

ADMINISTRATION AND GENERAL

Chapter Number	Description
SR 1001 Go to full text	SALARIES OF ELECTIVE STATE OFFICERS The Governor's recommendations for salary increases for certain elected state officials, including judges, is disapproved by the Senate, pursuant to § 41-1904. The Governor had recommended increases for judges of 3 percent, as opposed to the original 8.75 percent increase originally unanimously proposed by the Commission on Salaries for Elective State Officers to take effect in January 2002. As an example of the effect of this disapproval, under the Governor's recommendations the salary a Superior Court Judge would have increased to \$124,373 from \$120,750. Other judicial positions involved are the Supreme Court Chief Justice, Supreme Court Associate Justices and Court of Appeals Judges. Because the salary of the Clerks of the Superior Court are not paid by the state, the Senate exempted these salaries from the disapproval resolution. Consequently, in January 2003, the salaries of the Superior Court Clerks in Maricopa and Pima counties will increase to \$67,800 from \$60,000 and the salaries of Superior Court Clerks in the remaining 13 counties will be raised to \$56,500 from \$50,000.
CHAPTER 4 HB 2099 Go to full text	CONSTABLE SALARIES & ETHICS In precincts having an average of no more than 100 civil cases on file over the four previous years, the annual salary of a constable is capped at \$15,000. The record of work related activities currently required to be maintained by constables is now termed a "log" and the contents are expanded. Copies of the log must be filed monthly (the record previously was filed annually) with the clerk of the justice court and the clerk of the board of supervisors. Within six months after election, constables must attend mandatory training approved by the Arizona Peace Officer Standards and Training Board, covering topics such as civil and criminal process, conflict resolution and firearm safety. Thereafter, constables must annually attend a minimum of eight hours of additional training, with certificates of training completion forwarded to the clerk of the justice court and the clerk of the board of supervisors within 30 days. A Constable Ethics Committee (Committee) is created by new § 22-136 to hear and investigate written complaints involving a constable's ethical or personal conduct and to take responsive action. Among the 10 members are one Superior Court judge and one justice of the peace, each appointed by the Chief Justice. The chair of the Commission on Judicial Conduct (or that person's designee) is the chair of the Committee and the Commission is charged with providing administrative support.
CHAPTER 10 SB 1144 Go to full text	HEALTH PROFESSIONALS The definitions of "health care professional" in the insurance law (Title 20, Chapter 21) and "health professions" in the professions and occupations law (Title 32, Chapter 31) are updated to include behavioral health professionals, occupational therapists, respiratory care practitioners, acupuncturists and athletic

	trainers.
CHAPTER 20 SB 1064 Go to full text	BEHAVIORAL HEALTH LICENSING The authority to prescribe and enforce rules for public and private behavioral health treatment facilities for persons impaired by alcoholism is transferred to the Department of Health Services from the department's Division of Behavioral Health.
CHAPTER 25 SB 1061 Go to full text	BEDDING The public health and safety law on this topic is substantially amended, resulting in changes to the violations that constitute a misdemeanor offense under § 36-796.08. Authority for the Department of Health Services (DHS) to administer and enforce statutes on clean bedding is repealed. The requirement for a bedding manufacturer's registration or license number to appear on bedding applies only if the manufacturer is registered or licensed in another state. The requirement for treating and cleaning second-hand bedding before selling is expanded to require disinfecting. Makers and sanitizers must inspect every component of bedding before sale.
CHAPTER 46 HB 2287 Go to full text	NONCONSENSUAL LIENS This law restores language deleted in 2000, again making nonconsensual liens invalid even though accepted for filing with the county recorder. In these instances, the lien is conclusively presumed invalid when recorded and the recording officer is required to accept for recording a notice of invalid lien signed and submitted by the Attorney General or a county attorney. The invalid-lien notice must be mailed to the creditor and the person who recorded the lien. (A conforming amendment to § 47-9528 in the secured transactions chapter of the Uniform Commercial Code is made retroactive to July 1, 2000).
CHAPTER 47 HB 2379 Go to full text	DISABLED ADULTS Unless a student has been declared legally incompetent, when a student with a disability reaches the age of 18, rights afforded to parents under federal and state law transfer to the student. Students between the ages of 18 and 22 with disabilities, who have not been declared incompetent and who manifest the capacity for informed consent, may delegate rights back to a parent or to a third party. Criteria are listed for a delegation of right to make educational decisions, which may be in writing, by audio or video means or in any other alternative format necessitated by the pupil's disability.
CHAPTER 60 SB 1148 Go to full text	BEHAVIORAL HEALTH SERVICES Persons eligible for behavioral health services may appeal the denial, reduction, termination or suspension of a Title XIX behavioral health service directly to the Arizona Health Care Cost Containment System (AHCCCS) for an expedited hearing pursuant to rules adopted by the AHCCCS director. Current law provides that the Department of Health Services (DHS) must require all Regional Behavioral Health Authorities (RBHAs) to establish a grievance and appeals process for recipients of behavioral health services and that RBHAs, as well as service providers and service recipients who have already exhausted the RHBA process, may then appeal through the DHS grievance and appeal process.

<p>CHAPTER 62 SB 1232 Go to full text</p>	<p>ELECTED OFFICIALS RETIREMENT A retired Elected Officials Retirement Plan (EORP) member who is appointed to the same office from which the member retired may receive a pension. Under current law, if a retired EORP member is reelected to the same office from which the member retired, pension benefits stop until the official again ceases to be an elected official. If a retired member is elected to a different office from which the member retired, benefits do not stop, however, credited service and contributions do not resume. Retroactive to August 30, 1999.</p>
<p>CHAPTER 68 HB 2050 Go to full text</p>	<p>POST-RETIREMENT RETURN TO WORK The apparent limitation that a retired Arizona State Retirement System member may return to work without sacrificing retirement benefits only if returning to work as a teacher is clarified to state that if returning to work as a teacher, it must be to work as a certificated teacher. Previously existing conditions continue to apply (e.g., the retired member must have reached normal retirement age and terminated the employment at least 12 months prior to beginning employment).</p>
<p>CHAPTER 84 SB 1140 Go to full text</p>	<p>AHCCCS BENEFITS IN ADOPTION CASES The Arizona Health Care Cost Containment System (AHCCCS) administration may receive confidential adoption information to determine whether an adopted child should be terminated from the system. Provisions for AHCCCS to seek reimbursement for prenatal and delivery care for children placed in adoptive families, and for disclosure of confidential adoption information for the purpose of pursuing such insurance reimbursements, are eliminated, as is the felony criminal penalty imposed on the breach of confidentiality requirements.</p>
<p>CHAPTER 93 HB 2166 Go to full text</p>	<p>STATE EMPLOYEE TRAVEL Changes are made to various statutes regarding state employees traveling outside the state on official business, such as allowing delegation of authority to approve such travel to agency heads; eliminating language limiting out-of-state travel to 100 miles from the Arizona border; requiring receipts to be provided for reimbursement of transportation by train; clarifying that local public transportation receipts are not required for reimbursement; and, deleting certain references to "per diem" and substituting the term "reimbursement" for "allowance."</p>
<p>CHAPTER 106 HB 2047 Go to full text</p>	<p>ELECTRONIC DOCUMENT FILING Statutes pertaining to registration and protection of trademarks, service marks and trade names, and to filing of limited partnership certificates, are amended to allow electronic filing with the Secretary of State. The Secretary of State is permitted to adopt rules requiring that a written or printed copy of a document be submitted as a prerequisite to electronic filing. Civil and criminal statutes applicable to the filing of paper documents apply equally to electronic filings. The time period for filing an application to renewal of a trade or service mark may now be filed within six, rather than three, months of the mark's expiration date.</p>
<p>CHAPTER 111</p>	<p>CHILD CARE ADMINISTRATION A Child Care Home Provider Registry (CCHPR) is established within the Child</p>

<p>HB 2185 Go to full text</p>	<p>Care Resources and Referral System (CCRRS) administered by the Department of Economic Security, to provide families with information about registered in-home child care providers. To voluntarily be placed on the CCRRS, a child care home provider must satisfy registration criteria, among them obtaining a fingerprint clearance card, clearing a criminal records check, certifying on prescribed forms that there is no pending trial on or conviction of listed criminal offenses and fulfilling prescribed conditions, such as enclosing a pool and maintaining currency in CPR and first aid training. The CCHPR must include a complaint tracking system and rules for removing or excluding providers. Effective April 1, 2002.</p>
<p>CHAPTER 123 HB 2111 Go to full text</p>	<p>TRANSFER OF RETIREMENT CREDITS Inactive members (as newly defined in § 38-921) of four state retirement systems (including the Arizona State Retirement System and the Elected Officials' Retirement Plan) are permitted to transfer retirement service credits from one system or plan to a former system. Current law only allows a "contributing" member of a state retirement system to transfer service credits to a current plan.</p>
<p>CHAPTER 132 HB 2444 Go to full text</p>	<p>PRIVATE INVESTIGATORS Persons or entities performing duties pursuant to statute that are certified or registered by the Supreme Court (currently private fiduciaries and confidential intermediaries) are exempted from state regulation as private investigators. The legislation was primarily intended to and does exempt so-called mystery shoppers.</p>
<p>CHAPTER 136 SB 1117 Go to full text</p>	<p>STATE RETIREMENT OMNIBUS Various changes are made to the Arizona State Retirement System, including new definitions and provisions regarding eligibility options, survivor benefits, optional forms of retirement benefits, reinstatement and service credit purchase, group health accident coverage, premium benefits for retired and disabled members, and employer and member contributions.</p>
<p>CHAPTER 146 HB 2061 Go to full text</p>	<p>UNCLAIMED VICTIM RESTITUTION MONIES The Department of Revenue must deposit monies from unclaimed victim restitution payments in the Victim Compensation and Assistance Fund to support programs that compensate and assist victims of crime. The victims' rights program plan is expanded to provide for disbursement of fund monies for training on the provision of victims' rights services. Supplemental fund monies appropriated to the Attorney General to expand victims' rights training and to expand reporting of victims' feedback on provided services must be expended according to a plan and procedures adopted by the Attorney General. The plan must provide for expanding delivery and improving the quality of mandated services to victims of crime by law enforcement, prosecutorial and correctional agencies and courts. Retroactive to January 1, 2001.</p>
<p>CHAPTER 169 HB 2258</p>	<p>ELECTIONS Various changes are made to the state's election laws. Among them are clarification of circumstances under which candidates for general and primary</p>

<p>Go to full text</p>	<p>elections are prohibited from filing nomination papers as a write-in candidate; addition of language to early ballot reporting requirements that prohibits partial or complete tallies of the early election board from being released before all precincts have reported or one hour after the polls close, whichever is first; permission for an election officer to use an alternative format for mailing a sample ballot to a voter whose party is not entitled to continued representation on the ballot; allowance of an election official to count early ballots only after confirming election equipment logic and accuracy with the Secretary of State; and, substitution of a candidate's actual address in lieu of a residential or mailing address in several statutes.</p>
<p>CHAPTER 188 HB 2134 Go to full text</p>	<p>CREDIT CARD TRANSACTIONS For credit card receipts that are printed electronically (as opposed to recording the credit card number by handwriting or by an imprint or copy of the credit card) not more than the last five digits of the card number nor the expiration date of the credit card may be printed on receipts. The expressed intent is to provide some protection for consumers from unscrupulous persons who would fraudulently use the credit card accounts of others by stealing the credit card itself or by obtaining the necessary information to charge the purchase of goods and services. Violations are considered unlawful acts or practices under applicable consumer fraud statutes, subject to investigation by the Attorney General. Effective July 1, 2002 for any person who begins accepting credit cards for goods or services on or after July 1, 2002; and effective July 1, 2004 for any person who began accepting credit cards before July, 2002.</p>
<p>CHAPTER 195 HB 2484 Go to full text</p>	<p>BEHAVIORAL HEALTH SYSTEM PERFORMANCE The Auditor General is mandated to conduct a survey of the behavioral health system to identify duplicative and outdated legislative and judicial reporting requirements and recommend ways that the reporting requirements can be streamlined into a more meaningful format. The study is to be completed on or before November 15, 2001, with a report of findings submitted before December 15, 2001.</p>
<p>CHAPTER 216 SB 1527 Go to full text</p>	<p>PUBLIC RECORDS Certain state university records, such as intellectual property, donated historical materials, and names and information concerning donors or potential donors to a university, are exempted from public records laws.</p>
<p>CHAPTER 223 HB 2001 Go to full text</p>	<p>NEWBORN SAFE HAVEN A person is not guilty of child abuse solely for leaving an unharmed newborn infant with a safe haven provider, defined in the statute to include an on-duty fire fighter or emergency medical technician and a hospital or outpatient treatment center staff member. "Newborn infant" means an infant who is seventy-two hours old or younger. If a person or agent delivers such an infant, a safe haven provider must take custody if both the parent did not express an intent to return for the newborn infant and the safe haven provider reasonably believes that the child is a newborn infant. The parent may remain anonymous and the provider is not liable for civil or other damages if acting in good faith without gross</p>

	negligence.
CHAPTER 224 HB 2244 Go to full text	PRIVATE FIDUCIARIES Financial institutions are no longer subject to the requirement under § 14-5651 to be registered with the Supreme Court as a prerequisite to appointment by the Superior Court as a private fiduciary. The definition of "private fiduciary" is amended accordingly to remove persons employed by a financial institution who supervise or make substantive decisions about the administration of a decedent's estate.
CHAPTER 236 HB 2631 Go to full text	STATE EMPLOYEE PAY Passed as part of a general budget appropriation bill, for fiscal year 2002-2003 monies are allocated to each state agency or department (including the Judicial Department) to increase the annual salary level of each employee by the greater of \$1,500 or five per cent, effective April 1, 2002. The \$1,500 minimum applies to less than full-time employees on a prorated basis. For fiscal year 2002-2003, additional monies are allocated to increase the annual salary levels by the same amount or percentage above the fiscal year 2001-2002 base, effective April 1, 2003.
CHAPTER 247 HB 2262 Go to full text	INCENTIVE PROGRAMS FOR STATE EMPLOYEES The Director of the Department of Administration may establish a performance-based incentives program to promote efficiency and effectiveness of state government by providing a form of bonus-type incentive pay to state employees based on evaluations and accomplishing goals. A performance-based appraisal system is to be developed, based on goals and objectives identified and approved by employees, supervisors, and agency heads. Financing may be provided through excess vacancy savings and other appropriated sources. A Performance Based Incentives Program Oversight Committee also is established. The performance-based incentives pilot program established in 1993 for continuation through 2005 is repealed.
CHAPTER 257 SB 1331 Go to full text	ORDINANCE ENFORCEMENT A city or town that classifies ordinance violations (e.g., noise or zoning ordinances) as civil offenses must establish procedures to hear and determine violations. The law describes typical elements the procedures may include, among them are filing and service of a complaint, imposition of civil penalties, filing of criminal charges for failure to comply and judicial review of hearing officer decisions under § 12-124. The change does not apply retroactively if a political subdivision has existing procedures in effect.
CHAPTER 269 HB 2043 Go to full text	STATE AGENCY WEB SITES A web site (meaning an owned, operated or funded web site connected to the Internet, including web sites accessed through the "Arizona@yourservice" portal) of a state agency or department, including the Judicial Department, must contain a privacy policy statement that, at a minimum, describes the agency's information practices with regard to: services the site provides; the information the agency obtains from individuals on line; a person's option to choose to proceed with the transaction and any available alternatives; how the agency uses

the information; whether and under what circumstances information obtained is disclosed to other entities or persons; whether other entities or persons are collecting information through the agency web site; and, a general description of the security measures in place to protect a person's information without compromising the integrity of the security measures.

CHAPTER 280 **DEFINED CONTRIBUTION RETIREMENT PLAN**

SB 1100
[Go to full text](#)

This act terminates the optional defined contribution retirement plan option for state term-limited elected officials and exempt state officers or employees. The optional tax deferred annuity and deferred compensation program for state elected officials and employees of the legislature also is repealed. Persons subject to the option must continue to participate in accordance with the irrevocable election made at the time of selection.

A new supplemental defined contribution plan is authorized for all contributing members of eligible groups, including the Arizona State Retirement System and the Elected Officials Retirement Plan. A participant must contribute at least one percent of gross salary and irrevocably contribute for at least one year. Contributions may be increased or decreased annually in increments of one percent to the maximum allowed by law (25 percent total contributions). Contributions and earnings on contributions are immediately vested according to a fixed schedule. Any supplemental plan established by the board, employer or fund manager must be a qualified governmental plan under section 401(a) of the Internal Revenue Code and tax-exempt under section 501 of the Code. See also Chapter 380.

CHAPTER 282 **EORP TAX EQUITY BENEFIT**

SB 1149
[Go to full text](#)

A member of the Elected Officials' Retirement Plan who was employed by a participating employer before September 15, 1989, and retires on or after November 1, 2000, but before November 1, 2001, is entitled to receive a tax equity benefit allowance consisting of a permanent increase of two per cent of the member's base benefit retroactive to the day of retirement. The cost of the benefit increase is payable from the assets of and is added to the unfunded liability of the plan. Repealed January 1, 2002.

CHAPTER 288 **PUBLIC EMPLOYEE HEALTH INSURANCE**

SB 1286
[Go to full text](#)

The statutory expenditure limits on state health and accident coverage is increased from \$215 to \$500 for individual coverage and from \$460 to \$1,200 for family coverage.

CHAPTER 301 **VOTER REGISTRATION CONFIDENTIALITY**

HB 2257
[Go to full text](#)

The confidentiality of residential addresses, telephone numbers and voting precinct numbers in voter records afforded to judicial officers is extended to voters who reside at the same address as the protected justice, judge or commissioner. Prosecutors, public defenders and persons protected under an order of protection or injunction against harassment also are covered. The time for the county recorder to seal the voter registration record after receipt of a court order is reduced to 120 from 150 days.

<p>CHAPTER 308 HB 2535 Go to full text</p>	<p>DEFIBRILLATORS IN GOVERNMENT BUILDINGS The Department of Administration receives \$50,000 from the Emergency Medical Services Operating Fund in each of the fiscal years 2001-2002 and 2002-2003 for placement of automated external defibrillators in state and local government buildings, with special consideration to government buildings accessible to the public.</p>
<p>CHAPTER 325 HB 2052 Go to full text</p>	<p>MOTOR VEHICLE TITLE Laws allowing the owner of a motor vehicle to hold a certificate of title while there is a lien (or encumbrance) on the title are repealed. Arizona joins the majority of other states in which the original certificate of a title is delivered to the lien holder for release to a subsequent lien holder or the owner upon satisfaction of the lien in full. Civil penalties are provided for the failure to release the lien within specified days of satisfaction. When the vehicle owner delivers the title to the Motor Vehicle Division, the lien is marked as satisfied in the records and a clear title is issued to the owner. Beginning January 1, 2002, the time within which a person is required to apply for a certificate of title is reduced from 30 days to within 15 days of the purchase or transfer of the vehicle. The Department of Transportation is directed to establish an electronic system for the voluntary recording of vehicle title information for newly issued, transferred and corrected certificates of title, including perfection and release of security interests.</p>
<p>CHAPTER 328 HB 2117 Go to full text</p>	<p>HEALTH CARE SERVICES ORGANIZATION INSOLVENCY As soon as practicable after commencement of a delinquency proceeding against a domestic health care services organization (HCSO), the receiver must submit to the court a report regarding the adequacy of the plan for the risk of insolvency and the report must be updated with reasonable frequency as directed by the court. In addition to or instead of the open enrollment procedure required of carriers of an insolvent HCSO, the court may approve an alternate plan by the receiver to offer successor coverage to all or some of the enrollees if the court finds that the alternative plan is fair and in the best interests of the estate. The court may order that an offer of successor coverage terminates the obligations of an insolvent HCSO to an enrollee regardless of whether the enrollee accepts the offer. An HCSO now is required to include in its contracts with providers a statement requiring providers to continue services to enrollees, at the same rates and subject to the same terms and conditions initially established, for the duration of the period following a declaration of insolvency until the earliest of prescribed conditions. Included among the conditions are determinations by the court that the insolvent organization is unable to pay contract providers' claims for covered services that were rendered after the health care services organization is declared insolvent, that continuation of the contract would constitute undue hardship to the provider or that the HCSO has satisfied its obligations to all enrollees under its health care plans.</p>
<p>CHAPTER 350 SB 1281</p>	<p>FINGERPRINT CLEARANCE CARDS The current procedure requiring the owner, employee or a contracted person of a residential care institution, nursing care institution or home health agency to</p>

[Go to full text](#)

submit a full set of fingerprints for a criminal history record check and receive a letter of approval is eliminated. Persons working with vulnerable adults are now required to obtain a class 1 or 2 fingerprint clearance card from the Department of Public Safety. The list of offenses that prohibit a person from obtaining a fingerprint identification card is amended and is placed in § 41-1758.03, with a cross reference to this statute substituted in various other places (including § 8-322 governing personnel providing services directly to juveniles) where complete lists formerly appeared. Conviction of or awaiting trial for *attempting to commit* any of the offenses listed now prohibits a person from receiving a fingerprint clearance card. **Effective May 7, 2001.**

CHAPTER STATE CREDIT CARD USE

354
HB 2337
[Go to full text](#)

Any state agency that contracts with a commercial enterprise for the electronic processing of transactions on behalf of the agency may allow the enterprise to charge a convenience fee for use of a credit card (as defined in § 35-101). This does not apply to payments for occupational, business or motor vehicle fees and licensing. The agency may deduct the convenience fee before depositing the net amount in the appropriate state fund. An agency doing 30 percent or more of its transactions by credit card must report cost benefits to the Joint Legislative Budget Committee within 30 days of reaching that transaction level.

CHAPTER RETIREMENT BENEFITS

380
SB 1295
[Go to full text](#)

This law addresses a number of areas of interest to members of the Arizona State Retirement System (ASRS).

Normal retirement benefits for ASRS members are calculated by multiplying a percentage (currently 2.1) of the average monthly salary times the years of credited service. This law adopts a graduated retirement multiplier as follows: 2.1 percent if the member has less than 20 years of credited service; 2.15 percent if the member has at least 20 years of credited service but less than 25 years; 2.2 percent if the member has at least 25 years of credited service but less than 30 years; and, 2.3 percent if the member has at least 30 years of credited service.

Beginning July 1, 2002, as an optional retirement benefit, a retired member may receive a lump sum payment equal to not more than 36 months of the member's retirement benefits under the option elected. The member's benefit will be actuarially reduced based on the lump sum payment, however future benefit increases (COLAs) are not impacted. Monies available for COLAs will earn interest at a rate of eight percent per year, with interest used to pay enhanced COLAs for retired members with more than 10 years of credited service, according to a formula set forth in § 38-767(G).

The act terminates the optional defined contribution retirement plan option for state term-limited elected officials and exempt state officers or employees. The optional tax deferred annuity and deferred compensation program for state elected officials and employees of the legislature also is repealed. Persons subject to the option must continue to participate in accordance with the

irrevocable election made at the time of selection.

A new supplemental defined contribution plan is authorized for all contributing members of eligible groups, including the Arizona State Retirement System and the Elected Officials Retirement Plan. A participant must contribute at least one percent of gross salary and irrevocably contribute for at least one year. Contributions may be increased or decreased annually in increments of one percent up to the maximum allowed by law (25 percent total contributions). Contributions and earnings contributions are immediately vested according to a fixed schedule. Any supplemental plan established by the board, employer or fund manager must be a qualified governmental plan under section 401(a) of the Internal Revenue Code and tax-exempt under section 501 of the Code. See also Chapter 280.

To encourage active members to continue to work beyond normal retirement age, employers may offer a termination option that allows a member to enter into an agreement to work up to 36 months after the effective date of the agreement and purchase up to 36 months of credited service by contributing to a supplemental defined contribution plan created in the law as §§ 38-951 et seq.

CHAPTER **ARCHAIC LAW REPEAL**

382
HB 2016
[Go to full text](#)
Statutes forbidding "the infamous crime against nature" (sodomy), living in a state of open and notorious cohabitation or adultery and lewd and lascivious acts are repealed. Adultery itself remains a crime. Conforming changes removing references to these laws are made to other statutes, including those regarding the marital communication privilege, DNA testing and fingerprint clearance cards. The state income tax code is amended to allow a person who is a part of the taxpayer's household to be claimed as a dependent even if the relationship between the person and the taxpayer violates local law. **The tax code provision only is retroactive to January 1, 2001.**

CHAPTER **RETIREE HEALTH INSURANCE SUBSIDIES**

383
HB 2164
[Go to full text](#)
State subsidies for health insurance premiums of retired members of the Arizona State Retirement System and Elected Officials' Retirement Plan are increased, according to the type of coverage selected (single or family) and the availability of Medicare. **Effective July 1, 2001.**

CIVIL

Chapter Number

Description

CHAPTER **REMOVAL OF COURT FEE RECEIVABLES**

5
HB 2275
[Go to full text](#)
The clerk of the Superior Court may remove from the clerk's accounting system all or part of any debt due for unpaid fees in civil cases prescribed by § 12-284(A) if the clerk does all of the following (1) bills the debtor at least four times, (2) submits the debt for collection to a licensed collection agency and waits at least one year while the agency attempts collection, (3) reports the debt to a credit bureau, (4) notifies the Department of Revenue under the liability set-

	<p>off program, (5) sends a written report of debts proposed to be removed to the administrator of the fund or account to which monies otherwise would be distributed, and (6) waits 30 days from the date the report is sent and does not receive an objection from the administrator.</p>
<p>CHAPTER 6 HB 2276 Go to full text</p>	<p>ADULT ADOPTION The statute on adult adoption (§ 8-132) is transferred from Title 8 (children) to Title 14 (estates & protective proceedings) and is renumbered as § 14-8101. Conforming changes are made to definitional, jurisdictional and other statutes in Title 8.</p>
<p>CHAPTER 8 SB 1007 Go to full text</p>	<p>COURT TIME PAYMENT FEE The \$20 fee presently charged under § 12-116 to persons who pay a court-ordered penalty, fine or sanction on a time basis is continued in effect until December 31, 2003. Without this legislation, the fee would have reverted to \$12 at the end of 2001.</p>
<p>CHAPTER 41 HB 2085 Go to full text</p>	<p>DEFERRAL AND WAIVER OF COURT FEES Clarification is made to 1997 legislation that consolidated statutes regarding deferral and waiver of court fees and costs. The standard for waiver is grammatically corrected ("permanently unable to pay") and defined to mean that income and liquid assets are insufficient or barely sufficient to meet the daily essentials of life and are unlikely to change in the foreseeable future. Courts have discretion to enter consent judgments for the failure to pay and the circumstances for determining whether a consent judgment may be entered are conformed to current court procedures. Fees for service of publication and of court reporters employed by the court must be reimbursed if deferred and paid by the county. A deferral is no longer prohibited in class actions and actions by felons not in state correctional institutions.</p>
<p>CHAPTER 44 HB 2279 Go to full text</p>	<p>PROBATE LAW CONFORMANCE Arizona's probate law is amended to be more consistent with the Uniform Probate Act. The changes do not affect the rights of persons under a domestic relations agreement or order that took effect prior to the August 9, 2001 effective date. Language regarding intestate succession through an adopted child is clarified. The statutory homestead allowance, the statutory exempt property allowance and the statutory family allowance may be claimed against nonprobate transfers if the estate is insufficient. For purposes of the homestead allowance, a survivorship interest in a joint tenancy of real estate is considered a nonprobate transfer. If there is no surviving spouse the exempt property allowance will only be available to minor and dependent children of the decedent. The statute describing the effect of distributions to heirs (§ 14-2711) now provides that property passes to the decedent's beneficiaries in the proportion allowed by the laws of intestate succession. Language making the rules of civil procedure applicable to proceedings affecting devolution and administration of probate is removed. The time within which an applicant for informal probate must send written notice of the application to heirs and devisees is increased from 10 to 30</p>

	<p>days. A procedure is established for collecting statutory allowances and debts of a decedent from nonprobate transfers.</p> <p>New statutes are enacted to prioritize payment of claims from nonprobate transfers (§ 14-6102) and setting forth procedures for giving creditors notice of death of the settlor of a nontestamentary trust (§ 14-6103). The law repeals § 14-6215 relating to rights of creditors and obligations of surviving parties or beneficiaries and § 14-6309 relating to nontestamentary transfers on death.</p>
<p>CHAPTER 50 HB 2447 Go to full text</p>	<p>ANTITRUST EXEMPTION FOR TELECOMMUNICATION SERVICES</p> <p>The Uniform State Antitrust Act exemption covering noncompetitive utilities is specifically denied to providers of competitive telecommunications services. A disclaimer is included, indicating this section does not affect any private property rights. The stated purpose is to confirm that competitive telecommunications service corporations shall no longer be exempt from the state's antitrust laws simply because they have been granted a certificate of convenience and necessity and the conduct has been approved by a state or federal law or agency. The law is not intended to address the legality of specific contracts between providers and owners or managers of large buildings or apartment complexes.</p>
<p>CHAPTER 72 HB 2286 Go to full text</p>	<p>JURY FEE COLLECTION</p> <p>The three-year statute of limitation on the time within which a judgment for jury fees may be collected is removed. An action to collect jury fees now may be commenced any time after the judgment fixing the fee is recorded, and the judgment does not expire until paid in full.</p>
<p>CHAPTER 102 HB 2025 Go to full text</p>	<p>UNIFORM COMMERCIAL CODE</p> <p>Numerous technical changes are made to the Uniform Commercial Code (UCC) in Title 47. In 1999 (Laws 1999, Chapter 203), the legislature rewrote and modified Article 9 of the UCC based on model legislation crafted by the National Conference of Commissioners on Uniform State Laws (NCCUSL). The revision, which becomes effective July 1, 2001, provides a statutory framework governing secured transactions involving the grant of credit secured by personal property. Since enactment, the NCCUSL has made further revisions to the secured transaction chapter, which are incorporated into this year's legislation.</p> <p>Among the changes are clarifications to definitions; expansion of the definition of chattel paper to include security interest in specific goods and license of software used in the goods; exemption of transfers, grants, pledges or similar actions by Arizona state agencies from UCC provisions on secured transactions; addition of a new section on secured transactions for amending pre-effective-date financing statements; addition of a new provision allowing secured parties to change addresses or to assign rights to secured items on multiple filings by submitting one filing with references to the numbers for the documents to be updated. Retroactive to July 1, 2001.</p>
<p>CHAPTER</p>	<p>BENEFICIARY DEEDS</p>

<p>112 HB 2280 Go to full text</p>	<p>A new section (§ 33-405) is added to the laws of deeds and conveyances creating a "beneficiary deed" that on the death of the owner conveys an interest in real property to a grantee designated by the owner if the deed expressly states that the deed is not to take effect until the death of the owner. A grantee may be a multiple grantee or a successor grantee, or both, and a multiple grantee may be any form of tenancy otherwise valid under Arizona law. A beneficiary deed is valid only if properly recorded and may be revoked at any time, if the revocation is recorded. A sample deed form is set forth in the statute.</p>
<p>CHAPTER 146 HB 2061 Go to full text</p>	<p>UNCLAIMED VICTIM RESTITUTION MONIES The Department of Revenue must deposit monies from unclaimed victim restitution payments in the Victim Compensation and Assistance Fund to support programs that compensate and assist victims of crime. The victims' rights program plan is expanded to provide for disbursement of fund monies for training on the provision of victims' rights services. Supplemental fund monies appropriated to the Attorney General to expand victims' rights training and to expand reporting of victims' feedback on provided services must be expended according to a plan and procedures adopted by the Attorney General. The plan must provide for expanding delivery and improving the quality of mandated services to victims of crime by law enforcement, prosecutorial and correctional agencies and courts. Retroactive to January 1, 2001.</p>
<p>CHAPTER 149 HB 2481 Go to full text</p>	<p>CROP DESTRUCTION PENALTY A person who knowingly damages, destroys or removes any legal crop or crop product that is grown for commercial purposes or for testing or research purposes in the context of a product development program, is liable for specified penalties, including litigation costs, defined as court costs, attorney fees and expert witness fees.</p>
<p>CHAPTER 150 SB 1332 Go to full text</p>	<p>EMINENT DOMAIN STUDY COMMITTEE A legislative study committee on eminent domain is established to review and make recommendations regarding eminent domain procedural and compensation issues, including how Arizona laws compare to other western states, whether to condition the filing of a condemnation action on a prior offer of estimated value with estimates, whether and in what manner to compensate various property interests and other related issues.</p>
<p>CHAPTER 166 SB 1275 Go to full text</p>	<p>NON-NAVIGABLE STREAMS Various statutes relating to state claims to streambeds are amended or repealed in response to the February, 2001, Arizona Court of Appeals determination in <i>Wildlife v. Phelps Dodge</i> that legislation enacted in 1998 disclaiming the state's right, title or interest based on navigability and the equal footing doctrine to the bedlands of the Agua Fria, New, Hassayampa, Verde and lower Salt Rivers, as well as Skunk Creek, violates the public trust doctrine and the gift clause of the Arizona Constitution. Among the provisions are: authorizing the Arizona Navigable Stream Adjudication Commission (ANSAC) to determine (rather than providing findings and recommendations to the legislature for determination) the</p>

navigability of a watercourse; substituting preponderance of the evidence for clear and convincing evidence as the level of proof necessary to establish that a watercourse was navigable at the time of statehood; deleting the presumptive standards and criteria currently used by ANSAC to recommend navigability or nonnavigability; and, changing the definition of "bed" of a watercourse to mean the land lying between the ordinary high watermarks.

The law establishes a process for judicial review in Superior Court in the county in which the affected property is located. (Review may be sought by the State Land Commissioner or any person aggrieved by ANSAC's determination.) Separate actions involving the same watercourse may be consolidated, either at the request of any party to the action or on the court's initiative. Legal counsel may be retained by ANSAC to represent ANSAC before other state agencies and in litigation.

CHAPTER UNIFORM PRINCIPAL AND INCOME ACT

176
SB 1187
[Go to full text](#)

Arizona's Revised Uniform Principal and Income Act, regarding trust administration and distribution of the income and assets, is repealed and replaced with the most recent version of the Uniform Principal and Income Act adopted by the National Conference of Commissioners on Uniform State Laws. The enactment is intended to address the widespread use of the revocable living trust as a will substitute; change existing rules experience demonstrates are unworkable or outdated; establish new rules not provided for in earlier uniform acts, including rules that apply to financial instruments developed since 1962; and, provide a means for transitioning to investment principles of the Uniform Prudent Investor Act, adopted by Arizona in 1996. Among the numerous changes are new definitions for the terms accounting period, beneficiary, fiduciary, income, income beneficiary, income interest, mandatory income interest, net income, person, principal, remainder beneficiary, terms of a trust and trustee. A court is prohibited from changing or interfering with a fiduciary's discretion unless there is an abuse of discretion. The Act applies to every trust or decedent's estate in existence on the effective date of the article unless otherwise expressly provided in the will or terms of the trust. **Effective January 1, 2002.**

CHAPTER JOINT AND SEVERAL LIABILITY

181
SB 1408
[Go to full text](#)

A section (§ 12-2506) of Arizona's Uniform Contribution Among Tortfeasors Act is amended to provide an additional exception to the general rule that multiple tortfeasors shall not be held jointly and severally liable. The law allows the court to hold multiple defendants jointly and severally liable for an action for personal injury, property damage or wrongful death when the liability for the fault arises out of a duty created by the Federal Employer's Liability Act.

CHAPTER UNDERGROUND STORAGE TANKS

182
SB 1466
[Go to](#)

A person who undertakes corrective action for a release from an underground storage tank and prevails in a judicial proceeding taken from an appealable agency determination or contested administrative case is entitled to received

full text	attorney fees and costs.
CHAPTER 205 SB 1366 Go to full text	INSURANCE PRODUCER LICENSING A new article in the insurance law (Title 20) restricts persons from selling, soliciting or negotiating any class of insurance in the state unless licensed for that line of authority. The Director of the Department of Insurance, through the Attorney General, may bring an action to enjoin and restrain any violation of the article. Venue of the action must be in the Superior Court in Maricopa County.
CHAPTER 208 SB 1501 Go to full text	LIQUOR DISTRIBUTION FRANCHISES In any action between liquor suppliers and wholesalers for termination, cancellation or failure to renew a franchise in violation of § 44-1566, it is a complete defense to prove that the termination, cancellation or failure to renew was done in good faith and for good cause.
CHAPTER 213 SB 1175 Go to full text	PERSONAL PROPERTY EXEMPTION The fair market value exemption allowed under § 33-1125 for a motor vehicle used primarily for personal, family or household purposes of a debtor is increased to \$5,000 from \$1,000 and, for a person with a physical disability, to \$10,000 from \$4,000.
CHAPTER 224 HB 2244 Go to full text	PRIVATE FIDUCIARIES Financial institutions are no longer subject to the requirement under § 14-5651 to be registered with the Supreme Court as a prerequisite to appointment by the Superior Court as a private fiduciary. The definition of "private fiduciary" is amended accordingly to remove persons employed by a financial institution who supervise or make substantive decisions about the administration of a decedent's estate.
CHAPTER 255 SB 1084 Go to full text	DOMESTIC VIOLENCE PROTECTION ORDERS The \$5 fee for filing a petition for an order of protection or injunction against harassment is eliminated, as are fees for appeals in these cases. Statutes (§§ 12-1809 and 13-3602) are clarified to provide that when copies of protection orders and evidence of service are forwarded to the sheriff, the sheriff shall register the order.
CHAPTER 259 SB 1500 Go to full text	COMMERCIAL REAL ESTATE BROKER LIEN A new article added to the property law (Title 33) creates a lien in favor of an employing real estate broker for the amount of compensation agreed to be paid in the lease or rental of property. The lien is perfected on recording and may be enforced by a foreclosure action in the Superior Court as if the lien were a mortgage. The lien is valid for two years unless an action is brought within that time and a notice of pendency is filed within five days of commencement of the action.
CHAPTER 263 SB 1384 Go to	RELIGIOUS CLUBS IN SCHOOLS It is unlawful for any public school that offers instruction in grades seven and eight to deny equal access to, deny a fair opportunity to or discriminate against pupils who wish to conduct a meeting within a limited open forum on the basis

full text	of religious, political, philosophical or other content of speech. "Limited open forum" means an offering or opportunity provided by a school for one or more noncurriculum related groups of pupils to meet on the premises of the school during lunch periods, before the commencement of the day's regularly scheduled courses or after the conclusion of the day's regularly scheduled courses.
CHAPTER 266 SB 1254 Go to full text	TELEPHONE SOLICITORS The telephone solicitation provisions in § 44-1278 are amended to make it an unlawful practice subject to the Consumer Fraud Act for a seller to initiate any outbound call without prior permission, except Monday through Friday between 8:00 a.m. and 5:00 p.m. and Saturday between 10:00 a.m. and 4:00 p.m. local time.
CHAPTER 307 HB 2489 Go to full text	CIVIL ACTION FEES Fees chargeable in civil actions by sheriffs and constables under § 11-445 are increased by 60 percent. (The last two increases in these amounts occurred in 1988 and in 1984.) Current limits on the amount a litigant may recover for fees paid to a private process server, sheriff or constable are eliminated from § 11-445.

CRIMINAL

Chapter Number	Description
CHAPTER 2 HB 2274 Go to full text	BAIL BONDS The sheriff or keeper of the jail in the county in which criminal charges are filed or in which the person charged is jailed must accept the bond from any person authorized to post bonds in that county.
CHAPTER 8 SB 1007 Go to full text	COURT TIME PAYMENT FEE The \$20 fee presently charged under § 12-116 to persons who pay a court-ordered, penalty, fine or sanction on a time basis is continued in effect until December 31, 2003. Without this legislation, the fee would have reverted to \$12 on January 1, 2001.
CHAPTER 67 HB 2024 Go to full text	REAL ESTATE REGULATION It is a class 6 felony for a person licensed as a real estate broker to perform acts that require a license while incarcerated.
CHAPTER 92 HB 2148 Go to full text	CRIME PUBLISHING POLICY The statute (§ 13-4202) rendering void any contract with an accused person concerning the reenactment of a crime by movie, book, article, radio or television presentation is expanded to include any Internet or on-line presentation or depiction.
CHAPTER	INTERNET OBSCENITY

<p>94 HB 2289 Go to full text</p>	<p>It is a class 4 felony for any person with knowledge of the character of the item involved intentionally or knowingly to send sex-related material harmful to minors over the Internet.</p>
<p>CHAPTER 104 HB 2040 Go to full text</p>	<p>POWER PLANT AND TRANSMISSION LINE SITING COMMITTEE It is a class 2 misdemeanor for an officer or employee of the Power Plant and Transmission Line Siting Commission knowingly to divulge confidential information contained in a plan for construction of a generating plant that is filed with the commission under § 40-360.02.</p>
<p>CHAPTER 109 HB 2065 Go to full text</p>	<p>SEX OFFENDER REGISTRATION Sections of the sex offender registration and community notification statutes are updated and clarified to conform to recent additions to the sex offense statutes. "Luring a minor for sexual exploitation" is added as an offense requiring registration with a county sheriff. For any offense committed prior to September 1, 1978, having the same elements as an offense currently requiring registration, the offender is required to register with the sheriff of a county within 10 days of entering and remaining in the county. The time within which offenders must inform the sheriff of a new address is decreased from 10 days after change of address to 72 hours after moving from the address, or of a name change from 10 days to 72 hours. Changes of names or addresses must be reported in person and in writing. If mail is received at a post office box the sheriff must be notified of the location and number of the post office box. Because the community notification program did not apply to sex offenders adjudicated delinquent in juvenile court, the legislation also authorizes the court to order that a juvenile sex offender be subject to community notification and allows the court to terminate the duty of a person to register as a sex offender if the person was under 18 years of age at the time of the offense and has successfully completed probation.</p>
<p>CHAPTER 113 HB 2327 Go to full text</p>	<p>IDENTITY THEFT "Falsely alters a written instrument" is defined in § 13-2001 to include counterfeiting or washing the instrument or connecting together different parts of the whole of more than one genuine instrument. The definition of "personally identifying information" is expanded to a savings or checking account number; a credit card, charge card or debit card number; a mother's maiden name; a fingerprint; and a retinal image of an iris. The crime of taking the identity of another person is broadened to include knowingly selling or transferring personal identifying information of another person.</p>
<p>CHAPTER 124 HB 2083 Go to full text</p>	<p>CONFIDENTIAL INFORMATION OF PROSECUTORS If a prosecutor has requested confidentiality, it is a class 6 felony for any state or local government employee knowingly to release personal information such as residential addresses or telephone numbers of any prosecutor (formerly only a peace officer) contained in the records maintained by a county recorder, assessor and treasurer, or in motor vehicle records. The definition of aggravated assault is expanded to include an assault knowingly committed against a prosecutor.</p>

<p>CHAPTER 145 HB 2011 Go to full text</p>	<p>NITROUS OXIDE It is unlawful to sell, give or deliver to a person under 18 years of age a container exclusively containing nitrous oxide, unless the person under 18 is delivering or accepting in that person's capacity as an employee. Violation is a class 5 felony, unless the court enters judgment as a class 1 misdemeanor or places the person on probation and refrains from designating the offense as a felony or misdemeanor until the probation is terminated. An operator or employee of a commercial establishment that has reason to question the age of the person attempting to procure nitrous oxide must demand a prescribed form of identification and must retain a record or be deemed to have constructive knowledge of the purchaser's age. An underage person who misrepresents one's age to obtain nitrous oxide is guilty of a class 1 misdemeanor and of a class 3 misdemeanor for soliciting another to purchase. Conviction for misrepresenting one's age to obtain nitrous oxide by use of another person's driver license or nonoperating identification is cause for suspension of a valid license. Effective April 18, 2001.</p>
<p>CHAPTER 146 HB 2061 Go to full text</p>	<p>UNCLAIMED VICTIM RESTITUTION MONIES The Department of Revenue must deposit monies from unclaimed victim restitution payments in the Victim Compensation and Assistance Fund to support programs that compensate and assist victims of crime. The victims' rights program plan is expanded to provide for disbursement of fund monies for training on the provision of victims' rights services. Supplemental fund monies appropriated to the Attorney General to expand victims' rights training and to expand reporting of victims' feedback on provided services must be expended according to a plan and procedures adopted by the Attorney General. The plan must provide for expanding delivery and improving the quality of mandated services to victims of crime by law enforcement, prosecutorial and correctional agencies and courts. Retroactive to January 1, 2001.</p>
<p>CHAPTER 161 SB 1011 Go to full text</p>	<p>PUBLIC DEFENDER DUTIES The public defender may be appointed by the court to represent indigent persons in involuntary commitment hearings held pursuant to Title 36, Chapter 37 (sexually violent persons) when the board of supervisors has advised the presiding judge of the county that the public defender is authorized to accept the appointment. Effective October 1, 2001.</p>
<p>CHAPTER 175 SB 1180 Go to full text</p>	<p>UNIFORM ATHLETE AGENTS ACT It is a class 1 misdemeanor for an "athlete agent" to engage in conduct proscribed under § 15-1774 of the newly-enacted Uniform Athlete Agents Act with the intent to induce a student athlete to enter into an agency contract authorizing an agent to negotiate or solicit a professional sports services contract or an endorsement contract on behalf of the student athlete.</p>
<p>CHAPTER 183 SB 1488 Go to</p>	<p>SEXUAL OFFENSE TIME LIMITATIONS Prosecution for violation of any class 2 felony listed in Title 13, Chapter 14 (sexual offenses) or Chapter 35.1 (sexual exploitation of children) is exempted from the seven-year statute of limitations in § 13-107 and may be commenced at</p>

full text	any time. See also Chapter 271.
CHAPTER 185 HB 2003 Go to full text	DEVELOPMENTAL DISABILITY CONFINEMENT The October 1, 2001, effective date of a 1995 law requiring the Department of Health Division of Developmental Disabilities (DDD) to construct a secure facility for persons with developmental disabilities charged with a serious felony but incompetent to stand trial is extended to Oct. 1, 2003. DDD is directed to evaluate annually the need for a secure facility for such individuals. The evaluation shall identify those persons who are incompetent to stand trial and a threat to public safety and who are not in an otherwise safe and secure setting. If at least 25 persons who meet this criteria are identified (not to include persons who also are diagnosed with a mental health illness), DDD must request funding for a secure facility. The existing requirement to build a secure facility if funding is not appropriated for that purpose in fiscal year 2002-2003 is repealed.
CHAPTER 223 HB 2001 Go to full text	NEWBORN SAFE HAVEN A person is not guilty of child abuse solely for leaving an unharmed newborn infant with a safe haven provider, defined in the statute to include an on-duty fire fighter or emergency medical technician and a hospital or outpatient treatment center staff member. "Newborn infant" means an infant who is 72 hours old or younger. If a person or agent delivers such an infant, a safe haven provider must take custody if the parent did not express an intent to return for the newborn infant and the safe haven provider reasonably believes that the child is a newborn infant. The parent may remain anonymous and the provider is not liable for civil or other damages if acting in good faith without gross negligence.
CHAPTER 241 SB 1482 Go to full text	TEACHER CONDUCT The types of convictions for which a teacher is guilty of unprofessional conduct under § 15-550 are expanded to include preparatory offenses of the crimes currently specified in that statute and crimes for which a person must register as a sex offender. The teacher's certificate must be permanently revoked upon notification of the conviction by a court of competent jurisdiction.
CHAPTER 244 SB 1060 Go to full text	STATE HOSPITAL BED CAPACITY To ensure that the Arizona State Hospital (ASH) does not exceed the maximum census, a one-year cap is placed on the number of persons ASH must accept for treatment who are committed by the court upon being found guilty except insane. Protections are included in the event ASH has no available bed. The Department of Health Services (DHS) must assume custody of a person found guilty except insane within 10 days after receiving the commitment order. If ASH has reached its licensed capacity for either or both adult male or adult female forensic programs, DHS may defer the admission for up to an additional 20 days. DHS must reimburse the county for the actual costs of each day the admission is deferred. If ASH is not able to admit the person at the conclusion of the 20-day deferral period, DHS shall notify the sentencing court, the prosecutor and the defense counsel. The prosecutor or defense counsel may request a hearing to determine the likely length of time admission will continue to be

deferred and whether any other action should be taken. On receipt of a request, a hearing must be set within 10 days. Repealed after June 30, 2002.
The two-year caps enacted in 1999 to limit the number of juveniles and persons committed for restoration of competency that ASH was obligated to accept are continued an additional year through June 30, 2002.

CHAPTER
260
SB 1551
[Go to full text](#)

RETARDATION DEFENSE IN DEATH PENALTY CASES

In a capital case, imposition of the death penalty is forbidden for any person found to be mentally retarded. Instead, the person shall be sentenced to life imprisonment for a death-eligible offense. A new section of law (§ 13-703.02) establishes a procedure and time limitations for evaluation of a defendant's intelligence quotient (IQ) and the consequences of differing determinations for all cases where the state files an intent to seek the death penalty.
When a notice of intent to seek the death penalty is filed, the court is required to appoint a prescreening psychological expert to determine the defendant's IQ. If the prescreening expert determines the defendant's IQ is higher than 75, the notice may not be dismissed on the ground of mental retardation, and the report is sealed by the court, subject to limitations. The defendant may introduce evidence of mental retardation or diminished mental capacity as a mitigating factor at any sentencing proceeding. If the prescreening expert determines the IQ is 75 or less, additional experts must be appointed, according to stated criteria, to examine the defendant to determine mental retardation and submit a written report to the court. The court then holds a hearing, in which the defendant has the burden of proving mental retardation by clear and convincing evidence. A determination by the court that the defendant has an IQ of 65 or less establishes a rebuttable presumption that the defendant has mental retardation. If mental retardation is found, the court must dismiss the intent to seek the death penalty, shall not impose a sentence of death on the defendant if the defendant is convicted of first degree murder and shall dismiss one of the attorneys appointed under Rule 6.2, unless there is good cause to retain both attorneys. Thereafter, either side may file a petition for special action with the Court of Appeals, which shall exercise jurisdiction and decide the merits of the claims raised. The new section applies prospectively only to cases in which the state files a notice of intent to seek the death penalty after the effective date of the law.

CHAPTER
271
HB 2550
[Go to full text](#)

SEXUAL OFFENSES TIME LIMITATION

Prosecution for violation of any class 2 felony listed in Title 13, Chapter 14 (sexual offenses) or Chapter 35.1 (sexual exploitation of children) is exempted from the seven-year statute of limitations in § 13-107 and may be commenced at any time. Also exempted is prosecution for any violent sexual assault pursuant to § 13-1423. See also Chapter 183.

CHAPTER
334
HB 2223
[Go to full text](#)

CRIMINAL OMNIBUS

Initially introduced to address criminal complaints, as enacted this law contains a variety of provisions gathered from other bills.
Titles 8 and 13 are amended to allow a prosecutor who charges an offense (including a juvenile offense) by complaint to attach a law enforcement officer's affidavit swearing on information and belief to the accuracy of the assertions in

lieu of making an oath before a judicial officer.

The juvenile court may not consolidate a delinquency matter with any other proceeding that does not involve delinquency unless the adjudication proceeding is not heard at the same time or in the same hearing as the other matter.

In limited jurisdiction courts, the previous requirement that a bond on appeal not exceed the maximum fine that could be imposed (plus any applicable surcharges and assessments) is eliminated.

The disparate definitions of domestic violence in § 13-3601 that resulted from the dual-enactment of laws in 2000 are reconciled, clarifying that same sex persons who reside or have resided together are among the persons protected. See also Chapter 217.

In capital cases, a process prescreening defendants for sanity or incompetence is established (§ 13-703.02). If the state files notice of intent to seek the death penalty, unless the defendant objects, the court must appoint a licensed psychologist to conduct an evaluation to determine if reasonable grounds exist to conduct another examination of the defendant's sanity or competence. If it is determined that reasonable grounds do exist, the court shall treat the prescreening evaluation as a preliminary examination under Rule 11.2(c) and proceed under Rule 11. The court must seal the prescreening report, making it available only to the defendant.

Other provisions impact various criminal law statutes. If a person raises the affirmative defense of entrapment, the court no longer is required to instruct jurors under § 13-206 that the only issue for consideration is whether the defense has been proven. When calculating a term of community service under § 13-603, it is no longer required that the term be given in increments of years or months and the sentence shall be decreased to the nearest month when fractions of time are involved. Luring a minor under the age of 15 for sexual exploitation is included within the crimes for which a presumptive ten-year sentence is imposed. Addressing the Court of Appeals' decision in *State v. Anderson*, the definition of stalking in § 13-2923 is amended to eliminate the circumstance that a reasonable person be in fear of physical injury.

Victim's rights are addressed. The definition of "victim" in § 8-382 is expanded to include any immediate family member of a person who is killed or incapacitated. Sexually violent persons are added to the list of offenders for which a mental health facility must notify the victim if the offender is released, discharged or escapes. An employee leave act is created within Titles 8 and 13, ensuring that crime victims may leave employment to exercise the statutory right to be present at various judicial proceedings. The act applies to employers having 50 or more employees. The employee cannot be dismissed for exercising this right and the employer is not required to compensate the employee who

leaves work for this purpose. The prosecutor is charged to inform a victim of rights under this act and, if the victim notifies the prosecutor that it would be an undue burden to leave employment, to communicate that notice to the court during the scheduling of proceedings the victim is entitled to attend. The court must "continue to take the victim's schedule into consideration" when scheduling such proceedings.

CHAPTER WATER QUALITY

357
HB 2426
[Go to full text](#)
Criminal penalties are established for knowingly or with criminal negligence doing specified acts with respect to generation, treatment, transportation, disposal, application and management of sewage sludge (§49-263.02) and for various other knowing or reckless violations (§ 49-263.01) of a newly-established Arizona Pollutant Discharge Elimination System (AZPDES) program administered by the Arizona Department of Environmental Quality. For all criminal violations under the AZPDES program, each day of violation constitutes a separate offense. The Attorney General is charged with enforcement of the program.

CHAPTER ARCHAIC LAW REPEAL

382
HB 2016
[Go to full text](#)
Statutes forbidding "the infamous crime against nature" (sodomy), living in a state of open and notorious cohabitation or adultery and lewd and lascivious acts are repealed. Adultery itself remains a crime. Conforming changes removing references to these laws are made to other statutes, including those regarding the marital communication privilege, DNA testing and fingerprint clearance cards. The state income tax code is amended to allow a person who is a part of the taxpayer's household to be claimed as a dependent even if the relationship between the person and the taxpayer violates local law. **The tax code provision only is retroactive to January 1, 2001.**

FAMILY LAW

Chapter Number	Description
<p>CHAPTER 14 HB 2026 Go to full text</p>	<p>PARENTING TIME The expression "parenting time" replaces "visitation" in various sections of the marital and domestic relations law (Title 25), effecting statutes related to marital and paternity actions, child custody, child support, conciliation court, and the Uniform Child Custody Jurisdiction and Enforcement Act. The name of the Expedited Child Support and Visitation Fund established pursuant to § 25-412 is changed accordingly and a corresponding change is made in § 12-284 relating to civil fees in the Superior Court.</p>
<p>CHAPTER 42 HB 2088</p>	<p>CONSENT FOR UNDERAGE MARRIAGE Before authorizing the marriage of a person under 16 years of age, the court must find that the minor is entering into the marriage voluntarily and that under the circumstances the marriage is in the best interests of the minor. The court</p>

<p>Go to full text</p>	<p>also must require both parties to complete premarital counseling but may waive the requirement upon a determination that counseling is not reasonably available. The court may require that the minor continue to attend school and impose any other condition determined to be reasonable.</p>
<p>CHAPTER 81 SB 1057</p> <p>Go to full text</p>	<p>CHILD SUPPORT ENFORCEMENT</p> <p>The law (§ 25-327) permitting the court to suspend accrued interest on a judgment for support when an obligor is incarcerated "or otherwise incapacitated" is clarified to state that only future interest may be suspended and to substitute for "incapacitated" the phrase "physically or mentally disabled to the extent that the person is unable to maintain employment." The procedure under § 25-503 for seeking an expedited judgment for support arrearage is rewritten for clarity and to conform to time frames elsewhere in the chapter of law.</p> <p>A security deposit posted with the state child support agency by a self-employed parent in arrears for three months (previously 90 days) of support may be released to compensate the obligee only for current child support payments that are missed. Remedies for enforcement of support orders are extended to orders in dependency proceedings. The law (§ 46-405) requiring the child support agency to set a scale and formula for determining child support obligations is repealed, in view of the fact that these obligations are calculated under the Arizona Child Support Guidelines.</p>
<p>CHAPTER 89 SB 1487</p> <p>Go to full text</p>	<p>CHILD SUPPORT VENUE</p> <p>The law regarding venue for proceedings to establish or modify child support obligations (§ 25-502) is altered to identify the appropriate county in which particular proceedings must be brought. When there is no existing action, venue for an action to establish support is in the county where the child resides or, if the child resides out of state, in the county where the filing party resides. Otherwise, an action to establish or modify a support order must be commenced in the county that issued any order under Title 25. A simplified process for change of venue is permitted by filing a written request and supporting petition with the clerk of the Superior Court and paying a transmittal fee. If no objection is received, the proceeding and all related court files are transferred to the requested county, where the action proceeds as if originally commenced there. On objection, a hearing is held but limited only to the issue of transfer. A post adjudication filing fee must be paid in the new county. An existing subsection setting forth an expedited child support establishment procedure is rewritten to reflect current practice.</p>
<p>CHAPTER 121 SB 1436</p> <p>Go to full text</p>	<p>EMPLOYER COOPERATION WITH SUPPORT PROCEEDINGS</p> <p>The statute (§ 25-513) requiring an employer, payor or self-employed person to cooperate in support enforcement proceedings by releasing prescribed information about a person responsible to pay child support is expanded to include spousal maintenance and to clarify that an out-of-state request must be made by a child support enforcement entity. The limitation on making such a request more than once in a three-month period does not apply to a state child support agency in another state.</p>

<p>CHAPTER 198 HB 2536</p> <p>Go to full text</p>	<p>MARRIAGE LICENSE APPLICATIONS</p> <p>Social security numbers provided to the clerk of the Superior Court in an application for a marriage license can not be released to any person or entity unless the applicant requests in writing, except that the information may be provided to the Department of Economic Security for the purpose of child support enforcement. Each marriage license application must include the provisions of statute (§ 25-121(C)) regarding this limitation. The requirement that a social security number be disclosed in a marriage license application is stricken from the statute pertaining to a covenant marriage.</p>
<p>CHAPTER 217 HB 2268</p> <p>Go to full text</p>	<p>DOMESTIC VIOLENCE DEFINITION</p> <p>This law reconciles the disparate definitions of domestic violence in § 13-3601 that resulted from the dual-enactment of laws in 2000, clarifying that same sex persons who reside or have resided together are among the persons protected. Because last year's law is repealed, earlier provisions are reenacted, e.g., that the maximum sentence for a defendant who commits a felony domestic violence offense knowing the victim to be pregnant may be increased by two years. See also Chapter 334.</p> <p>The Domestic Violence and Sexual Assault State Plan Task Force is continued through July, 2003, with expanded membership and expanded duties, including the requirement that there be separate state plans for sexual assault and domestic violence. The domestic violence plan is to include recommendations regarding making misdemeanor domestic violence offenses non-bailable in certain cases. See also Chapter 358.</p>
<p>CHAPTER 255 SB 1084</p> <p>Go to full text</p>	<p>DOMESTIC VIOLENCE PROTECTION ORDERS</p> <p>The \$5 fee for filing a petition for an order of protection or injunction against harassment is eliminated, as are fees for appeals in these cases. Statutes (§§ 12-1809 and 13-3602) are clarified to provide that when copies of protection orders and evidence of service are forwarded to the sheriff, the sheriff shall register the order.</p>
<p>CHAPTER 264 SB 1032</p> <p>Go to full text</p>	<p>CHILD SUPPORT ENFORCEMENT REMEDIES</p> <p>The state child support enforcement agency (DCSE) may charge a fee for a dishonored check paid for child support. Fees collected must be deposited in a child support enforcement administration fund. Effective January 1, 2002, DCSE is permitted to issue a "limited income withholding order" to any employer, payor or holder of a non-periodic lump sum that is owed or held for the benefit of a person obligated to pay child support. The employer or payor is responsible to deliver or mail the withholding order to the employee, who then has the right to an administrative review. The employer must immediately withhold and forward the amount specified to the support payment clearinghouse.</p>
<p>CHAPTER 358 HB 2439</p> <p>Go to</p>	<p>DOMESTIC VIOLENCE TASK FORCE</p> <p>The Domestic Violence and Sexual Assault State Plan Task Force is extended to July 31, 2003 and new members are added. The Task Force is to develop separate consolidated plans for domestic violence and for sexual assault and the scope of each plan is expanded. The Task Force must submit the plans, together</p>

full text	with a report of its findings and recommendations by December 31, 2002. The sum of \$500,000 is appropriated to the Department of Economic Security for existing, emerging and expanding emergency residential, transitional and legal programs for domestic violence victims and their children. See also Chapter 217.
CHAPTER 386 HB 2445 Go to full text	CHILD SUPPORT ENFORCEMENT FUNDING A total of \$755,133 is appropriated in fiscal year 2002-2003 to the Department of Economic Security for distribution to county attorney offices in Pima, Pinal, Gila, Cochise, Navajo, and La Paz counties to be used for child support enforcement programs so that residents of those counties are not taxed for the programs in addition to the state taxes paid. The Governor line-item vetoed an identical appropriation for fiscal year 2001-2002.

JUVENILE

Chapter Number	Description
CHAPTER 12 HB 2002 Go to full text	TEMPORARY CHILD CUSTODY The maximum length of time a child taken into temporary custody by a police officer or a child protective services worker under § 8-821 may be held without a dependency petition being filed is lengthened to 72 hours from 48 hours, excluding Saturdays, Sundays and holidays.
CHAPTER 60 SB 1148 Go to full text	BEHAVIORAL HEALTH SERVICES Persons eligible for behavioral health services may appeal the denial, reduction, termination or suspension of a Title XIX behavioral health service directly to the Arizona Health Care Cost Containment System (AHCCCS) for an expedited hearing pursuant to rules adopted by the AHCCCS director. Current law provides that the Department of Health Services (DHS) must require all Regional Behavioral Health Authorities (RBHAs) to establish a grievance and appeals process for recipients of behavioral health services and that RBHAs as well as service providers and service recipients who have already exhausted the RHBA process may then appeal through the DHS grievance and appeal process.
CHAPTER 71 HB 2246 Go to full text	CHILDREN'S MENTAL HEALTH SERVICES This act amends statutes enacted in 2000 (Laws 2000, Chapter 369) establishing a comprehensive scheme for evaluation and placement of children with mental health problems in the juvenile court system. Unnecessary definitions are removed from § 8-271. Health care providers are allowed additional time to provide, in the outpatient assessment, an explanation of the least restrictive alternatives available to a child. Time frames for filing motions are standardized by excluding weekends and holidays for all filings. The requirement of the inpatient psychiatric acute care facility to submit a progress report to the court is changed from every 55 days to at least five days before a review. Language regarding due dates for discharge summaries is modified to clarify that the summary is required within 15 days of discharging a child, not prior to

discharge. The requirement that an entity file a notice of discharge with the juvenile court is changed from five days before to 20 days after a child is discharged. The notification of discharge requirement is removed from the residential treatment section (§ 8-273).

The residential treatment statute (§ 8-273) is amended to clarify that a hearing is not necessary on a motion to place a youth in residential treatment if all parties agree.

A new section 8-341.01 is added to clarify the process governing the placement into residential treatment services when being considered at a dispositional hearing.

CHAPTER 109 SEX OFFENDER REGISTRATION

HB 2065
[Go to full text](#)

Sections of the sex offender registration and community notification statutes are updated and clarified to conform to recent additions to the sex offense statutes. "Luring a minor for sexual exploitation" is added as an offense requiring registration with a county sheriff. An offender is required to register with the sheriff of a county within 10 days of entering and remaining in the county if, prior to September 1, 1978, that person committed an offense having the same elements as an offense currently requiring registration. The time within which offenders must inform the sheriff of a new address is decreased from 10 days after change of address to 72 hours after moving from the address, or of a name change from 10 days to 72 hours. Changes of names or addresses must be reported in person and in writing. If mail is received at a post office box the sheriff must be notified of the location and number of the post office box. Because the community notification program did not apply to sex offenders adjudicated delinquent in juvenile court, the legislation also authorizes the court to order that a juvenile sex offender be subject to community notification and allows the court to terminate the duty of a person to register as a sex offender if the person was under 18 years of age at the time of the offense and has successfully completed probation.

CHAPTER 111 CHILD CARE ADMINISTRATION

HB 2185
[Go to full text](#)

A Child Care Home Provider Registry (CCHPR) is established within the Child Care Resources and Referral System (CCRRS) administered by the Department of Economic Security, to provide families with information about registered in-home child care providers. To voluntarily be placed on the CCRRS, a child care home provider must satisfy registration criteria, among them obtaining a fingerprint clearance card, clearing a criminal records check, certifying on prescribed forms that there is no pending trial on or conviction of listed criminal offenses and fulfilling prescribed conditions, such as enclosing a pool and maintaining currency in CPR and first aid training. The CCHPR must include a complaint tracking system and rules for removing or excluding providers.
Effective April 1, 2002.

CHAPTER 134 JUVENILE JUSTICE COORDINATING COMMITTEE

The Juvenile Justice Coordinating Committee (JJCC) is extended for an

<p>SB 1090 Go to full text</p>	<p>additional year, through December 31, 2001. The JJCC was established in 1999 (Laws 1999, Chapter 107) to supervise and assist in the implementation of audit recommendations regarding delinquent juveniles submitted to the legislature by the firm of Deloitte & Touche. The three main recommendations were to prevent juveniles from re-entering the system, get them back in school and make them productive members of adult society. The JJCC was also required to adopt policies for better coordination and dissemination of juvenile justice information between city, county and state agencies that deal with juvenile offenders, and submit an annual report concerning juvenile justice to the Governor, the Chief Justice of the Supreme Court, legislative leadership and others.</p>
<p>CHAPTER 187 HB 2063 Go to full text</p>	<p>CHILD WELFARE Responding to concerns that voluntary placements may be used to avoid expedited case planning and service delivery under the Model Court Program, the Department of Economic Security (DES) may now accept a child into voluntary placement only in specified circumstances. DES must be able to provide necessary services likely to remedy the circumstances that bring the child into care within the maximum 90 day period allowed for such placements and if DES either plans to return the child to the parent, guardian or custodian who signed the child into voluntary placement or, while the child is in voluntary placement the parent, guardian or the custodian arranges a safe alternative placement for the child after the voluntary placement. DES is required to develop the child's case plan within 10 days of the voluntary placement and elements of the plan are specified. Before returning the child to a parent, guardian, custodian or alternative placement, DES must inform that person about available financial and nonfinancial services and eligibility requirements and shall assist in completion of necessary applications. The child welfare reporting requirements of § 8-526, are expanded to include the number of children entering out-of-home care by county during the reporting period, and the number and percentage of the children entering out-of-home care by county during the reporting period who are voluntary placements for children under 18 years of age.</p>
<p>CHAPTER 195 HB 2484 Go to full text</p>	<p>BEHAVIORAL HEALTH SYSTEM PERFORMANCE The Auditor General is mandated to conduct a survey of the behavioral health system to identify duplicative and outdated legislative and judicial reporting requirements and recommend ways that the reporting requirements can be streamlined into a more meaningful format. The study is to be completed on or before November 15, 2001, with a report of findings submitted before December 15, 2001.</p>
<p>CHAPTER 200 HB 2555 Go to full text</p>	<p>REMOVAL OF CHILD FROM FOSTER CARE A new statute (§ 8-515.05) is added, prohibiting, with specified exceptions, the Department of Economic Security (DES) from moving a child from one foster care placement to another without approval of the current foster parent or the juvenile court unless a case conference and conflict resolution process are completed. Exceptions include removal to protect the child from harm or risk of harm, to place a child in a permanent placement, to reunite siblings, to place a</p>

child in a kinship foster home, to place a child in the least restrictive setting, to place a child in a therapeutic setting or to place a child in accordance with the Indian Child Welfare Act.

If the foster parent disagrees with the removal, a case conference may be requested and held within specified time frames. A member of the foster care review board who participates in a removal review team also participates in the conference and the child remains in the current placement pending the outcome. If as a result of the conference DES still intends to remove the child and the child is in court-ordered physical custody of a licensed foster parent, a foster care review board member must make a recommendation to the court and the child remains in the foster parent's custody pending a court order for removal. If the child is not currently in the foster parent's custody, the child remains in the current placement pending the outcome of a conflict resolution process, which must be expedited.

CHAPTER JUVENILE GROUP HOMES

215

SB 1235

[Go to full text](#)

The statute (§ 36-1201(D)) requiring the Department of Health Services to develop by January 1, 2002, a central registry of group homes is amended to specify what information the registry shall include (location of the group home, number of residents, updated emergency contacts and updated contacts for each group home licensing authority) and to provide that each agency involved shall update information to the registry every six months.

CHAPTER FOSTER CARE

218

SB 1072

[Go to full text](#)

A new section of law (§ 8-829) controls the timing of judicial action and necessary findings when a child is removed from the home. The court must determine in its first court order sanctioning removal (which may be a temporary order) whether the child's continued residence in the home would be contrary to the child's welfare. Within 60 days after removal, the court must determine if reasonable efforts have been made to prevent removal of the child or that it was reasonable to make no efforts to prevent removal.

Within 12 months of removal and once every 12 months thereafter, the court must determine whether reasonable efforts have been made to finalize the existing permanency plan. These determinations are to be made on a case-by-case basis and the court is required to state in its order the factual support for each.

Provisions of statutes (§§ 8-825 and 8-843) regarding the court's discretion to order the Department of Economic Security (DES) to provide reunification services are relocated to § 8-826 and the provisions of the latter section are amended. Reunification services *are not required* (presently *should not be ordered*) if the parent has expressed no interest in reunification with the child for at least three months after the filing of the dependency petition. Additional "aggravating" circumstances in which services are not required to be ordered include the parent or guardian of a child being convicted of aiding or abetting, or attempting, conspiring or soliciting to commit, murder or manslaughter of a child, child sexual abuse, sexual assault of a child, sexual conduct with a minor,

molestation of a child, commercial sexual exploitation of a minor, sexual exploitation of a minor or luring a minor for sexual exploitation.

Upon the filing of a dependency petition, the court is authorized to issue any temporary orders necessary to provide for the safety and welfare of the child (§ 8-841). In a dispositional hearing the court must review the permanent plan established for the child. Included among those who must be notified by the court of periodic hearings following the dispositional hearing are any person who has filed a petition to adopt or who has physical custody pursuant to a court order in a foster-adoptive placement. All language in § 8-861 pertaining to initial permanency hearings is stricken and the section now pertains only to return of a child after a temporary hearing. In all cases in which the court does not order reunification services, a permanency hearing must be held within 12 months of the child's removal from the home, and the hearing may not be continued beyond that period unless the party seeking the continuance demonstrates reasonable efforts have been made to finalize the existing permanency plan.

CHAPTER JUVENILE CORRECTIONS

225

HB 2282

[Go to full text](#)

Substantive, clarifying and technical changes are made to the Arizona juvenile corrections law. The court, or, alternatively, the Department of Juvenile Corrections (DJC), is required to inform an individual of the right to apply to have an adjudication of delinquency set aside. If authorized in writing, a parole officer may apply to set aside an adjudication. Completion of probation is no longer a condition for making an application. However, receipt of an absolute discharge from DJC and payment in full of all restitution and monetary assessments in full are added as conditions.

A person may apply for the destruction of DJC records (previously only juvenile court records). The conditions under which individuals may apply are revised, both for cases that did and did not result in an adjudication of delinquency.

Among the conditions are that a person must be 18 years old (previously 19), have received an absolute discharge from DJC and have paid in full all restitution and monetary assessments. Before records destruction is approved, the court must find that a criminal charge is not pending and that the applicant has received an absolute discharge from DJC and has paid in full all restitution and monetary assessments.

DJC is added to the list of entities in § 13-1206 in the custody of which commission of certain assaults becomes a class 2 felony. DJC employees are added to the list of correctional employees prohibited from sexual conduct with persons in custody. Unlawful sexual conduct with a person under 15 years of age is a class 2 felony, and with a person between 15 and 17 years of age is a class 3 felony. A new offense (§ 13-2514) is established prohibiting a person from introducing contraband into a secure care facility. Persons having reasonable grounds to believe a violation or attempted violation has occurred must immediately report the violation or attempt and failure to do so is a class 5 felony. Persons convicted of a violation are prohibited from employment with the state and its agencies or subdivisions.

<p>CHAPTER 226 HB 2365 Go to full text</p>	<p>JUVENILE DETENTION FACILITIES CONSTRUCTION The requirement of § 48-4004 that a presiding juvenile court judge and the sheriff must jointly apply for adoption of a resolution by a county board of supervisors to acquire, construct, operate, maintain and finance juvenile detention facilities is eliminated. Voters may approve a property tax levy, with proceeds deposited in the county jail district general fund to be used solely for juvenile detention facilities.</p>
<p>CHAPTER 244 SB 1060 Go to full text</p>	<p>STATE HOSPITAL BED CAPACITY To ensure that the Arizona State Hospital (ASH) does not exceed the maximum census, the two-year caps enacted in 1999 to limit the number of juveniles and persons committed for restoration of competency that ASH was obligated to accept are continued an additional year through June 30, 2002. A one-year cap is placed on the number of persons ASH must accept for treatment who are committed by the court upon being found guilty except insane. A time table for assuming custody is established, including due process safeguards for the committed person, in the event ASH has no available bed.</p>
<p>CHAPTER 265 SB 1080 Go to full text</p>	<p>DES CHILD WELFARE RESPONSIBILITIES The powers and duties of the Department of Economic Security (DES) to administer child welfare activities is extended beyond those children voluntarily placed in foster care to include any out-of-home placement under § 8-806. Under previous law, DES could not provide out-of-home placement alternatives unless a dependency petition had been filed.</p>
<p>CHAPTER 302 HB 2284 Go to full text</p>	<p>JUVENILE WORK RESTITUTION This law ameliorates the financial burden often imposed on juveniles committed to the custody of the Department of Juvenile Corrections (DJC) who, as part of sentencing, are ordered to pay restitution to a crime victim but while incarcerated are unable to earn income to satisfy restitution obligations. A Juvenile Corrections Restitution Fund is created for the payment of restitution and monetary assessments by juveniles who are financially unable to pay or who are otherwise unable to be employed. The current committed youth work classification system is changed and DJC is required to establish a committed youth work program for incarcerated youth and youth on conditional liberty. Committed youth shall, and youth on conditional liberty may, receive work assignments. A 40-hour minimum is established for youth in secure care facilities not regularly attending or making satisfactory progress in educational classes. A minimum of two-thirds of compensation earned must be paid to court-ordered restitution or to any assessment if no restitution is ordered. With the approval of the juvenile court and the victim, community service hours may be substituted for monetary restitution or monetary assessments at a rate deemed reasonable by DJC. The existing \$1 per hour cap on wages that can currently be paid to juveniles under the jurisdiction of DJC who are involved in noncontracted employment is removed.</p>

TAX COURT

Chapter Number	Description
<p>CHAPTER 191 HB 2313 Go to full text</p>	<p>TAX PREPARERS AND ELECTRONIC FILING The Director of the Department of Revenue (DOR) is authorized to apply to the Tax Court to enjoin any return preparer from engaging in business if specified circumstances apply, e.g., that the preparer has been subject to a civil or criminal penalty or was engaged in any other fraudulent or deceptive conduct that interferes with the proper administration of Arizona’s taxation statutes. Upon application from DOR and after a hearing, the tax court may enjoin the preparer from engaging in business as a return preparer. The balance of this law is designed to bring state statutes into conformance with current Internal Revenue Service and DOR rules regarding electronic filing of individual income tax returns.</p>
<p>CHAPTER 287 SB 1271 Go to full text</p>	<p>FUEL TAXES The chapter (Chapter 16) of the transportation law (Title 28) applicable to taxes is reordered and amended and the titles of articles 1, 2 and 5 are changed. New violations and classification of offenses are added. Venue for judicial review of final administrative assessments, decisions or orders of the Director of the Department of Transportation is changed from the Superior Court in Maricopa County to the Arizona Tax Court under newly renumbered A.R.S. § 28-5928. The right to appeal does not extend to assessments for taxes, fees penalties or interest.</p>
TRAFFIC	
Chapter Number	Description
<p>CHAPTER 51 HB 2473 Go to full text</p>	<p>EXTREME DUI The level of blood alcohol concentration for which a person is guilty of driving or being in actual physical control of a vehicle while under the extreme influence of intoxicating liquor is reduced to .15 from .18. The sentencing statute (§ 13-702) is similarly amended, requiring the court to consider as an aggravating circumstance the defendant’s conviction of specified crimes if arising from an act that was committed while driving a motor vehicle when the defendant's alcohol concentration at the time of committing the offense was 0.15 or more. Effective April 4, 2001.</p>
<p>CHAPTER 52 HB 2486 Go to full text</p>	<p>RECREATIONAL VEHICLE LENGTH RESTRICTION A self-propelled recreational vehicle that does not exceed 45 feet in length is added to the exemptions from the 40-foot maximum allowable length for vehicles on state highways.</p>
<p>CHAPTER 95 SB 1089 Go to</p>	<p>ALCOHOL OFFENSES The level of blood alcohol concentration for which a person is guilty of operating a motor vehicle or watercraft is reduced from .10 to .08. Various provisions regarding implied consent, presumptions of driving under the</p>

<p>full text</p>	<p>influence and suspension of driver licenses are amended to reflect the new limit. Grants by the Driving Under the Influence Abatement Council (Council) now may be made to tribal governments and the scope of grants is expanded to include alcohol abuse treatment services. The Council must submit an annual written report to legislative leadership and other leaders on the effects of reducing the blood-alcohol limit. Effective September 1, 2001.</p>
<p>CHAPTER 168 SB 1429 Go to full text</p>	<p>HOV LANE USE If the Department of Transportation (DOT) obtains approval from the federal government allowing the use of high occupancy vehicle lanes by hybrid vehicles, a person may drive such a vehicle in high occupancy vehicle (HOV) lanes at any time, regardless of occupancy level, without penalty and a person who owns a hybrid vehicle may apply for alternative-fuel vehicle special plates or sticker for the vehicle. DOT is directed to request permission from the federal highway administration by the end of 2001. A hybrid vehicle is defined as a factory-manufactured vehicle that combines two or more technologies to produce more fuel efficiency and achieves a lower overall energy consumption, meeting EPA standards as an ultralow emissions vehicle.</p>
<p>CHAPTER 190 HB 2277 Go to full text</p>	<p>RED LIGHT TRAFFIC VIOLATIONS A civil traffic violation case may be commenced by the filing (as well as the issuance) of a uniform civil traffic complaint and a case may be commenced within 60, rather than 30, days of the alleged violation (§ 28-1592). On receipt of an abstract from the court, persons convicted of disobeying red-light traffic control signals, including flashing stop signals, must be ordered by the Motor Vehicle Division (MVD) to attend and successfully <i>complete</i> the Traffic Survival School (TSS) administered by MVD or suffer suspension of driving privileges. (Persons cited for these offenses may still be eligible for diversion into the Defensive Driving Program, thus avoiding conviction.) Pursuant to § 28-672 (pertaining to accidents and moving violations resulting in accidents that cause serious physical injury or death), the court must notify MVD if a person fails successfully to complete traffic survival school training and educational sessions. The Governor's highway safety team is directed to conduct a traffic and engineering study in conjunction with other states and the federal government to determine methods to reduce red light violations in Arizona. The study must include a sufficient number of jurisdictions to determine best practices, the feasibility and potential costs of planning and implementing a uniform signal and marking system for intersections and any other pertinent information.</p>
<p>CHAPTER 245 SB 1248 Go to full text</p>	<p>WATERCRAFT ACCIDENT REPORTING With certain exceptions, offenses for violating laws regarding boating and water sports previously classified as class 3 misdemeanors are reduced to petty offenses. Violations for offenses governing negligent operation of a watercraft or skiing, reckless operation of personal watercraft and compliance with legal requirements when a watercraft is involved in a collision are elevated to class 2 misdemeanors. Peace officers investigating any watercraft collision are only</p>

	required to report accidents resulting in death, personal injury or more than \$500 of property damage.
CHAPTER 253 HB 2182 Go to full text	IGNITION INTERLOCK DEVICE Several sections in Title 28 pertaining to DUI offenses (e.g., second DUI violation within 60 months, extreme DUI and aggravated DUI) are changed to require that an ignition interlock device (IID) be used for 12 months beginning on the date of conviction or on the conclusion of the license suspension or revocation, whichever occurs later. The responsibility to order installation of an IID is shifted to the Motor Vehicle Division (MVD) under a new section of law (§ 28-3319) which now permits MVD to search its own records rather than rely on the court abstract to determine whether an IID is mandated.
CHAPTER 274 HB 2053 Go to full text	MINOR DRIVER LICENSE SUSPENSION On receipt of a record of conviction for a violation of § 4-244(33) (person under 21 years of age operating a motor vehicle and having alcohol in the body), the Motor Vehicle Division (MVD) is required to suspend or refuse to issue a driver license for a period of two years, if a person is 18, 19 or 20 years of age. A court may order that MVD allow the convicted person to drive with a restricted license between home, school and work, depending upon the time of day, the person's employment and the person's school schedule.
CHAPTER 325 HB 2052 Go to full text	MOTOR VEHICLE TITLE Laws allowing the owner of a motor vehicle to hold a certificate of title while there is a lien (or encumbrance) on the title are repealed. Arizona joins the majority of other states in which the original certificate of a title is delivered to the lien holder for release to a subsequent lien holder or the owner upon satisfaction of the lien in full. Civil penalties are provided for the failure to release the lien within specified days of satisfaction. When the vehicle owner delivers the title to the Motor Vehicle Division, the lien is marked as satisfied in the records and a clear title is issued to the owner. Beginning January 1, 2002, the time within which a person is required to apply for a certificate of title is reduced from 30 days to within 15 days of the purchase or transfer of the vehicle. The Department of Transportation is directed to establish an electronic system for the voluntary recording of vehicle title information for newly-issued, transferred and corrected certificates of title, including perfection and release of security interests.
CHAPTER 337 HB 2370 Go to full text	HIGHWAY ACCIDENTS An assessment equal to the applicable civil penalty is imposed for speeding in a designated state highway work zone (as defined) in which workers are present. The Department of Transportation (DOT) is directed to adopt standards and specifications for the use of traffic control devices in state highway work zones that notify drivers of the boundaries of the work zone. Every 2,500 feet within a work zone, civil penalties for speeding in a state highway work zone double when workers are present. The court must collect the additional assessment at the same time the court collects the civil penalty. Partial payments of the total amount due are divided according to the proportion that the civil penalty, the work-zone assessment and applicable surcharges represent of the total amount

due. The court and DOT must treat failure to pay the additional assessment in the same manner as failure to pay a civil penalty, including taking action against the person's driver license or permit to drive. Half of the assessment is deposited in a newly-established State Highway Work Zone Safety Fund for use in a public education campaign about work zone safety, with the balance to the State Highway Fund.

The civil penalty for HOV lane violations is decreased from \$350 to \$200 and the Law Enforcement Alternative Fuel Vehicle Fund (into which \$250 of the penalty previously was deposited) is eliminated. A tow truck operator, working within the scope of employment, may drive a tow truck in an HOV lane without penalty.

A new statute (§ 28-674) aimed at quick clearance of accidents, requires a person involved in an accident that does not result in serious injury or death to move the vehicle to a safe refuge on the shoulder, emergency lane or median or off of the roadway if the vehicle can be safely driven without further damage. The driver may request that another licensed driver remove the vehicle from the roadway. A person who removes a vehicle in compliance with this law before the arrival of a police officer is not for that reason liable or at fault for the accident.

CHAPTER 377 **MOTOR VEHICLE IMPOUNDMENT**

SB 1137
[Go to full text](#)

A new article titled "suspended driver license enforcement" is added to Title 28, allowing peace officers to impound a vehicle for 30 days if operated by a person whose driving privilege has been revoked for any reason, suspended for a DUI conviction, suspended for a previous conviction of driving on a suspended license or suspended for accumulating too many points as a result of convictions for moving violations. The vehicle must be released earlier than 30 days if the vehicle is stolen or is subject to bailment; if the owner presents proof that driving privileges have been restored; or, if either a spouse of the owner or the identified owner was not the driver at the time of impoundment *and* the spouse or owner agrees with the impounding agency that if within five years the spouse or owner allows an unlicensed driver to operate the vehicle and it is again impounded, the vehicle will not be eligible for release before the end of the 30 day impoundment period. Early release may be secured only by court order or upon presentation by the owner or spouse of a valid driver license and proof registration and, if the person driving the vehicle was suspended for a DUI conviction that required installation of an ignition interlock device, proof of installation of the device. Provision is made for release to a motor vehicle dealer, bank or other financial institution with an interest in the vehicle.

The vehicle owner, the owner's spouse or any person listed on the title with an interest in the vehicle is entitled to an administrative post storage hearing, and a process is established for requesting, noticing and conducting such hearings. The vehicle owner is responsible for all towing, storage and administrative charges unless the vehicle was stolen and reported to a law enforcement agency, in which case the operator is responsible. Storage charges may not exceed five

dollars per day and administrative charges for impoundment, storage or release may not exceed \$150.

A person convicted of any federal, state or local railroad grade-crossing law is disqualified from driving a commercial vehicle for specified periods of time.

BILLS THAT FAILED TO PASS

Chapter Number	Description
SB 1001 & HB 2062 Go to full text	JUROR DISTRICTS A jury commissioner would be required to draw and summon a trial jury from the body of the county unless by court rule the county includes judicial districts, in which case the commissioner may draw and summon the jury from any part of the county designated by court rule.
SB 1008 Go to full text	INTERSTATE COMPACT FOR ADULT OFFENDERS The 1937 Interstate Compact for Supervision of Parolees and Probationers (§§ 31-461 et seq.) would be repealed and replaced with the newly-promulgated Interstate Compact for the Supervision of Adult Offenders. Primary changes to the original Interstate Compact include an independent operating authority to administer ongoing Compact activity; a national governing commission to develop mechanisms to identify, track and account for the controlled movement of offenders, promulgate rules and resolve disputes between states, including imposition of sanctions for violations of the Compact or rules; a mandatory funding mechanism to support essential Compact operations; and, collection of standardized information.
SB 1009 & HB 2273 Go to full text	JUROR PAY The daily pay for jurors in the Superior Court or a limited jurisdiction court would be increased from \$12 to \$50 a day.
SB 1083 & HB 2270 Go to full text	DRUG COURT FUNDING This proposal sought a general fund appropriation in fiscal years 2002-2003 and 2003-2004 to supplant grant monies and other existing sources to fund drug and DUI courts and expand substance abuse treatment programs in the Superior Court in 11 counties and to fund juvenile drug courts in eight counties.
SB 1171 Go to full text	DNA TESTING The current list of crimes for which persons must submit DNA samples under § 13-4438 would be expanded over a period of three years, eventually to include conviction of violating or attempting to violate any felony offense listed under Title 13, Chapters 11, 12, 13, 14, 15, 17, 19, 35.1, 36 and 31 and other sexual offenses, as well as adjudication for an offense under Chapters 14 and 35.1 or listed in § 13-501. Also included would be persons required to register as sex offenders and parolees or probationers arriving in Arizona who are subject to the Interstate Compact for Supervision of Parolees and Probationers. Tested persons would be required to pay

	<p>at least \$150 for the costs of the testing, with monies being deposited in an Arizona DNA Identification System Fund administered by the Arizona Criminal Justice Commission. Samples could be used only for law enforcement identification purposes or in a criminal prosecution or a proceeding under the sexually violent person statutes. The DNA profile could be expunged from the person's file if a conviction is overturned.</p>
<p>SB 1190 & HB 2557 Go to full text</p>	<p>SPOUSAL MAINTENANCE ENFORCEMENT Introduced as a measure to appropriate monies to the Department of Economic Security (DES) to enforce spousal maintenance obligations, this became a bill authorizing DES to enforce such obligations with essentially the same remedies available for child support enforcement, funded by a \$25 surcharge on the fee paid by persons filing marital dissolution actions and post adjudication petitions in family law cases. (Also amended onto HB 2557.)</p>
<p>SB 1521 Go to full text</p>	<p>IMMUNITY FOR COURT-APPOINTED PERSONNEL A person or entity appointed by the court to assist with the disposition of an action would be immune from liability for acts intimately related and essential to the judicial decision-making process unless the person or entity does one (or more) of 15 prescribed acts. Among the acts are controlling the flow of information to the court that is materially misleading or incomplete and that influences the court; acting outside the parameters of the person's or entity's required or discretionary functions; acting as an advocate for one of the parties; committing acts for which the person or entity may be liable after an evaluation or an investigation is complete; and, deviating from accepted standards in the practice of a profession and failing to perform in good faith and with reasonable care and competence the services for which the person or entity was engaged.</p>
<p>SB 1530 Go to full text</p>	<p>CONFIDENTIALITY AGREEMENTS IN LAWSUITS Regarded as a response to the Firestone-Ford Explorer tire issues that made national news, this law would limit confidentiality of settlements in civil cases for injury, wrongful death or financial loss caused by a defective product, environmental hazard or financial fraud. Confidentiality and settlement agreements not filed with the court and information acquired through discovery would become public information in most instances. Public information could be kept confidential only if a substantial probability exists that the overriding interest will be prejudiced if the information is not kept confidential, the proposed confidentiality is narrowly tailored, and there is not a less restrictive means to achieve the overriding interest.</p>
<p>HCR 2007 Go to full text</p>	<p>JUDICIAL APPOINTMENT DISTRICTS Voters would be asked in the 2002 general election to approve a referendum requiring the Governor to ensure county-population diversity in appointments of judges and justices to vacant positions in a court of record. Appointments would have to be made on a rotating basis in numerical order of the supervisory districts.</p>
<p>HCR 2013 Go to full text</p>	<p>SUPREME COURT JURISDICTION The general election ballot of 2002 would carry the question of amending the state constitution to recite that: 1) the constitutional power of the Arizona Supreme Court to make procedural and evidentiary rules is subject to amendment or repeal by the</p>

	<p>legislature or by the people via initiative or referendum; 2) the Supreme Court is not to infringe on the authority of the legislature or the people to enact laws that protect the rights of crime victims or carry out any other matter under the constitution; and 3) the authority to enact substantive, procedural and evidentiary laws is not a power inherent in the judiciary but is a legislative power inherent in the legislature and the people.</p>
<p>HCR 2014 Go to full text</p>	<p>NON-BAILABLE DOMESTIC VIOLENCE OFFENSES</p> <p>The general election ballot of 2002 would carry the question of amending the state constitution to expand the list of offenses for which bail is not an option to include domestic violence offenses when the presumption of guilt is great, the person charged poses a "substantial danger" and there are no conditions of release that can reasonably assure safety of the community or the victim.</p> <p>A companion provision, proposed as an amendment to HB 2268, would have amended § 13-3601 to provide authority and standards by which a court may deny pretrial release to a person convicted of a domestic violence offense.</p>
<p>HB 2219 Go to full text</p>	<p>GRANDPARENT VISITATION</p> <p>Before a grandparent or great grandparent may be granted visitation, the court would have to find by clear and convincing evidence that the parent is unfit. The burden of proof is on the party seeking visitation and the court would be mandated to award attorney fees if the petition were dismissed. The court could not order visitation that prohibits the presence of a parent or that makes it difficult for a parent to be present during visitation. Visitation could occur only at the parent's residence or a neutral site and the visitation order must recognize the parent's right to be with the child during visitation.</p>
<p>HB 2221 Go to full text</p>	<p>JUSTICE COURTS LOCATION</p> <p>If two or more justice court precincts are contiguous, the justice court of one precinct could be housed in the justice court of another contiguous precinct for the purposes of sharing building and rent costs. If justice courts share one justice court building, the building would have to be located within a reasonable distance of not more than three miles from the precincts the justice courts are serving. A justice court could not share a courtroom or staff, and each justice of the peace would have a separate courtroom. Venue of a proceeding would be in the justice court precinct where the complaint was filed unless the proceeding is moved by appropriate court action.</p>
<p>HB 2224 Go to full text</p>	<p>SUPERIOR COURT JUDGES</p> <p>The number of Superior Court judges that may be appointed in a county would be limited to one per 30,000 of population. In this calculation, Superior Court judges would include commissioners.</p>
<p>HB 2227 Go to full text</p>	<p>JUSTICE OF THE PEACE APPOINTMENTS</p> <p>Appointments of justices of the peace pro tempore made by the presiding Superior Court judge of a county would have to be approved by a majority of the elected justices of the peace in the county.</p>
<p>HB 2261 Go to full text</p>	<p>TEMPORARY CUSTODY ORDERS</p> <p>As originally introduced, this bill provided that the mandatory preliminary injunction in a marital dissolution action (§ 25-315) must enjoin both parties from denying the</p>

	<p>other party equal residential time with any natural or adopted child. As subsequently amended, the bill would have established a rebuttable presumption that temporary joint physical custody would be awarded in all temporary custody orders under § 25-404 unless the child is under three years of age or disabled.</p>
<p>HB 2348 Go to full text</p>	<p>PROBATION SYSTEM TASK FORCE</p> <p>A Probation System Blue Ribbon Task Force would be established to conduct an investigation into the "conflict, confusion and controversy" created as a result of adult, surveillance and juvenile probation officers being supervised by the Administrative Office of the Courts, presiding Superior Court judges and county chief probation officers. The specified issues to be considered included pay and benefits to probation department employees performing the same duties and operating under different compensation systems, problems resulting from the current probation system as a result of the lack of a unified system and how to resolve the problems, the appropriate branch of government to oversee the probation department and whether probation department employees should be considered state employees or county employees.</p>
<p>HB 2399 Go to full text</p>	<p>ARMING PROBATION OFFICERS</p> <p>Originally introduced as HB 2350, this bill would have authorized adult probation officers or surveillance officers who supervise an active caseload to choose to carry a firearm while on duty. Specified training was required and management could deny an officer the right to be armed for "good cause." The House engrossed version of the bill also carried an amendment (originally HB 2348) establishing a probation system task force to research the relationship between probation departments and the Administrative Office of the Courts, presiding Superior Court judges and county chief probation officers supervising adult, surveillance and juvenile probation officers.</p> <p>On March 19, 2001, the Chief Justice signed Administrative Order 2001-32, establishing the Ad Hoc Committee to Study Probation Officer Safety and Training Standards, to address the arming of probation officers and related matters. In view of this, HB 2399 was withdrawn in the Senate.</p>
<p>HB 2443 Go to full text</p>	<p>ATTORNEY LICENSING</p> <p>Persons convicted of sexual assault or first or second degree murder would not be eligible to receive a "license to practice law" from the State Bar [sic], and an attorney admitted to practice would be disbarred if convicted of one of these crimes. Reinstatement would be available if a conviction were reversed on appeal.</p>
<p>HB 2603 Go to full text</p>	<p>UNCOVERING STATE EMPLOYEES</p> <p>This bill sought to establish a comprehensive performance based personnel system for state employees. The list of persons not covered by the state personnel system would be expanded to include program managers, managers and any persons in charge of work units vested with a certain amount of discretion and independent judgment. Uncovered workers are categorized as "exempt" state employees that are hired and retained at the will of the appointing person on the basis of the adequacy of performance. Agencies would have been permitted to utilize unbudgeted vacancy savings to grant pay raises to personnel exempt from the state personnel system.</p>

VETOED

Chapter Number	Description
HB 2004 Go to full text	ACTUARIAL CALCULATION FOR STATE RETIREMENT The actuarial computation method for the Arizona State Retirement System (ASRS) would change from the projected unit credit method to the entry age normal cost method. This proposed change resulted from deliberations of the ASRS Actuarial Computation Method Study Committee, established in 2000 (Laws 2000, Chapter 341) and charged to examine and compare actuarial computation methods that may be appropriate for ASRS. Although the Governor indicated agreement with the policy change to a more conservative methodology for the state pension system, she indicated that the decision to change must be dependent upon the state's economic situation and revenue flows. She did not find a present change to be prudent under the state's current fiscal circumstances.
HB 2087 Go to full text	CIVIL RIGHTS Civil rights enforcement procedures for discrimination in public accommodations, employment and voting rights would be modified to conform to other Arizona civil rights statutes and federal law, and extend protection to persons with mental impairments. Under new § 41-1466, an employer (or other covered entity) could not, with stated exceptions, conduct medical examinations or make inquiries as to whether an individual has a disability or as to the severity of a disability. The unlawful employment practices prohibited by § 41-1463 would be expanded to protect persons with disabilities by adding additional unlawful employment practices. Among these practices are using standards, criteria or methods of administration that have the effect of discriminating on the basis of disability; denying equal jobs or benefits to a qualified individual because the individual has a relationship or association with a person with a disability; and, denying employment opportunities based on the need of the covered entity to make reasonable accommodation to the physical or mental impairment of an applicant or employee. The Governor's veto message noted her serious questions regarding the ramifications of this legislation on both Arizona's businesses and government in the areas of employment practices, health insurance coverage and contracts, potentially leading to substantial litigation. Special concern was raised regarding the possibility that the bill's provisions may be interpreted as a waiver of sovereign immunity from federal court suits that allege ADA violation of the Americans With Disabilities Act.
HB 2169 Go to full text	CAMPAIGN FINANCE Under this bill, the campaign or exploratory committee of a candidate who is not certified as a participating candidate must designate a finance committee authorized to solicit or receive contributions on behalf of the campaign or exploratory committee and maintain a record of finance committee members that would be released to specified entities upon request. An exploratory or campaign committee could not accept surplus monies from a political committee established in another

state or pursuant to federal law. Lobbyists must disclose and report the names of all candidate finance committees on which the lobbyist serves and the names of the campaign or exploratory committees for which the lobbyist is authorized to solicit or receive contributions. The financial disclosure statement of every public officer would have to include the names and addresses of all lobbyists to whom the public officer or members of the public officer's owe a debt of more than \$100. A person could not use public resources (as defined) to solicit a contribution for any political committee. Surplus monies of a political committee could not be used by a candidate's campaign committee or exploratory committee for a candidate's subsequent election to a statewide office.

The Governor's veto message criticized this bill as a "slapdash" combination of measures thrown together with fatal flaws, including a defective title, potentially unconstitutional provisions and other shortcomings.