mental, or emotional health if not removed. The ward may petition the court for an order that the ward is no longer incapacitated or petition for substitution of the guardian at any time. Similar language applies to substituting a conservator who is allegedly endangering a protected person's estate.

Permits the court to require appropriate accounts and enter appropriate orders when substituting a conservator to preserve and protect the assets of the estate, to require reimbursement or payment as needed, and to transfer assets or title thereto to appropriate successors. The court must follow the same procedures to safeguard the rights of the protected person as apply to a petition for appointment of a conservator. Prohibits a guardian or conservator from being compensated from the estate for defending against a petition for substitution unless authorized by court order.

Unreasonable conduct:

Permits the court to order a person who engages in unreasonable conduct to pay for some or all of the fees and expenses if the court finds that an estate or trust has incurred these costs as a result of the unreasonable conduct. Permits the court to require arbitration or order alternative dispute resolution.

Permits the court to summarily deny a motion or petition if filed by an interested person who has requested the same or substantially similar relief within the preceding twelve months and is unable to describe in detail a change in fact or circumstance that supports the requested relief.

Miscellaneous:

Requires all judicial officers presiding over Title 14 proceedings to participate in training as prescribed by the Supreme Court.

Prohibits a court appointed investigator or any person or entity closely related

(defined) to the investigator from receiving additional compensation or being appointed as a fiduciary, attorney or professional in the same case or for the same person who was the subject of the prior investigation.

Statute Impacts:

Statutes amended: A.R.S §§ 14-1201, 14-5108, 14-5303, 14-5304, 14-5306, 14-5307, 14-5308, 14-5309, 14-5310, 14-5311, 14-5313, 14-5315, 14-5401, 14-5401.01, 14-5404, 14-5405, 14-5407, 14-5410, 14-5418, 14-5419, 14-5651, 14-5652, 14-10706

Statutes enacted: A.R.S §§ 14-1101, 14-1104, 14-1105, 14-1108, 14-1109, 14-5109, 14-5110, 14-5415

Statute repealed: A.R.S § 14-5415

Court Impact:

Multiple bills were passed this session addressing various issues of interest to the probate court, these bills include HB2211, HB2402, HB2403, HB2424, SB1081 and SB1499. The Committee on Improving Judicial Oversight and Processing of Probate Court Matters is preparing a final report for the Arizona Judicial Council June 20, 2011, meeting and will be making recommendations for rule changes as the result of the work of the committee and these legislative enactments. Interested parties should check the [Committee web page](#) for additional details and the [Supreme Court Rules Forum](#) for probate rule petitions.

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Chapter 355
SB1504
Effective Date
07/20/2011
General

ARBITRATION; WAIVER; RESTRICTION
Senator Adam Driggs

Summary:

Modifies the arbitration statute related to application for judicial relief and the validity of an agreement to arbitrate. Before a controversy arises that is subject to an agreement to arbitrate, a party may not waive or agree to vary the effect of the requirements found in A.R.S. § 12-3006 (A), *Validity* of an agreement to arbitrate or A.R.S. § 12-3008(A), *Interim remedies*. Formerly included the entire statute.

Statute Impacts:

Statute amended: A.R.S. § 12-3004

Court Impact:

Information only. This bill makes modifications to the Uniform Arbitration Act.

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Item of interest to:

Superior Court:

1. Clerk of Superior Court
2. Superior Court Administrator
3. Superior Court Judge

Justice Court:

1. Justice of the Peace Court Administrator
2. Justice of the Peace Court Clerk
3. Justice of the Peace

Municipal Court:

Administrative Office of the Courts

Chapter 357

SB1609

Effective Date

07/20/2011

General

Item of interest to:

Superior Court:

1. Clerk of Superior Court
2. Superior Court Administrator
3. Superior Court Clerk
4. Superior Court Judge
5. Superior Court Jury Commissioner/Manager

Justice Court:

1. Justice of the Peace Court Administrator
2. Justice of the Peace Court Clerk
3. Justice of the Peace
4. Justice of the Peace Jury Commissioner/Manager

Municipal Court:

1. Municipal Court Administrator
2. Municipal Court Clerk
3. Municipal Court Judge/Magistrate
4. Municipal Court Jury Commissioner/Manager

Administrative Office of the Courts

RETIREMENT SYSTEMS; PLANS; PLAN DESIGN

Senator Steve Yarbrough

Summary:

General

If a member of a plan or system is convicted of a Class 1, 2, 3, 4, or 5 Felony that was committed in the course of a member's employment, the court shall terminate the employee's membership. The member forfeits all rights and benefits earned under the system or plan. The member may receive the member's contribution to the system plus interest as determined by the Board. Provides for a process when the criminal case is on appeal. The court may award a spouse, former spouse or dependent some or all of the benefits forfeited under enumerated criteria set forth in statute. The provision applies only to a system or plan to which the member was contributing at the time of the offense.

An active member or a member who is receiving benefits under the Long Term Disability Program may receive up to 60 months of credited service if the person has at least ten years of credited service with ASRS, EORP and CORP for the following:

- The member has prior employment with the United States Government, a state, territory, commonwealth, or other specified areas.
- A member may receive credit for active military service if they are not eligible for a military retirement benefit.

A defined contribution study committee will be established and will make a recommendation on the costs associated with transferring existing members to a defined contribution system and take a further look at the definition of compensation, consolidation or local boards, merging 401(a) plan options and medical disability reforms.

The study must be completed by October 1, 2013. Appropriates \$100,000 to cover actuarial work of the study.

Arizona State Retirement System (ASRS)

In ASRS the point system is eliminated for members who commence membership on or after July 1, 2011. "Normal retirement date" for these new members is defined as either:

- A members 65th birthday.
- A member's 62nd birthday and completion of at least ten years of credited service.
- A member's 60th birthday and completion of at least 25 years of credited service.
- A member's 55th birthday and completion of at least 30 years of credited service.

A full time Superior Court Commissioner is required to become a member of ASRS if the Commissioner is appointed on or after July 1 of the first FY after the Social Security Administration approves the inclusion of the Superior Court Commissioners on this state's section 218 agreement.

Early retirement for members who commence membership after July 1, 2011, is the same as in current statute; however, members will not be able to elect for early retirement based on the point system.

If a retired member's benefits have been suspended because the member resumed membership in ASRS (worked at least twenty weeks and twenty hours per week), the member must repay ASRS any retirement benefits received by the member during

the time the member was receiving benefits and was also employed in the plan from the date ASRS determines that the member knew or should have known that the member's employment resulted in membership in ASRS. A retired member may return to work and still be eligible to receive retirement benefits if the retired member terminated direct employment with an employer at least 365 days before returning to work. Beginning July 1, 2012, an employer that employed the retired member shall pay ASRS an alternate contribution rate (ACR) starting the first day the employee began working. ASRS shall determine the ACR based on an annual valuation performed as of June 30 of each year.

If an active member was granted a leave of absence from employment and returns to work with the same employer, the member may receive up to 60 months of credited service for retirement purposes if they have at least ten years of credited service.

Future PSPRS Fund Managers will be placed in ASRS.

ASRS is given rule making authority in regard to implementing return to work provisions.

Elected Officials Retirement Plan (EORP)

For an elected official who becomes a member of EORP on or after January 1, 2012, the "average yearly salary" is calculated with the five consecutive years, rather than three, within the last ten completed years of credited service that yields the highest average.

A full-time Superior Court Commissioner is required to become a member of ASRS if the Commissioner is appointed on or after July 1 of the first FY after the Social Security Administration approves the inclusion of the Superior Court Commissioners on this states section 218 agreement.

If an elected official, who becomes a member of the plan on or after January 1, 2012, ceases to hold office for any reason other than death or retirement, the official may withdraw the members accumulated contributions and interest at a rate determined by the Board. An elected official who received a refund and is subsequently reemployed as an elected official and who redeposits the amount withdrawn including interest or a member who redeems prior service is subject to the benefits and duties in effect at the time of the elected official's most recent reemployment, in other words is treated as a new member. This provision does not apply if a court orders reinstatement of benefits and duties under a prior law.

A member who becomes a member of the plan on or after January 1, 2012 may not retire with a normal retirement pension with 20 or more years of credited service and no age limit. The member may retire with normal retirement at the age of 65 with five years of service or at the age of 62 with ten years of service. The member may not take early retirement after five years of service as can current members.

Changes the amount paid to a surviving spouse of a deceased, retired or a deceased active or inactive recent elected official to 1/2, rather than 3/4, of the deceased retired member's pension at the time of death for members who become members of the plan on or after July 1, 2012. The member may elect to take part in an optional retirement benefit with a reduced pension and an increased surviving spouse's benefit.

The monthly pension amount of a member, who becomes a member of the plan on

or after January, 2012 is calculated by multiplying 3% of the member's "average yearly salary" by credited service, not exceeding 75% of "average yearly salary".

Changes the disability pension of a recent elected official to 3% of the member's "average yearly salary" multiplied by:

- 25 years of service if the member has ten or more years of credited service.
- 12.5 years of service if the member has between 5 and ten years of credited service.
- 6.25 years of service if the member has fewer than 5 years of credited service.

The flat contribution rate of 7% of the member's gross salary is set for both current and future members, retroactive to July 1, 2011:

- 7% of member's gross salary through June 30, 2011.
- 10% of member's gross salary for FY 2011-2012.
- 11.5% of member's gross salary for FY 2012-2013.
- For FY 2013-2014 and thereafter, the member shall pay either 13% of member's gross salary or 33.3% of the sum of the contribution rate from the preceding fiscal year and the normal cost plus the amount required to amortize the unfunded accrued liability for the employer, whichever is lower. The member's contribution rate shall not be less than 7% and the employer contribution rate must meet both the normal cost plus the amount required to amortize the unfunded accrued liability.

An employer must pay an alternative contribution rate (ACR) for a retired member who has been retired for more than one full term and returns to work in any capacity in an elected official position. The ACR must be greater than 10% and is the portion of the total required contribution applied to the amortization of the unfunded actuarial accrued liability, based on the total required contribution for the preceding fiscal year. The ACR is applied to the member's compensation, gross salary or contract fee. All ACR contributions are irrevocable and shall be used as benefits or to pay expenses of the plan. The employer will pay interest for delinquent ACR payments. The Board, based on submitted reports, will determine the compensation of a retiree who returns to work.

Redemption or prior service for all members is limited to those who have at least ten years of credited service with the plan and are capped at sixty months.

For the "COLA" or future benefit increase, effective July 1, 2013, if the retired member became a member of the plan prior to January 1, 2012 the member is eligible if the retired member or survivor was:

- Receiving benefits or before July 31 of the previous two years, and
- 55 years of age or older on July 1, of the current year and was receiving benefits on or before July 31 of the previous year.
- If the retired member or survivor became a member of the plan on or after January 1, 2012 the member or survivor was 55 years of age or older on July 1 of the current year and is receiving benefits.

The maximum benefits increase if the ratio of the actuarial value of assets to the actuarial accrued liability of the fund is:

- 60%-65% and the total return is more than 10.5%; 2% benefit increase.
- 65%-70% and the total return is more than 10.5%; 2.5% benefit increase.
- 70%-75% and the total return is more than 10.5%; 3% benefit increase.
- 75%-80% and the total return is more than 10.5%; 3.5% benefit increase.

- 80%- or more and the total return is more than 10.5%; 4% benefit increase.

If 100% of the earnings of the fund that exceed the 10.5% of the total return is insufficient to fully fund the present value of the appropriate percentage increase, the percentage increase will be limited to the percentage in which the present value can be fully funded by the benefit increase monies available. Any earnings in excess of the amount necessary to fully pay the benefit increase will not be available for future benefit increases.

Effective January 1, 2016 the legislature may enact permanent one-time increases in retirement benefits after an analysis of the effect of the increase on the plan by JLBC.

Corrections Officer Retirement Plan (CORP) – Pertaining to probation officers

For an employee who becomes a member of the plan on or after January 1, 2012 the "average monthly salary" is 1/60 of the aggregate of salary paid during a period of 60 consecutive months of service in which the member received the highest salary within the last 120 months of service. "Normal retirement date" for a member who becomes a member on or after January 1, 2012 is at least 62 years of age with ten or more years of service or at least 52.5 years of age and 25 years or more of service.

For a member who becomes a member of the system on or after January 1, 2012, and terminates employment for any reason other than death or retirement, may withdraw the member's accumulated contributions plus interest at a rate determined by the Board. A member who received a severance refund on termination of employment and is subsequently reemployed by an employer and who redeposit's the amount withdrawn with interest or a member redeems prior service is subject to the benefits and duties in effect at the time of the member's most recent reemployment. A member who transfers credit from one employer to another retains benefits and duties in effect at the time of the member's transfer.

The amount of normal retirement benefit for a member who becomes a member on or after January 1, 2012 and has 25 years of credited service, is 62.5% of the member's average monthly salary, except:

- If the person retires with more than 25 years of credited service, benefit increases by 2.5% of the member's average monthly benefit compensation multiplied by the number of the member's years of credited service in excess of 25 years.
- If the person retires with less than 25 years of credited service, pension is reduced to the product of 2.5% of the member's average monthly salary and the member's credited service.

A person who becomes a member of the plan on or after January 1, 2012, the amount of an ordinary disability pension is equal to a fraction times the member's normal retirement pension. The fraction is found by dividing the member's actual years of credited service, not to exceed 25, by 25.

Changes members current contribution rates, retroactive to July 1, 2011, and establishes a new contribution rate:

- Through June 30, 2011, 8.41%.
- For FY 2011-2012, 8.41%.
- For FY 2012-2013 and each fiscal year thereafter, 8.41% or 50% of the sum of the

member's contribution rate from the preceding fiscal year and the aggregate employer contribution rate, whichever is lower, except that the member contribution rate shall not be less than 7.65%.

An employer must pay an alternative contribution rate (ACR) for a retired member who has been retired for 12 consecutive months and who returns to work in any capacity in a position ordinarily filled by an employee.

For the "COLA" or future benefit increase, effective July 1, 2013, if the retired member became a member of the plan prior to January 1, 2012 the member is eligible if the retired member or survivor was:

- Receiving benefits or before July 31 of the previous two years, and
- 55 years of age or older on July 1, of the current year and is receiving benefits on or before July 31 of the previous year.
- If the retired member or survivor became a member of the plan on or after January 1, 2012 the member or survivor was 55 years of age or older on July 1 of the current year and is receiving benefits.

The maximum benefit increase if the ratio of the actuarial value of assets to the actuarial accrued liability of the fund is:

- a) 60%-65% and the total return is more than 10.5%; 2% benefit increase.
- b) 65%-70% and the total return is more than 10.5%; 2.5% benefit increase.
- c) 70%-75% and the total return is more than 10.5%; 3% benefit increase.
- d) 75%-80% and the total return is more than 10.5%; 3.5% benefit increase.
- e) 80%- or more and the total return is more than 10.5%; 4% benefit increase.

If 100% of the earnings of the fund that exceed the 10.5% of the total return is insufficient to fully fund the present value of the appropriate percentage increase, the percentage increase will be limited to the percentage in which the present value can be fully funded by the benefit increase monies available. Any earnings in excess of the amount necessary to fully pay the benefit increase will not be available for future benefit increases.

Effective January 1, 2016 the legislature may enact permanent one-time increases in retirement benefits after an analysis of the effect if the increase on the plan by JLBC.

Only employees who become members before January 1, 2012 can participate in the deferred retirement option plan.

If an active member was granted leave of absence from employment and returns to work with the same employer the member may receive up to sixty months of credited service for retirement purposes if they have at least ten years of credited service.

The classification of the offense, making a false statement regarding any record of the plan with the intent to defraud the plan is increased from a Class 6 to a Class 5 Felony.

Contains a severability clause.

[Statute Impacts:](#)

Statutes amended: A.R.S. §§ 38-711, 38-727, 38-743, 38-744, 38-745, 38-758, 38-766, 38-766.01, 38-801, 38-804, 38-805, 38-806, 38-807, 38-808, 38-810, 38-816, 38-820, 38-842 AND 38-843, 38-844.02, 38-844.03, 38-844.05, 38-844.06, 38-845, 38-846.01, 38-846.02, 38-849 as Amended by Laws 2010, Chapter 118, Section 10, 38-853.01, 38-858, 38-881 as Amended by Laws 2010, Chapter 200, Section 53; 38-884, 38-885, 38-886.01, 38-891, 38-907, 38-909, 38-911, 38-912

Statutes enacted: A.R.S. §§ 13-713, 38-766.02, 38-804.01, 38-810.04, 38-818.01, 38-818.02, 38-843.05, 38-846.04, 38-856.02, 38-856.03, 38-884.01, 38-891.01, 38-905.02, 38-905.03

Statutes repealed: A.R.S. §§ 38-728, 38-849 as Amended by Laws 2010, Chapter 200, Section 45, 38-881, as Amended by Laws 2010, Chapter 200, Section 54, Laws 2005, Chapter 324, Section 2

Court Impact:

Makes multiple amendments to the Arizona State Retirement System; court administration and human resources departments should review pre-employment materials and benefits manuals for conforming changes.

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