

Arizona Criminal Justice Commission

Office of the Executive Director

Our mission is to sustain and enhance the coordination, cohesiveness, productivity and effectiveness of the Criminal Justice System in Arizona



Legislative Summary

*46th Arizona
State Legislature*

1st Regular Session

2003

October

ARIZONA CRIMINAL JUSTICE COMMISSION



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Yuma County Sheriff

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LEGISLATIVE SUMMARY

46th Arizona State Legislature
1st Regular Session

Convened: January 13, 2003
Adjourned: June 19, 2003

General Effective Date: September 18, 2003

A report of the Arizona Criminal Justice Commission

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INTRODUCTION

As outlined in A.R.S. 41-2405.4 the Arizona Criminal Justice Commission is pleased to offer this overview of the preceding two years of Arizona Legislation, in particular highlighting the law making efforts of the 46th Arizona State Legislature.

The 46th Arizona Legislature's First Regular Session adjourned on Thursday, June 19, 2003, the 158th day of the session, the seventh longest regular session in state history. Legislation passed during the 2003 session became law on Thursday, September 18, 2003 (unless accompanied by an emergency clause or specific effective date).

There were 998 bills (including 90 resolutions and memorials) introduced during the 46th Legislative Session. A total of 287 bills were sent to Governor Napolitano for her signature; and 24 resolutions and memorials were transmitted directly to the Secretary of the State. Of the bills sent to the Governor, 17 were vetoed in their entirety, four were line-item vetoed, and five were allowed to become law without the Governor's signature. (These bills are noted at the end of this report with the Governor's messages attached).

In comparison, the 45th Arizona Legislature's Second Session adjourned on Thursday, May 23, 2002, the 130th day of the session.

There were 1,182 bills introduced during that session, with 336 signed into law by Governor Hull; nine bills were vetoed.

Both the 45th and 46th sessions included legislation designed to improve the criminal justice process. However, it is important to note that just like the 45th Legislative Session, the 46th continued to feel the dramatic shifts of a "downturn in the economy," which had a negative effect on programs.

Both the Arizona and the United States Criminal Justice systems are built on the premise that government's most important role is the protection of its citizens, of individual freedom and of its protection under that law. A number of new laws over the past two years reflect a desire to continue to improve the process and procedures within the criminal justice system. Legislation for both years contained enhancements or improvements designed to stiffen penalties or procedures for those convicted of crimes involving children and those in which the victim was injured or targeted as a result of their advocacy.

This is a trend that is likely to occur in the near future as well. A number of advocacy groups have expressed an interest in promoting even greater enhancements to both issues.

CHILDREN

HB2020 Liability of Parents to Bear Expense; Exception (Chapter 23)

- Amends subsection **A** to include the provision for payment by the child or parents of the child who is referred to **foster care, treatment, education program or program required pursuant to section 8321, subsection F. Monies collected will be deposited in the Juvenile Probation Services Fund.**

HB2106 Adoption of Interstate Compact for Juveniles (Chapter 123)

EFFECTIVE DATE: NO LATER THAN JULY 1, 2004, EXCEPT IF 35 STATES HAVE NOT ENACTED THE COMPACT INTO LAW BY THAT DATE IT WILL NOT BECOME EFFECTIVE UNTIL ENACTMENT BY 35 STATES. THIS WILL SUPERCEDE ARS 8-362 WHEN IT BECOMES EFFECTIVE. Adds Article 5.1 to Title 8, Chapter 3 INTERSTATE COMPACT FOR JUVENILES

- Updates the existing Interstate Compact for juveniles and **creates a national Interstate Commission** and a **State Council to track and manage the interstate movement of juveniles.**

HB2133 Protective Services Worker; Powers and Duties; Alteration of Files; Violation; Classification (Chapter 124)

- Amends subsection **C.7 (a)** by deleting reference to a central registry and replacing it with **Department's Case Management Information System.**

HB2133 Maintenance of Reports; Records; Definition (Chapter 124)

Adds new subsections **D, E** and **F** as follows:

- D.** If probable cause exists that abuse or neglect of a child has occurred, the department shall record this finding. The department may make this finding independent of whether a specific person is identified as responsible for the abuse or neglect.
- E.** If the department is unable to locate a child who is the subject of a report of abuse or neglect, the department shall record its findings separate from its other findings.
- F.** Subject to the requirements of sections 8-804 and 8-811, whenever possible, the department shall determine if a specific person is responsible for the abuse or neglect of a child.

HB2133 Protective Services Caseload Standards Committee; Membership; Dues (Chapter 124)

REPEALS THIS SECTION FROM AND AFTER DECEMBER 31, 2003.

HB2133 Hearing Process; Definitions (Chapter 124)

Adds subsections **K.1** and **K.2**:

- K.** The department shall provide the parent, guardian or custodian who is the subject of the investigation and the person who reported the suspected child abuse or neglect if that person is the child's parent, guardian or custodian with a copy of the outcome of the investigation at one of the following times:

K.1 If the report is unsubstantiated

K.2 If probable cause exists that abuse or neglect has occurred but a specific person is not identified as having abused or neglected the child.

HB2181 Procedure for Court Appointment of a Guardian of an Alleged Incapacitated Person (Chapter 56)

Adds a new item **B.8** requiring the petition for guardianship to state what type of guardianship is requested. If a general guardianship is requested, the petition must state that other alternatives have been explored and why a limited guardianship is not appropriate. If a limited guardianship is requested, the petition also must state what specific powers are requested

HB2181 Findings; Order of Appointment; Limitations; Filing (Chapter 56)

Adds new subsections **A** and **B.3** as follows:

- A.** In exercising its appointment authority pursuant to this Chapter, the court shall encourage the development of maximum self-reliance and independence of the incapacitated person.
- B.3** The person's needs cannot be met by less restrictive means, including the use of appropriate technological assistance.
- Amends subsection **B** by adding the term “**general or limited**” in reference to the type of guardian requested.
 - Amends subsection **C** by adding the term “**appoint a limited guardian**” in reference to the type of guardian requested, if applicable.

SB1304 Open Juvenile Proceedings; Pilot Project; Confidential Records; Report (Chapter 208)

REPEALS LAWS 1997, CHAPTER 222, SECTION 81, FROM AND AFTER DECEMBER 31, 2004 and establishes an Open Juvenile Proceedings Pilot Project as follows:

- A.** The Department of Economic Security, in collaboration with the Superior Court Juvenile Division in Maricopa County shall implement a **pilot project** to open to the public **at least five percent, but no more than ten**, of the **dependency, guardianship and termination of parental rights proceedings** filed in the division, and to determine if opening these proceedings to the public will promote due process while safeguarding privacy rights. As a condition to the allocation of federal monies, the pilot project must comply with the federal requirements that are prescribed.

Provides procedures for conducting proceedings, and for evaluating and reporting the impact of this project.

SB1352 Duty to Report Abuse, Physical Injury, Neglect and Denial or Deprivation of Medical or Surgical Care or Nourishment of Minors; Medical Records; Exception; Violation; Classification; Definitions (Chapter 222)

- Amends various subsections throughout this section by replacing the term “child” with the term “**minor**”, and adding **physical injury, child abuse** and a **reportable offense** to the crimes that must be reported.
- Amends various subsections throughout this section by adding **members of the clergy** and **Christian Science practitioners** to those whose communications or confessions are covered under the confidentiality rule

- Amends subsections **A, D, E, F, K, M, N** and **O**, and adds subsections **A.1- A.5, C, P, P.1-P.4, P.4(a)-P.4(d)** as follows:

A Any person who reasonably believes that a minor is or has been the victim of **physical injury, abuse, child abuse, a reportable offense** or neglect that appears to have been inflicted on the minor by other than accidental means or that is not explained by the available medical history as being accidental in nature or who **reasonably believes** there has been a denial or deprivation of necessary medical treatment or surgical care or nourishment with the intent to cause or allow the death of an infant who is protected under section 36-2281 shall immediately report or cause reports to be made of this information to a peace officer or to Child Protective Services in the Department of Economic Security, **except if the report concerns a person who does not have care, custody or control of the minor, the report shall be made to a peace officer only. A member of the clergy, Christian Science practitioner** or priest who has received a confidential communication or a confession in that person's role as a **member of the clergy, Christian Science practitioner** or a priest in the course of the discipline enjoined by the church to which the **member of the clergy, Christian Science practitioner** or priest belongs may withhold reporting of the communication or confession if the **member of the clergy, Christian Science practitioner** or priest determines that it is reasonable and necessary within the concepts of the religion. This exemption applies only to the communication or confession and not to personal observations the **member of the clergy, Christian Science practitioner** or priest may otherwise make of the minor. **For the purposes of this subsection, "person" means:**

- A.1 Any physician, physician's assistant, optometrist, dentist, osteopath, chiropractor, podiatrist, behavioral health professional, nurse, psychologist, counselor or social worker who develops the reasonable belief in the course of treating a patient;**
- A.2 Any peace officer, member of the clergy, priest or Christian Science practitioner;**
- A.3 The parent, stepparent or guardian of the minor;**
- A.4 School personnel or domestic violence victim advocate who develop the reasonable belief in the course of their employment;**
- A.5 Any other person who has responsibility for the care or treatment of the minor.**

This subsection clarifies that reports under this section can be made to either CPS or a peace officer **except if the report concerns a person who does not have care, custody or control of the minor, the report shall be made to a peace officer only**, as stated above.

C If a physician, psychologist or behavioral health professional receives a statement from a person other than a parent, stepparent, guardian or custodian of the minor during the course of providing sex offender treatment that is not court ordered or that does not occur while the offender is incarcerated in the state Department of Corrections or the Department of Juvenile Corrections, the physician, psychologist or behavioral health professional may withhold the reporting of that statement if the physician, psychologist or behavioral health professional determines it is reasonable and necessary to accomplish the purposes of the treatment.

D Reports shall be made immediately by telephone or in person and shall be followed by a written report within seventy-two hours.

E A health care professional who is regulated pursuant to title 32 and who, after a routine physical exam of a newborn infant's health status or following notification of positive toxicology screens, reasonably believes that the newborn infant may be

affected by alcohol or a **drug listed in section 13-3401** shall immediately report this information to Child Protective Services. For the purposes of this subsection, "newborn infant" means a newborn infant who is under thirty days of age.

- F** Any person other than one required to report or cause reports to be made under subsection A of this section who **reasonably believes** that a minor is or has been a victim of abuse, **child abuse, physical injury, a reportable offense** or neglect may report the information to a peace officer or to Child Protective Services in the Department of Economic Security, **except if the report concerns a person who does not have care, custody or control of the minor, the report shall be made to a peace officer only.**
- K For the attorney client privilege or the privilege under subsection I of this section, there are certain exemptions.**
- Amends subsection **M** by permitting psychiatric records that are requested by a peace officer or Child Protective Services worker for use in investigating an incident of neglect, abuse, child abuse or physical injury, to have personal identifying information, and diagnosis under certain circumstance, excised from the records before they are made available.
 - Amends subsection **N**, in reference to psychiatric records that have been excised pursuant to subsection **M** of this section, allowing the court to order that the entire record or any portion of the record that contains information relevant to a reported abuse, **child abuse, physical injury** or neglect be made available to the peace officer or Child Protective Services worker investigating the abuse, **child abuse, physical injury** or neglect.
- O** A person who violates this section is guilty of a class 1 misdemeanor, **except if the failure to report involves a reportable offense, the person is guilty of a class 6 felony.**
- P** For the purposes of this section:
- P.1 "Abuse" has the same meaning prescribed in section 8-201.**
- P.2 "Child abuse" means child abuse pursuant to section 13-3623.**
- P.3 "Neglect" has the same meaning prescribed in section 8-201.**
- P.4 "Reportable offense" means any of the following:**
- P.4 (a) Any offense listed in Chapters 14 and 35.1 of this title or section 13-3506.01.**
 - P.4 (b) Surreptitious photographing, videotaping, filming or digitally recording of a minor pursuant to section 13-3019.**
 - P.4 (c) Child prostitution pursuant to section 13-3212.**
 - P.4 (d) Incest pursuant to section 13-3608**

CRIMINAL CODE/SENTENCING

HB2208 Sentencing (relating to aggravated circumstances for felonies) (Chapter 225)

- Adds a new subsection **C.19** as follows:
C.19 “The offense was committed in retaliation for a victim's either reporting criminal activity or being involved in an organization that is designed to promote the betterment of the community or to report or prevent criminal activity.”

SB1088 Persons Required to Register; Procedure; Identification Card (Chapter 42)

EFFECTIVE FROM AND AFTER DECEMBER 31, 2003

- Amends subsection **B** by replacing the term “may” with “**shall**” by requiring the DOC to complete the registration of such person who was convicted of any offense under subsection A of this section before a person is released from confinement.

SB1267 Sentence of Death or Life Imprisonment; Aggravating and Mitigating Circumstances; Definition (Chapter 255)

- Amends subsection **A** by specifying that **If the state has filed a notice of intent to seek the death penalty and the defendant is convicted** of first degree murder as defined in section 13-1105, **the defendant shall be sentenced to death** or imprisonment in the custody of the state department of corrections for life or natural life as determined and in accordance with the procedures provided in section 13-703.01. A defendant who is sentenced to natural life is not eligible for commutation, parole, work furlough, work release or release from confinement on any basis. If the defendant is sentenced to life, the defendant shall not be released on any basis until the completion of the service of twenty-five calendar years if the murdered person was fifteen or more years of age and thirty-five years if the murdered person was under fifteen years of age.
- Amends subsection **F** by directing that **in determining whether to impose a sentence of death**, the trier of fact shall consider certain aggravating circumstances.
- Amends subsection **F.2** by considering it an aggravating circumstance if a defendant **has been, or** was previously, convicted of a serious offense, whether preparatory or completed. **Convictions for serious offenses committed on the same occasion as the homicide, or not committed on the same occasion but consolidated for trial with the homicide, shall be treated as a serious offense under this paragraph.**
- Adds subsection **F.7 (b)** by including an offense committed while **on probation for a felony offense** as an aggravating circumstance.

SB1267 Sentences of Death, Life Imprisonment or Natural Life; Imposition; Sentencing Proceedings; Definitions (Chapter 255)

EFFECTIVE ON OR BEFORE JUNE 30, 2013 IF THE ARIZONA SUPREME COURT OR THE SUPREME COURT OF THE UNITED STATES RULES THAT IT IS CONSTITUTIONAL FOR A CRIME VICTIM IN A CAPITAL CASE TO MAKE A SENTENCING RECOMMENDATION.

- Amends subsection **A** by clarifying that if the state has filed a notice of intent to seek the death penalty and the defendant is convicted of first degree murder, the trier of fact at the sentencing proceeding shall determine whether to impose a sentence of death **in accordance with the procedures provided in this section. If the trier of fact determines that a sentence of death is not appropriate, or if** the state has not filed a notice of intent to seek

the death penalty, and the defendant is convicted of first degree murder, the court shall determine whether to impose a sentence of life or natural life.

Adds subsections **Q**, **Q.1** and **Q.2** as follows:

- Q** If the death penalty was not alleged or was alleged but not imposed, the court shall determine whether to impose a sentence of life or natural life. In determining whether to impose a sentence of life or natural life, the court:
- Q.1** May consider any evidence introduced before sentencing or at any other sentencing proceeding.
- Q.2** Shall consider the aggravating and mitigating circumstances listed in section 13-702 and any statement made by a victim.

SEX OFFENDER NOTIFICATION/TREATMENT

SB1158 Persons Required to Register; Procedure; Identification Card (Chapter 173)

Adds subsection M as follows:

- M** A person who is required to register pursuant to this section and who is a student at a public or private institution of post-secondary education or who is employed, with or without compensation, at a public or private institution of post-secondary education or who carries on a vocation at a public or private institution of post-secondary education shall notify the county sheriff having jurisdiction of the institution of post-secondary education. The person required to register pursuant to this section shall also notify the sheriff of each change in enrollment or employment status at the institution.

SB1158 Community Notification (Chapter 173)

Adds subsection G as follows:

- G** Information concerning a person who is required to register pursuant to section 13-3821 and who is subject to the provisions of community notification and who is a student at a public or private institution of post-secondary education or who is employed or carries on a vocation, with or without compensation, at a public or private institution of post-secondary education shall be promptly made available by the county sheriff to the law enforcement agency having jurisdiction for performing community notification pursuant to section 13-3826. The law enforcement agency shall notify the institution's administration and shall complete appropriate campus notification pursuant to section 13-3826.

SB1352 Privileged Communication; Sex Offender Treatment (Chapter 222)

Adds a new section as follows:

Any statement that is made by a person who undergoes sex offender treatment that is ordered by the court or that is provided by the State Department of Corrections or the Department of Juvenile Corrections to a person who is convicted of an offense listed in Chapter 14 or 35.1 of this title and any evidence that results from that treatment is not admissible against the person in any criminal or juvenile delinquency proceeding unless the person consents, except that the statement or evidence may be used pursuant to rule 404 (b) and (c), Arizona Rules of Evidence.

VICTIM/SPECIAL NEEDS INDIVIDUALS

HB2208 Threatening or Intimidating; Classification (Chapter 225)

- Amends subsection **B** by indicating that an **offense committed in retaliation for a victim reporting criminal activity, or being involved in an organization that is designed to promote the betterment of the community or to report or prevent criminal activity, is a class 5 felony.** **NOTE:** This statute is intended to protect members of Blockwatch, NAILEM, etc.

HB2482 Victims' Rights for Neighborhood Associations (Chapter 199)

- Amends subsection **B** by adding that a neighborhood association may receive notice or may invoke certain rights as a victim if a juvenile commits an act that if committed by an adult would be a crime under **13-1602, subsection A, paragraph 5**, relating to graffiti, **13-3102, subsection A, paragraph 9**, relating to weapons offenses involving street gangs, criminal syndicates or racketeering, 13-3201 or 13-3204, 13-3208, subsection B or 13-3209, 13-3405, 13-3407, 13-3408, 13-3421 or 13-4702.

SB1098 Domestic Violence Victim Advocate and Victim; Definition (Chapter 235)

Adds a new section as follows:

- A In a civil action, a domestic violence victim advocate shall not be examined as to any communication made by the domestic violence victim to the domestic violence victim advocate.**
- B This section does not apply to a civil action brought pursuant to title 36, Chapter 37, relating to the civil commitment of sexually violent persons.**
- C Unless the domestic violence shelter or service provider has immunity under other provisions of law, the communication is not privileged if the victim advocate knows or should have known that the victim will give or has given perjurious statements or statements that would tend to disprove the existence of domestic violence.**
- D The domestic violence victim advocate-victim privilege does not extend to cases in which the domestic violence victim advocate has a duty to report non-accidental injuries and physical neglect of minors as required by section 13-3620.**
- E A party to an action may make a motion for disclosure of privileged information under this section and, if the court finds reasonable cause, the court shall hold a hearing in camera as to whether the privilege should apply.**
- F To qualify for the privilege prescribed in this section, a domestic violence victim advocate must have at least thirty hours of training in assisting victims of domestic violence. A portion of this training must include an explanation of privileged communication and the reporting requirements prescribed in section 13-3620.**
- G A domestic violence victim advocate who is a volunteer shall perform all activities under qualified supervision.**
- H The training prescribed in subsection F may be provided by the shelter or service provider or by an outside agency that issues a certificate of completion. The records custodian of the shelter or service provider must maintain the training documents.**
- I For the purposes of this section, "domestic violence victim advocate" means a person who is an employee or volunteer at a domestic violence shelter or service provider for victims of domestic violence and who meets the training requirements of this section.**

SB1267 Sentencing (relating to victims' right to be heard) (Chapter 255)

EFFECTIVE ON OR BEFORE JUNE 30, 2003 IF THE ARIZONA SUPREME COURT OR THE SUPREME COURT OF THE UNITED STATES RULES THAT IT IS CONSTITUTIONAL FOR A CRIME VICTIM IN A CAPITAL CASE TO MAKE A SENTENCING RECOMMENDATION.

Current section replaced by a new section as follows:

Notwithstanding any other law or rule, as an exercise of the victim's constitutional right to be heard at sentencing, before the imposition of sentence the victim in any case may address the sentencing authority and present any information or opinions that concern the victim or the victim's family, including the impact of the crime on the victim, the harm caused by the crime, the criminal offense, the defendant, the need for restitution or the sentence to be imposed at every sentencing or disposition proceeding.

SB1267 Sentencing: Victims' Right to be Heard (Chapter 255)

EFFECTIVE ON OR BEFORE JUNE 30, 2003 IF THE ARIZONA SUPREME COURT OR THE SUPREME COURT OF THE UNITED STATES RULES THAT IT IS CONSTITUTIONAL FOR A CRIME VICTIM IN A CAPITAL CASE TO MAKE A SENTENCING RECOMMENDATION.

Adds a new section as follows:

In any proceeding in which the victim has the right to be heard pursuant to Article II, section 2.1, Constitution of Arizona, or this Chapter, the victim's right to be heard is exercised not as a witness, the victim's statement is not subject to disclosure to the state or the defendant or submission to the court and the victim is not subject to cross-examination. The state and the defense shall be afforded the opportunity to explain, support or deny the victim's statement.

INTENT: *The Legislature reaffirms its action in Laws 2002, fifth special session, Chapter 1, in which the Legislature eliminated the statutory prohibition on considering a victim's sentencing recommendation in a capital case. The Legislature reaffirms that, under the Constitution and statutes of Arizona, victims in capital cases have the right to make recommendations regarding the appropriate sentence, in the same manner as defendants, and that the only thing that stands in the way of exercising this right is the lack of a decision by the Arizona Supreme Court or the Supreme Court of the United States affirming this right.*

SECURITY/TERRORISM

The issues surrounding the protection of Arizonan's, their land & property and their "peace of mind" stated during the 45th Session, continued during the 46th Session as well.

Examples include:

HB2350 September 11, 2001 Commemorative Monument (Chapter 72)

- Authorizes a **monument** to be erected at the **Wesley Bolin Plaza** to commemorate the events and effects of the terrorist attacks on **September 11, 2001**. No public monies are authorized; funding will come from the proponents of the monument. Requires that the monument be **constructed and dedicated within two years**. **REPEALED FROM AND AFTER DECEMBER 31, 2006**.

HB2390 Arizona Emergency Response Commission; Advisory Committee; Powers and Duties (Chapter 194)

- Amends subsection **G** by including **the Federal Government, Indian Tribes, other states and** political subdivisions **of this state** to those in which agreements may be entered into for the purposes of this Article.

SB1197 Occupational Disease; Proximate Causation; Definitions (Chapter 47)

- Amends by including **peace officers** throughout, in relation to Workers Compensation covering cancers that develop as occupational diseases, **provided** the officers were **assigned to hazardous duty**, and the cancer caused disability or death.

Adds subsection **E.2** as follows:

- E.2 "Peace officer" means a full-time peace officer who was regularly assigned to hazardous duty as a part of a special operations, special weapons and tactics, explosive ordinance disposal or hazardous materials response unit.**

HM2001 Border Enforcement (no Chapter or statute number)

A memorial urging the Congress of the United States to consider legislation that would provide greater federal resources to border states for border enforcement as follows:

- Illegal immigrant population has been estimated at between five and ten million individuals. This results in annual costs to society estimated in the billions of dollars due to the extra funds spent on education, health care, welfare and corrections programs. The nation's border states, including Arizona, are hard hit by the influx of illegal immigrants across their borders. Among the more serious problems that accompany illegal immigration are increased drug smuggling and crime.

While the INS and Border Patrol are charged with enforcing current immigration laws, those laws do not go far enough toward preventing the illegal entry of immigrants into this country, requiring border states to rely on their own resources to combat this growing problem. State resources would be less strained in the fight against illegal immigration by the provision of federal funds to increase border patrol measures in border states.

Further, congressional action to expand the scope of the Posse Comitatus Act to allow greater military involvement in the patrolling of United States borders would give states much-needed

assistance in preventing the entry of illegal immigrants and in fighting terrorism, drug smuggling and crime problems.

Article IV, section 4 of the Constitution of the United States provides that "The United States shall guarantee to every State in this Union a Republican Form of Government, and shall protect each of them against Invasion." This confirmation of our national sovereignty validates this request for additional resources to protect our borders from illegal immigration and the harmful crime and drug problems that accompany it.

The House of Representatives of the State of Arizona requests :

- 1. That the Congress of the United States introduce and enact legislation that would increase effective border controls, including the provision of greater funding for border states and laws that would allow for increased military presence along this nation's borders.**
- 2. That the Secretary of State of the State of Arizona transmit copies of this Memorial to the President of the United States Senate, the Speaker of the United States House of Representatives and each Member of Congress from the State of Arizona.**

SECURITY GUARD/PRIVATE INVESTIGATORS

HB2280 Definitions (relating to private investigators and security guards) (Chapter 112)

- Amends subsection **14** as follows:

"Letter of concern" means an advisory letter to notify a licensee **or registrant** that while there is insufficient evidence to support probation, suspension or revocation of a license **or registration** the department believes the licensee **or registrant** should modify or eliminate certain practices and that continuation of the activities that led to the information being submitted to the department may result in further disciplinary action against the **person's** license **or registration**.
- Deletes subsection **18**, removing the term "provisional certificate" from the language in this section.

HB2280 Administration by Director; Duty to Keep Records; Rules (relating to private investigators and security guards) (Chapter 112)

- Amends subsection **A.2** by removing the term "provisional certificate" relating to recordkeeping.

HB2280 Fees; Renewal of License or Registration Certificate (relating to private investigators and security guards) (Chapter 112)

- Amends subsections **C** and **E** by removing the 90-day extension of time allowed between expiration of the current certificate and the issuance of the new certificate.

HB2280 Necessity of an Agency License (relating to private investigators and security guards) (Chapter 112)

Adds a new section as follows:

A person shall not engage in a business regulated by this Chapter or act, assume to act as or represent himself to be a licensee unless the person is licensed pursuant to this Chapter.

HB2280 Qualifications of Applicant for Agency License; Substantiation of Work Experience (Chapter 112)

- Deletes subsections **A.7(c)** and **A.9** relating to mental condition and prior experience in security
- Adds subsection **A.8** as a qualification for a private investigator agency license as follows:

8.A Not have a disability as defined in section 41-1461, unless that person is a qualified individual with a disability as defined in section 41-1461.

Amends subsection **B** by including in the first paragraph:

The qualifying party for an agency license and the resident manager, if a resident manager is required, shall have at least three years of full-time experience as a manager, supervisor or administrator of a security guard agency or three years of full-time supervisory experience with any federal, United States military, state, county or municipal law enforcement agency. The qualifying party for an agency license and the resident manager, if a resident manager is required, must substantiate managerial work experience claimed as years of qualifying experience and provide the exact details as to the

character and nature of the experience on a form prescribed by the department and certified by the employer.

HB2280 Qualifications of Applicant for Associate Security Guard or Armed Security Guard Registration Certificate (Chapter 112)

- Amends subsection **A.4** by replacing the term “agency license” with **Associate, Security Guard or Armed Security Guard Registration Certificate** relating to qualifications of applicants.
- Deletes subsection **A.7(c)** relating to mental condition.
Adds subsection **A.8** as a qualification for a private investigator agency license as follows:
A.8 Not have a disability as defined in section 41-1461, unless that person is a qualified individual with a disability as defined in section 41-1461.

HB2280 Issuance of Security Guard Registration Certificate and Identification (Chapter 112)

- Deletes subsection **A** and amends subsection **F** (now **E**) by removing the effective date.

HB2280 Powers and Duties of Director; Authentication of Records (relating to private investigators and security guards) (Chapter 112)

- Amends by removing the option of a “provisional certificate”.

PROTECTION OF PUBLIC OFFICIALS

HB2108 Information Identifying a Peace Officer, Justice, Judge, Commissioner, Public Defender or Prosecutor; Confidentiality; Definitions (Chapter 106)

- Amends by adding **justice, judge, commissioner and public defender** to those who may have their home address and phone number, contained in their personnel records, kept confidential, and includes **definitions of those terms**.

HB2108 Releasing Information Identifying a Peace Officer, Justice, Judge, Commissioner, Public Defender or Prosecutor; Violations; Classification; Definitions (Chapter 106)

- Amends by adding **justice, judge, commissioner and public defender** to those who may have their home address and phone number kept confidential, and includes **definitions of those terms**.

SB1159 Employment of Personnel; Criminal Records Check (relating to employment of security personnel) (Chapter 44)

Adds subsections **B** and **C** as follows:

- B** The director may obtain criminal history record information regarding applicants for employment for the purpose of hiring personnel. Before making a final offer of employment, the director shall require the preferred applicants to submit a full set of fingerprints. The director shall submit the fingerprints to the Department of Public Safety for the purpose of obtaining a state and federal criminal records check pursuant to section 41-1750 and public law 92-544. The Department of Public Safety may exchange this fingerprint data with the federal bureau of investigation.
- C** The director shall not disclose information obtained pursuant to subsection B of this section except to the director's or the commission's staff solely for the purpose of the director's employment of the applicant.

JURY DUTY

Several new statutes dealt with the concept of jury services. The purpose of the new legislation is to assist the courts to better balance the process of civic service with the role jurors play in our judicial system. New legislation included:

HB2124 Persons Entitled to be Excused from Jury Service (Chapter 150)

- Amends by stating that **on timely application to the court, any peace officer who is certified by AZPOST, and who is employed as a peace officer by this state or any political subdivision of this state shall be excused from service as a juror. The peace officer's employer shall not in any way influence the peace officer to make or not to make an application to the court, pursuant to this section, to be excused from jury service.**

HB2520 Persons Entitled to be Excused from Jury Service (Chapter 200)

EFFECTIVE FROM AND AFTER DECEMBER 31, 2003

- Provides guidelines for **prospective juror to submit an application requesting to be excused from jury service.**

HB2520 Arizona Lengthy Trial Fund (Chapter 200)

EFFECTIVE FROM AND AFTER DECEMBER 31, 2003, REPEALED ON JULY 1, 2014

- Provides for a fund to be administered by the Supreme Court in which **jurors, beginning July 1, 2004, may receive earnings replacement or supplementation to individuals for service as petit jurors for more than ten days and who receive less than full compensation from their employer.**

HB2520 Absence from Employment for Jury Duty; Vacation and Seniority Rights; Automatic Postponement; Violation; Classification (Chapter 200)

EFFECTIVE FROM AND AFTER DECEMBER 31, 2003

Adds subsections A and D as follows:

- A. **An employer shall not require or request an employee to use annual, vacation or sick leave for time spent responding to a summons for jury duty, participating in the jury selection process or actually serving on a jury. This subsection does not require an employer to provide annual, vacation or sick leave to employees who are otherwise not entitled to such benefits under company policies.**
 - D. **A court shall postpone and reschedule the service of a summoned juror of an employer with five or fewer full-time employees, or their equivalent, if during the same period another employee of that employer is serving as a juror. A postponement pursuant to this subsection does not affect a person's right to one automatic postponement under section 21-336.**
- **An employer shall not refuse to permit an employee to serve as a juror. An employer may not dismiss or in any way penalize any employee, including loss of position, seniority or precedence because the employee serves as a grand or trial juror. An employer is not**

required to compensate an employee when the employee is absent from employment because of jury service.

HB2520 Excuse from Service; Investigation (Chapter 200)

EFFECTIVE FROM AND AFTER DECEMBER 31, 2003

- Amends subsection **A** by making allowances for a person whose answers to a questionnaire indicate that the **person** is unqualified for jury service or, in the opinion of the **judge or** jury commissioner, state grounds sufficient to be excused from jury service, the **person's** name shall not be included on the qualified juror list and the **person** shall be notified that he is excused from jury service.

HB2520 Failure of Juror to Attend; Fine (Chapter 200)

EFFECTIVE FROM AND AFTER DECEMBER 31, 2003

- Amends this section by stating that **it is unlawful for** a juror who is summoned **and who fails to obtain a postponement or who is not excused from jury service to** willfully and without reasonable excuse **fail to attend on the date scheduled for jury service. The juror** may be attached as for a direct contempt of court and may be compelled to attend **on the date scheduled for jury service**, and a fine not exceeding **five** hundred dollars may be imposed by the court for nonattendance upon the court.

HB2520 Frequency of Service; Exemption (Chapter 200)

EFFECTIVE FROM AND AFTER DECEMBER 31, 2003

Adds new section as follows:

- A. **A juror who has been summoned and selected to serve on a jury in this state is not required to serve again as a juror in any court in this state for two years following the last day of the juror's service.**
- B. **A presiding judge, in coordination with the jury commissioner, may apply to the Supreme Court for an exemption from this section for a specified period of time, not to exceed one year.**

HB2520 Postponement of Jury Service (Chapter 200)

THE CURRENT SECTION IS REPEALED FROM AND AFTER DECEMBER 31, 2003

It will be replaced as follows:

- A. **Persons who are scheduled to appear for jury service may postpone the date of their initial appearance for jury service two times only. On request, postponement shall be granted if all of the following apply:**
 - A.1 **The prospective juror has not previously been granted a postponement.**
 - A.2 **The prospective juror appears in person or contacts the jury commissioner by telephone, electronic mail or in writing to request a postponement.**
 - A.3 **A postponement shall not be for more than three months after the date on which the prospective juror originally was called to serve and shall be a date when the court will be in session.**
- B. **A jury commissioner may approve a subsequent request for postponement of jury service only in the event of an extreme emergency that could not have been**

anticipated at the time the initial postponement was granted. The prospective juror is subject to being re-summoned at the discretion of the jury commissioner.

HB2520 Jurors' Term of Service; Exemption (Chapter 200)

THE CURRENT SECTION IS REPEALED FROM AND AFTER DECEMBER 31, 2004.

It will be replaced as follows:

- A. A person's jury service obligation is fulfilled when the person does any of the following:
 - A.1 Serves on one trial until being excused or discharged.**
 - A.2 Appears at court but is not assigned to a trial division for selection of a jury before the end of that day.**
 - A.3 Is assigned on one day to one or more trial divisions for jury selection and serves through the completion of jury selection or is excused.**
 - A.4 Complies with a request to telephone a court or check a court's web site to determine whether to report on a particular day, for four days within a thirty-day period.**
 - A.5 Provides the court with a valid telephone number and stands ready to serve on the same day, for a period of two days.****
- B. A presiding judge of a county Superior Court, in coordination with the jury commissioner, may apply to the Supreme Court for an exemption for the county from this section for a specified period of time, not to exceed one year.**

TRANSITION PROGRAMS

Much of the 47th Session (or any need of special sessions) will continue to be documented by fiscal issues and the state's economy.

In addition, attention will most likely be paid to the issue of prison overcrowding and/or the use of transitional/offender re-entry programs. Foremost, will be the issues of the safety of the public balanced against cost savings and prevention efforts.

Here are some examples of "first steps" taken to positively impact these issues taken during the 46th Session:

SB 1291 Transition Program; Drug Offenders; Report (Chapter 256)

Adds a new **ARTICLE 6. TRANSITION PROGRAM**

- Establishes a **Transition Program to provide eligible inmates with transition services**; provides rules and requirements for the Transition Program.

SB1291 Contracted Entities; Duties; Services; Definition (Chapter 256)

- Adds a new section describing the **duties and services** that will be **provided** by the **entity that contracts with the department** to provide **transition services**. Also defines the term "**eligible person**" as one who is **determined pursuant to ARS § 31-281 to be eligible to receive transition services**.

SB1291 Transition Offices; Location; Duties (Chapter 256)

- Adds a new section directing the department to **locate at least two transition offices for the entity that contracts with the department**. Directs **the entity that is awarded the contract to maintain at least two transition offices**. Spells out requirements for both the department and the contract entity.

SB1291 Transition Office Fund (Chapter 256)

- Adds a new section establishing the **Transition Office Fund**, and providing direction for administering the fund.

SB1291 Transition Program Release; Report (Chapter 256)

- Adds a new section providing that an inmate who enters a transition program after **January 1, 2004**, shall be **released from confinement three months earlier** than the inmate's earliest release date.

Requires the department to file quarterly reports relating to **costs reductions** pursuant to the Transition Program. Directs the state treasurer to deposit any cost reductions pursuant to the Transition Program in the **Transition Program Drug Treatment Fund**.

SB1291 Transition Program Drug Treatment Fund (Chapter 256)

- Adds a new section establishing a **Transition Program Drug Treatment Fund**. Gives direction for administering the **fund**.

SB1291 Program Termination (Chapter 256)

This program established by this Article ends on *July 1, 2013* pursuant to section 41-3102.
(See sections 31-281, 31-282, 31-283, 31-284, 31-285 and 31-286)

CONCLUSION

The Arizona Criminal Justice System continues to struggle to keep pace with the demands of a growing population while revenues necessary for personnel and infrastructure improvement waned in a “downturn” economy.

An ACJC companion publication, titled “The Crime and the Criminal Justice System in Arizona, The 2003 White Paper” will give greater detail on the cost of providing justice services at the town/city, county and state level for all justice components. The release date for this companion publication is tentatively set for late October 2003.

The “The Crime and the Criminal Justice System in Arizona, The 2003 White Paper” will be the document for use in future recommendations for constitutional, statutory and administrative revisions necessary to enhance efforts to develop and maintain a cohesive and effective Criminal Justice System.