



## Arizona Criminal Justice Commission

### Legislative Overview

03/05/2021

#### **ACJC BILLS**

**HB2166 Criminal Justice Commission; Data Collection Bill moved to the Seante on 2/23 and was assigned to Judiciary on 2/24.**

**HB 2260 Arizona Criminal Justice Membership bill- 2/4 heard in House COW with Amendment (Oppose Amendment with stipulations) 59-0. Bill had a hearing in Senate Judiciary on 3/4.**

- This bill was introduced by Rep. Blackman and Rep. Bolick
- Heard in the Criminal Justice Committee on 1/27 and received a due pass
- This bill was created to address the need to add a Victims Advocate and a Public Defender for diversity to the Commission.

**HB2453 - FIREARM SALES; PERMIT VERIFICATION; REQUIREMENTS (CCW bill)- Assigned to House Judiciary and Appropriations on 2/2- No Movement.**

- Dr. Friese introduced this bill. Currently, it has not been assigned to a committee.
- He has spoken with the NRA and Dave Kopp about DPS creating a secure portal for determining whether a CCW is revoked.

**SB1290 - Criminal Case Statistics; report; appropriation (Recommendation: Oppose): Assigned to Senate Judiciary on 1/25 (OPPOSE)- No Movement**

- 2/9 Staff meeting with Senator Engel
- Bill introduced by Senator Engel (same bill she used last year in the House) to take money from the Drug Gang Enforcement Center in the amount of \$150,000 for three years to cover costs for County Attorneys to create the Criminal Case Statistics report. The funding source Senator Engel is looking to pull money from is the APRC, which currently funds our AYS report and the SAC division.

## **ACJC PRIORITY BILLS**

**HB2158: The Protective Orders; Central Repository- Heard in House Judiciary on 2/10 and received pass unanimously. Moved to Senate and was assigned to Senate Judiciary to have a hearing on 3/4. However, more stakeholder discussions are needed and therefore the chair will move to next week for a hearing.**

- Bill was introduced by Kavanagh

**HB2190: Criminal Justice Case Information- Bill passed the House unanimously and moved to the Senate on 2/24. Bill was assigned to 3/2 to the Senate Judiciary Committee.**

- This bill has been introduced by Rep Blackman and Bret Roberts.
- Has been assigned to House Criminal Justice Reform
- This is a data collection bill that would require prosecutors' offices to collect any drug related charges and report those felonies and misdemeanors to ACJC.

## **BILLS THAT PLACE ACJC AS THE FISCAL AGENT**

**HB2141 – Appropriations; Alternative Prosecution; Division program- Passed the House 56 (Y) and 4 (N). Bill assigned to Senate Judiciary, Appropriations, and Rules on 2/24.**

- This bill was introduced by Rep Pratt and appropriates \$11M + for FY 21-24 to ACJC for distribution of alternative prosecution and divisions programs to be granted out to County Attorneys.
- Report out to JLBC annually.
- The objective for county attorneys is to establish best practices for alternative prosecution and diversion programs.

**HB2189 – Coordinated Re-Entry Planning Services Programs- Passed House on 2/23- 58 (Y) and 1 (N) and 1 not voting. Bill was assigned to Senate Judiciary, Appropriations and Rules on 2/24.**

- This bill was introduced by Rep. Pratt.
- The bill creates a cross-system recidivism tracking database.

**HB2401 - juvenile dependency; state aid; appropriation- Passed House 54 (Y) and 5 (N) and 1 not voting. Assigned to Senate Appropriations and Rules on 3/2.**

- This bill was introduced by Rep. Biasiucci
- Referred to House Judiciary and Appropriations on 1/24
- County Board of Supervisors are in support of this bill.
- Establishes the State Aid for Juvenile Dependency Proceedings Fund (SAJDP Fund), to be administered by the Arizona Criminal Justice Commission and used to provide state aid to county public defenders, legal defenders and contract indigent defense counsel for the processing of juvenile dependency cases.

**HB2164 – Coordinated Re-entry Planning Services Program- Held in Criminal Justice Reform Committee on 2/3. No Movement.**

- The bills was introduced by Rep Blackman and appropriates funding from the general fund to be distributed to the counties who are establishing coordinated re-entry planning services programs.
- What the bill does: The bill effectively appropriates \$7.0 million to non-Maricopa counties proportionally based on their population to establish coordinated reentry planning services programs. Counties would be permitted to establish a program within a county jail to screen and assess people booked in jail and connect them with behavioral health and substance use disorder treatment providers at an early stage in the criminal justice process. The programs must collect and share data with other participants and entities and utilize the database to record baseline and ongoing statistics, among other responsibilities.

- As part of appropriations discussed above, the bill appropriates \$8.0 million in FY 2022 only, but permits up to \$1.0 million to be allocated for cross-system recidivism tracking databases. During the 2020 Legislative session, a similar draft of this bill was being considered as part of the Criminal Justice Budget Reconciliation Bill. That previous iteration of this bill would have provided up to \$1.0 million in the first year to the Arizona Criminal Justice Commission (ACJC) to establish the cross-system recidivism tracking database. While the total cost of the database is uncertain, ACJC said that that time that \$1.0 million would be a sufficient amount to establish the database. We do not have an independent method to estimate how many databases could be established with the up to \$1.0 million.

## **MEMBERSHIP BILLS**

### **HB2495- Membership; Arizona Criminal Justice Commission – Assigned to House Judiciary on 2/1**

- Introduced by Rep. Jermaine
- Modifies the membership of the Arizona Criminal Justice Commission by requiring at least one of the 14 public members appointed by the Governor to be a member of an Arizona Indian Tribe. Session law allows current Commission members to continue to serve until the expiration of their normal terms.

### **SB1489: Membership; Arizona Criminal Justice Commission- Assigned to Senate Judiciary on 1/28- No Movement**

- **Introduced by Senator Quesada**
- **Assigned to Senate Judiciary 1/28**
- Increases the number of members of the Arizona Criminal Justice Commission to 17 members by adding one person who leads an indigent defense agency, one person who leads a private nonprofit juvenile justice organization and one licensed psychiatrist or psychologist who has experience working in the criminal justice system, all of whom are appointed by the Governor. Session law provides for the initial terms of the new members.

## **BILLS THAT LIST ACJC**

### **HB2168: Use of Force; Reports; Analysis- Passed the House 50 (Y) and 10 (N). Assigned to Senate Appropriations and Rules on 3/2.**

- Bill introduced by Blackman.
- The bill designates ACJC as the data collection agency for the State for the Use of Force information. They want law enforcement to report the data to ACJC annually and then update the report at least once every five years.

### **HB2673 – Mandatory Minimum Sentences; Judicial Discretion- Bill passed the House 50 (Y) and 9 (N) and 1 not voting. Bill assigned Senate Judiciary and Rules on 2/18.**

- Bill has been introduced by Rep. John
- House Criminal Justice Reform (Wednesday 02/03/21 at 2:00PM, House Rm. 4)
- When sentencing a defendant who is convicted of an offense that requires a mandatory prison sentence, the court is authorized to impose a shorter prison sentence or suspend the sentence and impose a term of probation if the court finds that the imposition of the mandatory prison sentence would result in an injustice to the defendant and is not necessary for the protection of the public. Does not apply to a conviction for a list of specified crimes. The Administrative Office of the Courts is required to annually report to the Arizona Criminal Justice Commission on each case in which the court departed from a mandatory prison sentence, and the Commission is required to annually determine the cost savings realized as a result.

**SB1171 – Victims’ Rights; Enforcement Funds- Passed Senate 29 (Y) and 1 not voting. Assigned to House Judiciary and Rules on 3/2.**

- Referred to Senate Judiciary on 1/19
- Introduced by Senator Boyer
- Monies in the Victims' Rights Enforcement Fund may be distributed to nonprofit organizations and entities that can demonstrate a five-year history of providing, without cost to the crime victim, technical assistance and training to other criminal justice agencies that provide direct legal services to crime victims.
- This bill requires ACJC to start collecting restitution data on an annual basis.
- Director LeFevre met with Senator Boyer and asked that the effective date for this collection start Jan 1, 2023.

**SB1745- Use of Force; Law Enforcement- Referred to Senate Judiciary on 2/3- No movement**

- Introduced by Sen. Navarette
- Statutes governing justification for the use of physical force or the use of deadly physical force in law enforcement are repealed and replaced. Impossible to determine new provisions without a line by line comparison.

**HB2097- ACJC; victim compensation fund; allocation- Referred to House Military and Public Safety on 1/20- No Movement.**

- Bill has been introduced by Rep. Jermaine
- Referred to House Military and Public Safety
- The bill states that the Arizona Criminal Justice Commission must provide for the Victim Compensation and Assistance Fund eligible funding for a Native American ceremony or burial expenses, and mental health counseling and care provided by a person who is an employee (of) or contracted with a tribal health care organization, the Indian Health Services, any veterans administration provider or an urban Indian health program.
- In the rules for this program, as defined, funeral meaning a reasonable and customary cost, as designated under A.A.C R4-12-307, incurred as a direct result of a victims funeral, cremation, Native American ceremony or burial.” So native American ceremony or burial expenses that are considered reasonable and customary are already an eligible expense item. It is the Personal attendee expenses for clothing, travel, lodging, food, or per diem to attend a victim’s funeral, Native American ceremony, or burial, that are not reasonable and customary funeral expenses and shall not be included in a claim for a compensation award.
- The also ask about providing funding for mental health services – ACJC already identifies comp pay for counseling expenses if the counselor Is authorized to perform mental health counseling and care by the laws of a federally recognized tribe; and their concern was that tribal health care organizations are not recognized by the tribe, thus not covered explicitly.

**HB2856 – Arizona Criminal Justice Commission; Membership – No movement.**

- Introduced by Rep. Teran
- Increases the number of members of the Arizona Criminal Justice Commission to 17 members by adding one person who leads an indigent defense agency, one person who leads a private nonprofit juvenile justice organization and one licensed psychiatrist or psychologist who has experience working in the criminal justice system, all of whom are appointed by the Governor. Session law provides for the initial terms of the new members.

**HB1586: Criminal Justice Records; Reporting; Publishing- Referred to House Judiciary on 2/1- No movement**

- This bill has been introduced by Senator Mendez
- Currently has not been assigned to a committee.
- Requires ACJC to receive data on race/ethnicity on those cases that were dismissed/released without being charged, etc.

- We have no idea if this data is currently being collected and if it is not, there are additional costs to collect such data. No appropriations are designed in this bill.

**SB1780 – Victims’ Compensation; Assistance Fund; Rules- Referred to Senate Jud 2/3 – No Movement.**

- Introduced by Sen. Gonzales
- The Arizona Criminal Justice Commission cannot adopt rules for the allocation of monies from the Victim Compensation and Assistance Fund that require that a victim report the crime to a law enforcement agency within 30 days, or within 180 days for an offense including domestic violence, to be eligible for compensation.

**Bills to monitor**

**HB 2320- Sealing Arrest; Liability; Sentencing Records- Passed House with amendment 58 (Y) and 1 (N) and 1 not voting. Assigned to Senate Judiciary and Rules on 3/2.**

- Amendment #4191.
- Bill introduced by Rep Toma
- Bill was assigned to the Criminal Justice Reform Committee and has a hearing Wednesday 02/03/21 at 2:00PM, House Rm. 4
- The court is authorized to seal the record of a person's arrest, conviction and sentence, and a person whose record is sealed must be treated in all respects as if the person was never arrested, convicted or sentenced. Some exceptions.
- No one has signed in FOR or AGAINST

**2295: Law Enforcement Officers; Database- Failed the House 29 (Y) and 30 (N).**

- Introduce by Rep. Payne
- Received a Due Pass from House Public Safety on 2/2
- (BRADY) A "prosecuting agency" (defined) is prohibited from placing a law enforcement officer's name in a "rule 15.1 database" (defined) unless the officer is given at least 10 days prior written notice by mail or email to the officer's current or last known employment address. Information that must be included in the written notice is listed, including information on the right to request reconsideration of the allegations and placement in the database. If an officer submits a request for reconsideration, and the reconsideration is approved on its merits, the officer's name must be removed from the database. A prosecuting agency that maintains a rule 15.1 database is required to adopt a policy that includes specified provisions, including the criteria used to place a law enforcement officer's name in the database and the notice requirements of this legislation. A law enforcement agency is prohibited from using the placement of an officer's name in a rule 15.1 database as the sole reason for taking a list of employment actions against the officer.

**HB2810: Civil Asset Forfeiture; Conviction; Procedures-Passed the House 57 (Y) and 2 (N) and 1 not voting. Assigned to Senate Judiciary and Rules on 3/2.**

- Introduced by Rep. Grantham
- The list of property subject to seizure and forfeiture is modified to require the proceeds to be traceable to an offense that resulted in a criminal conviction. Property is subject to forfeiture only if the owner is convicted of an offense to which forfeiture applies and the state establishes by clear and convincing evidence that the property is subject to forfeiture.

**HB2075 – Sentencing; Judgement of Guilt; Fingerprints- Passed the House unanimously and was assigned to Senate Judiciary and Rules on 2/18.**

- Introduced by Pratt
- The court must require either that a defendant's fingerprint be permanently affixed to a court document or order, or that the defendant's two fingerprint biometric-based identifier

by obtained and recorded, and is no longer required to affix or obtain and record a defendant's fingerprint "at the time of sentencing and in open court."

**HB2790 – Prisoners; escape classification- Passed the House 57 (Y) and (1) N and 2 not voting. Assigned to Senate Judiciary and Rules on 3/2.**

- Introduced by Rep Cook
- Escaping from an adult correctional facility is escape in the first degree, instead of escape in the second degree. The criminal classification of escape in the first degree is increased to a class 2 (second highest) felony, from a class 4 (lower mid-level) felony.

**HB2182- Rapid DNA Testing; Appropriation- Passed House Appropriation on 2/4 with amendment #4117- No Movement.**

- Introduced by Kavanagh
- The Department of Public Safety (DPS) is required to adopt rules prescribing procedures for administering "rapid DNA testing" of "crime scene DNA samples" (both defined), and provisions that must be included in the rules are listed. Makes a supplemental appropriation of \$1.2 million and 3 FTE positions from the general fund in FY2021-22 to DPS to purchase and deploy four rapid DNA testing devices throughout Arizona. By October 15, 2021, January 15, 2022, April 15, 2022 and July 15, 2022, the Director of DPS is required to submit a report to the legislative judiciary committees containing specified information relating to the rapid DNA testing devices.

**SB1256- Victims' Privacy; Criminal Case Information- Due Pass Senate Judiciary 2/8, 2/10 Senate Consent- No Movement.**

- Introduced by Senator Boyer
- A victim's identifying and locating information that is obtained, compiled or reported by a law enforcement agency or prosecution agency must be redacted from records pertaining to the criminal case involving the victim, including discovery disclosed to the defendant's attorney or any of the attorney's staff.

**HB2451- Severe Threat Order of Protection – Referred to House Judiciary on 2/2- No Movement.**

- Introduced by Dr. Friese
- A petitioner is authorized to file a verified petition in the superior court or a municipal court requesting the court to issue a severe threat order of protection (STOP order). The petition for a STOP order must include a list of specified information, including a specific statement of either a credible threat of death or serious physical injury or an act of violence that resulted in or was intended to cause death or physical injury that occurred within the preceding 6 months, or a specific behavior or act that justifies the reasonable belief that the respondent is a danger to self or others.

**HB2775 – Prisoners; Earned Release; Credits – Assigned to House Criminal Justice Reform 2/3- No Movement.**

- Introduced by Rep Rodriguez
- For prisoners who are in the eligible earned release credit class, the earned release credit is increased to 2 days for every 1 day served, from 1 day for every 6 days served, except for prisoners sentenced to a term of imprisonment for specified offenses. For prisoners sentenced for possession or use of a dangerous drug or narcotic drug or possession of drug paraphernalia, the credit is increased to 11 days for every 4 days served.

**SB1743- Prisoners; Earned Release; Credits- Referred to Senate Judiciary 2/3- No Movement.**

- Introduced by Sen. Navarette
- For prisoners who are in the eligible earned release credit class, the earned release credit is increased to 2 days for every 1 day served, from 1 day for every 6 days served, except

for prisoners sentenced to a term of imprisonment for specified offenses. For prisoners sentenced for possession or use of a dangerous drug or narcotic drug or possession of drug paraphernalia, the credit is increased to 11 days for every 4 days served. For prisoners sentenced for a dangerous offense, the credit is increased to 1 day for every 1 day served, and for prisoners sentenced for a dangerous crime against children, the credit remains 1 day for every six days served. Deletes statute prohibiting a prisoner who fails to achieve functional literacy from being released to begin community supervision until either the prisoner achieves an eighth grade functional literacy level or serves the full term of imprisonment imposed by the court. Modifies reporting requirements for the earned release credit program.

**HB2786 – Appropriation; DPS; Body Cameras- Referred to Military Public Safety 2/8- No Movement.**

- Introduced by Rep Shah
- Appropriates \$4.83 million from the general fund in FY2021-22 to the Department of Public Safety (DPS) to purchase and deploy 1,267 body cameras for DPS personnel and task force members, and hire video management personnel and supervisors.

**HB2843 – Chemical Agents; Prohibited Uses; Police- No movement.**

- Introduced by M. Hernandez
- Peace officers are prohibited from using a "chemical agent" (defined) against any person who is engaged in expressive, nonviolent activity unless there is probable cause to arrest the person and without first issuing a clear and unambiguous warning and providing the person with a sufficient opportunity to heed the warning. Some exceptions. For the purpose of unlawful assembly, a peace officer or law enforcement agency is prohibited from ordering a person to disperse for the sole purpose of punishing a person who is exercising a constitutionally protected right to engage in expressive activity.

**SB1747 – Peace Officers; Cameras; Recorders; Disclosures- Referred to Senate Jud and Appropriations 2/3- No Movement.**

- Introduced by Sen. Navarette
- Adds an article to Title 38 (Public Officers and Employees) governing law enforcement officer cameras and recordings. By July 1, 2023, every local law enforcement agency in Arizona and the Department of Public Safety (DPS) is required to provide a body-worn camera for each peace officer who is employed by the agency or DPS and who has contact with the public. Peace officers are required to wear and activate a body-worn camera, or activate a dash camera if the peace officer's vehicle is equipped with a dash camera, when responding to a call for service or during any contact with the public that is initiated by the peace officer, whether consensual or nonconsensual, to enforce a law or investigate the possible violation of a law.

**SB1777 – Order of Protection; Firearm Protection- Referred to Senate Jud 2/3- No Movement.**

- Introduced by Sen. Gonzales
- A person who is at least 18 years of age and who is either a law enforcement officer, a "family or household member" (defined), a school administrator or teacher or a licensed behavioral health professional who has personal knowledge that the respondent is a danger to self or others is permitted to file a verified petition in the superior court for a one-year Severe Threat Order of Protection (STOP order), which prohibits the respondent from owning, purchasing, possessing or receiving or having in the respondent's custody or control a firearm or ammunition for up to one year. The petitioner is also permitted to request that the court issue an Ex Parte STOP order, which prohibits the respondent from owning, purchasing, possessing or receiving or having in the respondent's custody or control a firearm or ammunition until a court-scheduled hearing on the one-year STOP order. Establishes required timelines for hearings on STOP orders.