

# New Report

50th Legislature - 1st Regular Session, 2011

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## Monitor neutral

### Posted Calendars and Committee Hearings

H2351 : VEHICLE RENTAL RETURN; FAILURE; CRIMINAL CLASSIFICATION

*Hearing:* House Judiciary (Thursday 01/27/11 at 9:00 AM, House Rm. 4)

H2369 : DUI; WORK RELEASE

*Hearing:* House Judiciary (Thursday 01/27/11 at 9:00 AM, House Rm. 4)

S1023 : PROBATION OFFICERS; POWERS; PRETRIAL RELEASE

*Calendar:* 1/27 Senate Third Reading

S1046 : JUVENILE CORRECTIONS; DISCHARGE; I.C.E. DETAINERS

*Calendar:* 1/27 Senate Third Reading

S1095 : PROBATION REPORT; ELECTRONIC SUBMISSION

*Hearing:* Senate Judiciary (Monday 01/31/11, Senate Rm. 1)

S1096 : GARNISHMENT; FAILURE TO COMPLY

*Calendar:* 1/27 Senate Third Reading

### Bill Summaries

#### H2081: TECH CORRECTION; DOUBLE PUNISHMENT

Minor change in Title 13 (criminal code) pertaining to double punishment.  
Apparent striker bus.

First sponsor: Rep. Vogt

#### General Comments (all lists):

monitor

H2081 Daily History	Date	Action
No actions posted for this bill within the requested time frame.		

#### H2145: SELF DEFENSE; JUSTIFICATION; DEFENSIVE DISPLAY

Placing the person's hand on a firearm contained in a holster is added to the definition of "defensive display of a firearm," which is justified in specified situations.

First sponsor: Rep. Smith

Others: Rep. Barton, Rep. Burges, Rep. Crandell, Rep. Gowan, Rep. Harper, Rep. Judd, Rep. Kavanagh, Rep. Mesnard, Rep. Seel, Rep. Stevens, Sen. Murphy, Sen. Nelson, Sen. Pearce

**General Comments (all lists):**

monitor

H2145 Daily History	Date	Action
No actions posted for this bill within the requested time frame.		

**H2146: CONCEALED WEAPONS PERMIT; TRAINING**

Firearms safety training programs that use instructors who are certified by the National Rifle Association can be used to fulfill the training requirement for a person to qualify for a concealed weapons permit (in addition to programs authorized by the Dept of Public Safety).

First sponsor: Rep. Smith

Others: Rep. Barton, Rep. Burges, Rep. Crandell, Rep. Gowan, Rep. Harper, Rep. Judd, Rep. Kavanagh, Rep. Mesnard, Rep. Seel, Rep. Stevens, Sen. Murphy, Sen. Nelson, Sen. Pearce

**General Comments (all lists):**

monitor; determine what NRA training consists of.

H2146 Daily History	Date	Action
No actions posted for this bill within the requested time frame.		

**H2198: RETIREMENT; EORP; PLAN DESIGN**

A person who becomes an elected official after the effective date of this act is eligible for normal retirement benefits only upon attainment of 65 (with 5 or more years of credited service) or 62 (with a minimum 10 years of credited service). Formerly, members of the Elected Officials Retirement Plan were also eligible for retirement benefits at any age with 20 or more years of credited service. Also, beginning in fiscal 2011-12, the member's contribution percentage (currently 7%) is increased one percent per year until fiscal 2014-15 when the contribution percentage is 11% of the member's salary. The employer's contribution is unaffected by this change. Also changes in definitions and formulas used to calculate annual benefit increases.

First sponsor: Rep. Robson

H2198 Daily History	Date	Action
No actions posted for this bill within the requested time frame.		

**H2266: DRUG POSSESSION; MEDICAL ASSISTANCE; PROBATION**

A person convicted of personal possession or use of drugs or drug paraphernalia must be placed on probation if, at the time of the offense, the person was either experiencing a drug overdose and was in need of medical assistance or was seeking medical assistance for another person experiencing a drug overdose. Once probation is successfully completed, the court must automatically set aside the judgment of guilt.

First sponsor: Rep. Ableser

H2266 Daily History

Date Action

DRUG POSSESSION; MEDICAL ASSISTANCE; PROBATION 1/26 referred to House jud.

## H2299: PRIVATE PRISONS; REGULATION

Private prisons must comply with either the American Corrections Association Accreditation capacity requirements or the Department of Corrections published prison construction standards. Private prisons must immediately notify the Dept of any major incident involving public health or safety that occurs at the private prison. Establishes requirements for private prisons that house another state's prisoners or federal prisoners, including the type of prisoners that may be housed and information that must be provided to the Dept. Private prisons are liable for their operation and the persons under their authority.

First sponsor: Rep. Campbell

Others: Rep. Ableser, Rep. Alston, Rep. Arredondo, Rep. Farley, Rep. Gallego, Rep. Gonzales, Rep. Heinz, Rep. Hobbs, Rep. Meyer, Rep. Pancrazi, Rep. Patterson, Rep. Saldate, Rep. Tovar

### General Comments (all lists):

Per J. Walsh; one problem with pvt prisons is failure to report incidents in a timely manner for LE/Pros investigation of crimes in prison.

H2299 Daily History

Date Action

PRIVATE PRISONS; REGULATION 1/24 referred to House mil-pub, gov.

## H2351: VEHICLE RENTAL RETURN; FAILURE; CRIMINAL CLASSIFICATION

Unlawful failure to return a rented motor vehicle is a class 5 felony (increased from a class 1 misdemeanor).

First sponsor: Rep. Farnsworth

### General Comments (all lists):

Currently requires knowing failure without good cause. CW Farnsworth re: what is the issue?

H2351 Daily History

Date Action

VEHICLE RENTAL RETURN; FAILURE; CRIMINAL CLASSIFICATION 1/20 referred to House jud.

## H2369: DUI; WORK RELEASE

The court is required, instead of allowed, to permit DUI defendants to continue employment or schooling during a jail sentence, unless the court finds good cause and places those findings on the record.

First sponsor: Rep. Smith

Others: Rep. Ash, Rep. Barton, Rep. Burges, Rep. Harper, Sen. Gould

### General Comments (all lists):

Removes discretion, but not really. What is the point? Ask Smith.

H2369 Daily History

Date Action

DUI; WORK RELEASE 1/27 House jud do pass; report awaited.

DUI; WORK RELEASE 1/20 referred to House jud.

## H2392: FIREARMS; FEDERAL LAW; SCHOOL PERIMETERS

A person who lawfully owns or possesses a firearm is considered by this state to be individually licensed and verified to possess a firearm immediately outside the grounds of a school.

First sponsor: Rep. Seel

Others: Rep. Ash, Rep. Barton, Rep. Burges, Rep. Court, Rep. Crandell, Rep. Dial, Rep. Fillmore, Rep. Gowan, Rep. R. Gray, Rep. Harper, Rep. Judd, Rep. Kavanagh, Rep. Mesnard, Rep. Montenegro, Rep. Olson, Rep. Smith, Rep. Stevens, Rep. Ugenti, Rep. Urie, Rep. Yee, Sen. Biggs, Sen. Gould

### General Comments (all lists):

Relationship to federal law?

H2392 Daily History

Date Action

No actions posted for this bill within the requested time frame.

## H2411: CHILD PROSTITUTION; CONSECUTIVE SENTENCES

A person convicted of engaging in prostitution with a minor shall serve the sentence for that crime consecutively to any other sentence imposed on the person at any time.

First sponsor: Rep. Farnsworth

### General Comments (all lists):

K. Mayer checking notes from last year to determine if this fix of the concurrent aspect was a negotiated term that we were party to. Ctr for AZ Policy bill.

H2411 Daily History

Date Action

CHILD PROSTITUTION; CONSECUTIVE SENTENCES 1/24 referred to House jud.

## H2414: THEFT; ARTIFICE; PRIOR CONVICTIONS; CLASSIFICATION

A person who uses an artifice in the course of committing theft and who has previously been convicted of theft, burglary, shoplifting, robbery or organized retail theft within the past five years is guilty of a class 4 (mid-level) felony.

First sponsor: Rep. Mesnard

Others: Rep. Dial

### General Comments (all lists):

CW organized retail/theft group, michelle ulmer.

H2414 Daily History

Date Action

THEFT; ARTIFICE; PRIOR CONVICTIONS; CLASSIFICATION 1/24 referred to House jud.

## H2426: COMMUNICATION DEVICES; CLASS G LICENSEES

Class G driver license holders (drivers under the age of 18) are prohibited from operating a motor vehicle while using a wireless communication device. Some exceptions.

First sponsor: Rep. Farley

Others: Rep. Arredondo, Rep. Chabin, Rep. Proud, Rep. Tovar, Rep. Wheeler

H2426 Daily History

Date Action

COMMUNICATION DEVICES; CLASS G LICENSEES 1/24 referred to House trans, mil-pub.

## H2429: DRUG OFFENSES; PUBLIC PARKS; SENTENCING

The term of incarceration for committing a drug-related offense is increased by one year if the offense was committed in a public park, playground or parking lot, or a sidewalk adjacent to a park or playground.

First sponsor: Rep. Tovar

H2429 Daily History

Date Action

No actions posted for this bill within the requested time frame.

## H2439: DRIVER LICENSE REQUIREMENTS; VIOLATION; MISDEMEANOR

Classifies driving without a valid driver license as a class 2 misdemeanor.

First sponsor: Rep. Montenegro

Others: Rep. Burges, Rep. Dial, Rep. Gowan, Sen. Antenori

H2439 Daily History

Date Action

DRIVER LICENSE REQUIREMENTS; VIOLATION; MISDEMEANOR 1/24 referred to House trans, jud.

## H2482: SEXUALLY VIOLENT OFFENSES; PLEA AGREEMENT

A conviction for a lesser offense as a result of a plea agreement for a person charge with specified crimes is considered a sexually violent offense.

First sponsor: Rep. Gowan

Others: Rep. Burges, Rep. Vogt, Sen. Antenori

### General Comments (all lists):

DOC bill.

H2482 Daily History

Date Action

SEXUALLY VIOLENT OFFENSES; PLEA AGREEMENT 1/24 referred to House jud.

## HCR2020: JUDICIAL APPOINTMENTS; SENATE CONFIRMATION

The 2012 general election ballot is to carry the question of whether to amend the state Constitution to change the way judges are chosen. Instead of a commission submitting a list of recommendations from which the governor must choose, the governor may appoint anyone. The appointment is subject to Senate confirmation.

First sponsor: Rep. Harper  
Others: Rep. Burges

**General Comments (all lists):**

Have monitored in past and left to individuals; only argument for APAAC to take a position would be the impact on the quality of the judiciary.

State Bar opposes

HCR2020 Daily History	Date	Action
No actions posted for this bill within the requested time frame.		

## HCR2026: JUDGES; MERIT SELECTION; POPULATION

The 2012 general election ballot is to carry the question of whether to amend the state Constitution to change the county population threshold that determines which counties use merit selection for superior court judges and which use direct election by the people. This amendment changes the threshold to 500,000 from 250,000. [Capitol Reports note: Counties with fewer than 500,000 will elect judges directly to four-year terms. In counties whose population exceeds 500,000, judges are appointed by the governor from a list submitted by the Commission on Trial Court Appointments; these judges must stand for retention every four years.]

First sponsor: Rep. Williams  
Others: Rep. Stevens

**General Comments (all lists):**

Called the Pete Rio bill in the past; would impact Pinal; under the current census Pinal would go to Merit and if this passes go back out; could create chaos and expense

HCR2026 Daily History	Date	Action
No actions posted for this bill within the requested time frame.		

## S1023: PROBATION OFFICERS; POWERS; PRETRIAL RELEASE

While enforcing pretrial release conditions, probation officers in Maricopa County are granted the authority of peace officers to serve warrants and make arrests of persons alleged to have violated conditions of their pretrial release.

First sponsor: Sen. L. Gray

S1023 Daily History	Date	Action
PROBATION OFFICERS; POWERS; PRETRIAL RELEASE	1/25	from Senate rules okay.
PROBATION OFFICERS; POWERS; PRETRIAL RELEASE	1/24	to Senate consent calendar.
PROBATION OFFICERS; POWERS; PRETRIAL RELEASE	1/19	from Senate pub-hu ser do pass.
PROBATION OFFICERS; POWERS; PRETRIAL RELEASE	1/10	referred to Senate pub-hu ser.

## S1026: DUI, AGGRAVATED; SENTENCING

A juvenile driver who has been adjudicated guilty of aggravated DUI and was ordered to have an ignition interlock device (IID) installed must be detained for at least four months in a detention center if the juvenile commits an additional violation of DUI statutes or refuses to submit to a DUI test. Any driver ordered to have an IID installed who refuses to submit to a DUI test is guilty of a class 4 felony, raised from class 6 -- the lowest -- class.

First sponsor: Sen. L. Gray

### General Comments (all lists):

MADD bill to reduce recidivism rate when ti appears there is a pattern; MCAO will likely support

S1026 Daily History	Date	Action
DUI, AGGRAVATED; SENTENCING	1/26	from Senate pub-hu ser do pass.
DUI, AGGRAVATED; SENTENCING	1/26	Senate pub-hu ser do pass; report awaited.
DUI, AGGRAVATED; SENTENCING	1/10	referred to Senate pub-hu ser.

## S1029: DUI; RESTRICTED DRIVER LICENSE

A person whose driver's license has been revoked for a violation of simple or extreme DUI is eligible to have an ignition interlock restricted driver license granted after 45 days of the revocation period. Also, requests for hearings by persons facing license suspension may be submitted online.

First sponsor: Sen. L. Gray

### General Comments (all lists):

Why? Jobs issue?

S1029 Daily History	Date	Action
DUI; RESTRICTED DRIVER LICENSE	1/26	from Senate pub-hu ser do pass.
DUI; RESTRICTED DRIVER LICENSE	1/26	Senate pub-hu ser do pass; report awaited.
DUI; RESTRICTED DRIVER LICENSE	1/10	referred to Senate pub-hu ser, jud.

## S1046: JUVENILE CORRECTIONS; DISCHARGE; I.C.E. DETAINERS

The list of reasons that requires the Dept of Juvenile Corrections to surrender custody of a youth in its care is expanded to include a situation in which the youth has completed the minimum length of stay and for whom the U.S. Immigration and Customs Enforcement enforces a detainer demanding custody of the youth for immigration proceedings.

First sponsor: Sen. Shooter  
Others: Sen. L. Gray

### General Comments (all lists):

Comes from the agency; regards liability when custody is not maintained by agency

S1046 Daily History	Date	Action
JUVENILE CORRECTIONS; DISCHARGE; I.C.E. DETAINERS	1/26	Senate COW approved.
JUVENILE CORRECTIONS; DISCHARGE; I.C.E. DETAINERS	1/25	from Senate rules okay. Stricken from Senate consent calendar by Cajero Bedford.
JUVENILE CORRECTIONS; DISCHARGE; I.C.E. DETAINERS	1/24	to Senate consent calendar.
JUVENILE CORRECTIONS; DISCHARGE; I.C.E. DETAINERS	1/24	from Senate border-fed-sov do pass.
JUVENILE CORRECTIONS; DISCHARGE; I.C.E. DETAINERS	1/20	Senate border-fed-sov do pass; report awaited.
JUVENILE CORRECTIONS; DISCHARGE; I.C.E. DETAINERS	1/19	from Senate pub-hu ser do pass.
JUVENILE CORRECTIONS; DISCHARGE; I.C.E. DETAINERS	1/10	referred to Senate pub-hu ser, border-fed-sov.

## **S1057: LAW ENFORCEMENT OFFICERS; DISCIPLINARY ACTION**

A law enforcement officer who was subject to disciplinary action without just cause being established may recover all costs, including attorney fees associated with proceedings held to establish the officer's innocence. Punitive damages may be awarded by a court if it determines, by a preponderance of evidence, that the allegations were knowingly and intentionally filed without cause.

First sponsor: Sen. L. Gray

### **General Comments (all lists):**

Ascertain AACO and League of C & T positions; oppose with punitive damages;

per John Thomas on 1/19 punitives to be removed. traditional partner, if asked may support LE on their position

Per Rob Dalager, not a Phx PD bill

S1057 Daily History	Date	Action
LAW ENFORCEMENT OFFICERS; DISCIPLINARY ACTION	1/10	referred to Senate jud.

## **S1060: FIREARMS; MISCONDUCT; FRAUDULENT TRANSACTIONS**

Various actions are added to the criminal code related to misconduct involving weapons, including if a person falsifies, conceals or misrepresents the identity of a buyer, receiver or other person on whose behalf someone purchases a deadly weapon. It is also illegal to sell a weapon if the seller has reason to know that false or misleading information regarding the purchaser is being used. For purposes of RICO statutes. all such actions may be considered racketeering.

First sponsor: Sen. Sinema

### **General Comments (all lists):**

Falsifyng already a crime; creates a RICO platform; MCAO will likely oppose, monitor and bring back if it gets on a calendar

S1060 Daily History	Date	Action
FIREARMS; MISCONDUCT; FRAUDULENT TRANSACTIONS	1/11	referred to Senate jud.

## **S1070: TECH CORRECTION; UNLAWFUL ALIENS; TRANSPORTING**

Minor change in Title 13 (criminal code) pertaining to offenses against the public order. Apparent striker bus.

First sponsor: Sen. Pearce

**General Comments (all lists):**

monitor

S1070 Daily History	Date	Action
TECH CORRECTION; UNLAWFUL ALIENS; TRANSPORTING	1/11	referred to Senate rules only.

### **S1086: TOBACCO PRODUCTS; PROHIBITION**

It is a class 3 (lowest) misdemeanor to present a document that misrepresents one's age for the purpose of purchasing tobacco products. Also, the list of tobacco products that may not be sold in this state is expanded to include "a blunt wrap," defined as an individual tobacco wrapper or a roll-your-own cigar.

First sponsor: Sen. Reagan

**General Comments (all lists):**

Need to determine if this will put a grant in jeopardy if part of the element is age only. Petty v. misdemeanor. Don Isaacson is checking with juvenile corrections; montitor

S1086 Daily History	Date	Action
TOBACCO PRODUCTS; PROHIBITION	1/26	Senate com-energy held.
TOBACCO PRODUCTS; PROHIBITION	1/19	Senate com-energy held.
TOBACCO PRODUCTS; PROHIBITION	1/11	referred to Senate com-energy.

### **S1095: PROBATION REPORT; ELECTRONIC SUBMISSION**

The report required to be submitted by a probation department to a court prior to the court's conducting a probation hearing shall be submitted electronically.

First sponsor: Sen. Biggs

**General Comments (all lists):**

Monitor

S1095 Daily History	Date	Action
PROBATION REPORT; ELECTRONIC SUBMISSION	1/20	Senate jud held.
PROBATION REPORT; ELECTRONIC SUBMISSION	1/11	referred to Senate jud.

### **S1096: GARNISHMENT; FAILURE TO COMPLY**

The time period after which a garnishee who fails to comply with an order of criminal garnishment may be held in contempt is shortened to 30 days from 15 days.

First sponsor: Sen. Biggs

**General Comments (all lists):**

monitor

S1096 Daily History	Date	Action
GARNISHMENT; FAILURE TO COMPLY	1/25	from Senate rules okay.
GARNISHMENT; FAILURE TO COMPLY	1/24	to Senate consent calendar.
GARNISHMENT; FAILURE TO COMPLY	1/19	from Senate pub-hu ser do pass.
GARNISHMENT; FAILURE TO COMPLY	1/11	referred to Senate pub-hu ser.

**S1115: JLBC; JCCR; REPORTS**

Eliminates requirements for various state agencies, commissions and districts to submit various reports to the Joint Legislative Budget Committee or to obtain JLBC approval for certain expenditures. Also modifies deadlines for various agencies and commissions to submit information to JLBC, and makes various reports to JLBC due annually instead of quarterly or semiannually. The Joint Committee on Capital Review no longer approves rental rates for agencies occupying state owned buildings.

First sponsor: Sen. Biggs

**General Comments (all lists):**

Per ACJC: changes the rico reporting to annually; could create transparency issues.

S1115 Daily History	Date	Action
JLBC; JCCR; REPORTS	1/13	referred to Senate appro.

**S1118: COUNTY MEDICAL EXAMINER; ID PROTOCOL**

County medical examiners are required to make a positive identification of a dead person within 72 hours of taking physical possession of the body unless identification is not possible using any specified methods.

First sponsor: Sen. Barto

S1118 Daily History	Date	Action
COUNTY MEDICAL EXAMINER; ID PROTOCOL	1/26	Senate hel-med amended; report awaited.
COUNTY MEDICAL EXAMINER; ID PROTOCOL	1/18	referred to Senate hel-med.

**S1133: APPROACHING STATIONARY VEHICLES; YIELD RIGHT-OF-WAY**

Statute that calls for drivers approaching stationary emergency vehicles with alternately flashing red and blue lights to yield the right-of-way and proceed with caution is changed so that drivers must yield to any vehicle displaying flashing lights or warning lights.

First sponsor: Sen. Nelson

**General Comments (all lists):**

Need more information; Monitor: AAA, ADOT and DPS all support. Passed on a unanimous vote out of senate committee; passed twice before but stalled both times in the house for philosophical reasons. Meant to protect tow truck drivers and tire changers/ allows advertising that it is the law. 109 charged last year under the LE provision.

S1133 Daily History	Date	Action
APPROACHING STATIONARY VEHICLES; YIELD RIGHT-OF-WAY	1/25	from Senate nat res-trans with amend <u>#4010</u> .
APPROACHING STATIONARY VEHICLES; YIELD RIGHT-OF-WAY	1/18	referred to Senate nat res-trans.

**S1177: COUNITIES; MUNICIPALITIES; PUBLIC INTOXICATION LAWS**

Counties, municipalities and other political subdivisions are authorized to adopt and enforce a local law that includes public intoxication.

First sponsor: Sen. Allen  
Others: Rep. Barton, Rep. Crandell, Sen. Antenori, Sen. L. Gray, Sen. Melvin

S1177 Daily History	Date	Action
PUBLIC INTOXICATION; LOCAL LAWS	1/20	referred to Senate jud.

**S1233: PEACE OFFICERS; AT-WILL EMPLOYMENT**

The statutory provision that a peace office may not be subjected to disciplinary action except for just cause does not apply to law enforcement officers who are employed at-will (defined) in an executive or managerial position.

First sponsor: Sen. L. Gray

S1233 Daily History	Date	Action
PEACE OFFICERS; AT-WILL EMPLOYMENT	1/25	referred to Senate pub-hu ser.

**S1234: TOWED VEHICLE DATABASE; STATEWIDE**

The Dept of Transportation (ADOT) shall establish and maintain a statewide towed vehicle information database. Required information shall be forwarded by each law enforcement agency within 24 hours of either immobilizing or impounding a vehicle. The administrative fee levied to release an impounded or immobilized vehicle is increased to \$155 from \$150 with the \$5 increase being dedicated to ADOT to maintain the database.

First sponsor: Sen. L. Gray

S1234 Daily History	Date	Action
TOWED VEHICLE DATABASE; STATEWIDE	1/25	referred to Senate nat res-trans.

**S1235: LAW ENFORCEMENT OFFICERS; DISCIPLINARY PROCEDURES**

At the request of a law enforcement officer facing a disciplinary action, the employing agency must provide a list and summary of disciplinary action ordered against other officers employed by the same agency who were accused of the same or similar violation within the previous two years. If the employer is a county of fewer than 250,000 or a city of fewer than 65,000, and a change in hearing officer is requested, and the alternate hearing officer is available only through an intergovernmental agreement with another jurisdiction, the costs of procuring the alternate hearing officer shall be shared equally between the employer and the officer.

First sponsor: Sen. L. Gray  
Others: Sen. Aboud

**General Comments (all lists):**

this is the FOP bill which has come a long way from the original according to John Thomas. See also 1057

S1235 Daily History

Date Action

LAW ENFORCEMENT OFFICERS; DISCIPLINARY PROCEDURES 1/25 referred to Senate pub-hu ser.

**S1251: BAD CHECKS; PAYMENT; TIME FRAME**

The time period within which a person who has issued a bad check for \$5,000 or more must pay the full amount of the check plus interest and fees to avoid being charged with a class 6 (lowest) felony is reduced to 45 days from 60 days after receiving official notice from the holder of the check.

First sponsor: Sen. Barto

**General Comments (all lists):**

Barto only sponsor. Ask about genesis. Theoretically will increase the number of cases.

S1251 Daily History

Date Action

BAD CHECKS; PAYMENT; TIME FRAME 1/26 referred to Senate jud.