



ARIZONA HOUSE OF REPRESENTATIVES

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HB 2893: criminal justice; budget reconciliation; 2021-2022.

Sponsor: Representative Cobb, LD 5

Transmitted to the Governor

Overview

Contains budget reconciliation provisions relating to Criminal Justice needed for implementing the FY 2022 budget.

History

The Arizona Legislature adopts a budget for each fiscal year (FY) that contains general appropriations. [Article IV, Section 20, Part 2](#), Constitution of Arizona, requires the *General Appropriations Act* (feed bill) to contain only appropriations for the different state departments, state institutions, public schools and interest on public debt. Statutory changes necessary to reconcile the appropriations made in the feed bill and other changes are drafted into separate bills known as *Budget Reconciliation Bills* (BRBs). These BRBs are prepared according to subject area.

Provisions

Coordinated Reentry Planning Services Programs

1. Permits a county to establish a coordinated reentry planning services program (Program) to connect persons booked into a county jail with behavioral health and substance use disorder treatment providers at the earliest possible stage in the criminal justice process. (Sec. 1)
2. Requires a Program, subject to available funds, to:
 - a) Allow entities to access and use a cross-system recidivism tracking database (Database) that incorporates specified data;
 - b) Allow entities to work with counties, cities, towns and superior courts to create an information exchange mechanism that includes reentry planning efforts;
 - c) Allow county and community-wide collaborative efforts to be established for jail reentry planning services that include specified services and develop a new or extend an existing coalition with all branches of the criminal justice and court systems;
 - d) Establish working agreements with coalition partners in which treatment providers use the Database to record post-release treatment engagement; and
 - e) Use the Database to record baseline and ongoing statistics for identified needs, referrals and future recidivism of reentry coordination participants. (Sec. 1)
3. Requires a county that establishes a Program also to establish a committee to develop the Program's policies and procedures, including eligibility criteria, program implementation and operation and outlines committee membership. (Sec. 1)

Rules and Administrative Orders

4. Allows the Supreme Court to use *administrative orders* to regulate procedure to simplify judicial proceedings. (Sec. 2)

5. Restricts Supreme Court rules or administrative orders from modifying law relating to real property rights. (Sec. 2)

Arizona Lengthy Trial and Digital Evidence Fund

6. Renames the Arizona Lengthy Trial Fund to the *Arizona Lengthy Trial and Digital Evidence Fund* (Fund). (Sec. 3)
7. Allows the Supreme Court to waive additional fees for cases that do not involve digital evidence. (Sec. 3)
8. Permits the remainder of the Fund, after paying jurors, to be used for managing digital evidence and displaying that evidence to the jury. (Sec. 10)

Document and Digital Evidence Storage and Retrieval Conversion Fund

9. Renames the Document Storage and Retrieval Conversion Fund to the *Document and Digital Evidence Storage and Retrieval Conversion Fund* (Fund). (Sec. 5)
10. Authorizes the use of the Fund for managing digital evidence and displaying that evidence to the jury. (Sec. 5)
11. Repeals statutory language relating to the electronic filing and access fee. (Sec. 6)

General Adjudication Personnel and Support Fund

12. Establishes the General Adjudication Personnel and Support Fund (Fund), which consists of monies appropriated by the Legislature and is administered by the Supreme Court. (Sec. 4)
13. Specifies the Fund monies are to be continuously appropriated and exempt from lapsing. (Sec. 4)
14. Stipulates that the Fund monies are to be used by the Supreme Court and the Arizona Department of Water Resources (ADWR) to provide additional full-time personnel for general adjudication, case management and other support services. (Sec. 4)
15. Specifies that for FYs 2022 and 2023, before Fund monies can be spent, the Joint Legislative Budget Committee (JLBC), if the JLBC chair requires, must review the expenditure plan produced by the Supreme Court and ADWR for the FY in which the monies are to be spent. (Sec. 4)
16. Authorizes the Supreme Court to appoint additional paralegals and law clerks for the general adjudication. (Sec. 22)
17. Stipulates that, notwithstanding any laws regulating the payment of judge salaries, any specified legal professional hired for general adjudications must be fully funded by the State. (Sec. 22)

Probation Success Incentive Payments and Grants

18. Requires the Administrative Office of the Courts (Courts), in consultation with each county's adult probation department, to calculate a county probation success incentive payment (Payment) for each county for the most recently completed FY. (Sec. 7)
19. States the Payment is equal to the estimated number of probationers prevented from returning to prison compared to the county-specific historical baseline, multiplied by 50% of the marginal cost of incarceration. (Sec. 7)
20. States that a probationer whose probation has been terminated due to serving a sentence in a county jail has failed to complete probation for the purposes of calculating the probation failure rate. (Sec. 7)

21. Requires the Courts to calculate a statewide probation success incentive grant payment (Grant) that equals the number of probationers successfully prevented from entering prison compared to the statewide historical baseline, multiplied by 25% of the marginal cost. (Sec. 7)
22. Specifies that each county must use its Payments and Grants to supplement programs that improve supervision and rehabilitation of probationers. (Sec. 7)
23. Outlines the Grant distribution process and procedures and authorizes the counties to retain up to 15% of the disbursement for administrative and data collection purposes. (Sec. 7)
24. Requires any county receiving Grants or Payments to make the monies available to the county's adult probation department within 60 days and requires the county's adult probation department to maintain an accurate accounting of all monies received. (Sec. 7)
25. Requires the director of the Arizona Department of Corrections (ADC) to calculate the marginal cost of incarceration and provide it to the Courts. (Sec. 7)
26. Instructs the Courts to report, using collected data or best available estimates using a consistent methodology, at the end of each FY:
 - a) The probation failure rate for each county;
 - b) An estimate of the number of probationers prevented from returning to prison for each county; and
 - c) An accounting of the population of probationers per county for the previous three years. (Sec. 7)
27. Requires the Courts to include an estimate of the total monies to be held and administered in the following FY as part of the Judiciary's proposed budget. (Sec. 7)
28. Requires each county board of supervisors to periodically provide oversight regarding the allocation of Grants to ensure the monies are used as specified. (Sec. 7)
29. Mandates each adult probation department define and track specific outcome-based measures. (Sec. 7)
30. Requires, by January 1, 2023, each adult probation department receiving Payments or Grants to submit a written report accounting for the Payments and Grants to the Courts and the county board of supervisors and requires subsequent annual reports. (Sec. 7)
31. Requires, by July 1, 2023, the Courts to submit a report to the Governor and Legislature on the implementation of the Grants and requires subsequent annual reports. (Sec. 7)
32. Defines *baseline probation failure rate*, *evidence-based practices*, *marginal cost of incarceration* and *probation programming*. (Sec. 7)

Expenses of Investigation

33. Requires a county to use the following funding sources to pay for any medical or forensic expenses relating to securing evidence that a person has been the victim of a sexual assault or a dangerous crime against children:
 - a) Federal monies;
 - b) State monies appropriated for this purpose; or
 - c) Any combination of the above. (Sec. 8)

Persons Entitled to be Excused from Jury Service

34. States a prospective juror employed as a correctional officer by ADC may be temporarily excused from jury service upon timely application to the court. (Sec. 9)

Border Security Fund

35. Establishes the Border Security Fund (Fund). (Sec. 11)
36. States the Department of Emergency and Military Affairs (DEMA) will administer the fund. (Sec. 11)
37. Outlines that the Fund may be used for the following reasons:
 - a) Preventing human trafficking;
 - b) Preventing the entry of specified persons or contraband into the United States;
 - c) Planning, constructing and maintaining commercial vehicle inspection infrastructure near the international border;
 - d) Removing nonindigenous plants;
 - e) Managing the construction and maintenance of a physical border fence; and
 - f) Awarding grants to counties for providing housing in secure facilities or prosecuting individuals who commit specified crimes. (Sec. 11)
38. Requires DEMMA to consult with the Department of Public Safety, the Department of Transportation, the Department of Forestry and Fire Management or the Department of Administration before spending any monies from the Fund. (Sec. 11)
39. Requires the Governor to request the federal government to reimburse state monies spent from the fund and to deposit reimbursements into the state General Fund. (Sec. 11)
40. Specifies the Fund monies are to be continuously appropriated and exempt from lapsing. (Sec. 11)

National Guard Cyber-Attack Prevention, Response and Support Activities and Fund

41. Authorizes the Arizona National Guard to engage in cyber-attack prevention, response and support activities. (Sec. 12)
42. Authorizes the Arizona National Guard to enter into agreements relating to cyber response and protection activities with state agencies and political subdivisions. (Sec. 12)
43. Establishes the National Guard Cyber Response Revolving Fund (Fund) and states DEMMA will administer the Fund. (Sec. 12)
44. Requires the Fund to be used for the costs incurred by the state while assisting agencies and political subdivisions with cyber support activities. (Sec. 12)
45. Specifies the Fund monies are to be continuously appropriated and exempt from lapsing. (Sec. 12)

Expenses of Prosecution

46. States ADC, rather than the Department of Administration (ADOA), is responsible for paying any court claims for costs or expenses relating to a crime committed in, or adjacent and related to, an ADC correctional facility. (Sec. 13)

Mental Health Transition Pilot Program

47. Requires ADC to establish the Mental Health Transition Pilot Program (Program) to provide eligible inmates with transition services in the community. (Sec. 14)
48. Stipulates that an inmate participating in the Program may not be released before the inmate's earliest release date. (Sec. 14)
49. Requires ADC to contract, in accordance with procurement statutes, with private or nonprofit entities to provide eligible inmates with mental health transition services and to evaluate each participating inmate and provide the information to the contracted entity. (Sec. 14)
50. Limits Program participation to 500 inmates each FY. (Sec. 14)

51. Instructs the Director to adopt rules for implementation and outlines criteria. (Sec. 14)
52. Requires ADC to conduct an annual study relating to Program participation and recidivism rates. (Sec. 14)
53. Requires ADC to submit a report annually to the Governor, Legislature and Secretary of State regarding program implementation, participation and other outlined information. (Sec. 14)
54. Mandates ADC must provide information about the Program to eligible inmates. (Sec. 14)
55. Defines *recidivism* as reincarceration in ADC for any reason. (Sec. 14)
56. Repeals the Program on July 1, 2026. (Sec. 15)

Law Enforcement Officer Investigations and Civilian Review Board

57. Requires two-thirds of the voting membership of any entity that investigates or disciplines a law enforcement officer for misconduct to be Arizona Peace Officers and Training (AZPOST) certified law enforcement officers. (Sec. 16)
58. States any entity that investigates or disciplines a law enforcement officer for misconduct may not have more than one-third of the members be nonvoting members. (Sec. 16)
59. Allows a supervisor or an agency head to investigate or discipline a law enforcement officer for misconduct if the investigating entity does not fulfill all membership requirements. (Sec. 16)
60. Stipulates that the role of a person or entity reviewing the investigation or discipline process or AZPOST board are not affected by the above changes. (Sec. 16)
61. States that the Legislature finds that setting and maintaining standards of professionalism and integrity of law enforcement officers in this state are of statewide concern. (Sec. 16, 17)
62. Outlines the requirements for a person to become a member of a civilian review board that reviews the actions of peace officers. (Sec. 17)
63. Requires members currently serving on a civilian review board to complete the required training by January 1, 2022. (Sec. 17)
64. Exempts member of AZPOST board from the above requirements. (Sec. 17)
65. Defines *civilian review board*. (Sec. 17)
66. Contains a retroactivity date of January 1, 2021. (Sec. 28)

Attorney General Investigations

67. States that at the request of one or more members of the Legislature, the Attorney General is required to investigate any official action taken by any governing body of a political subdivision of this state or *any written policy, rule or regulation adopted by any agency, department or other entity of the county, city or town* that the member alleges violates state law of the Constitution of Arizona. (Sec. 18)
68. Requires that, before a legislator may request the Attorney General investigate a written local policy, rule or regulation, the legislator must provide notice to the local entity and wait 60 days for possible repeal. (Sec. 18)

School Safety Interoperability Fund

69. Renames the Public Safety Interoperability Fund to the *School Safety Interoperability Fund* (Fund). (Sec. 19)
70. Requires the State Treasurer to administer the Fund. (Sec. 19)

71. Requires monies in the Fund to be distributed to the county sheriff that establishes a school safety pilot program that meets all outlined criteria. (Sec. 19)
72. Requires the county sheriff that established a school safety pilot program receiving monies from the Fund to submit a report on all expenditures in the previous FY to JLBC. (Sec. 19)

Video Recordings

73. States the Department of Public Safety (DPS) may only release to the public a video recording if the following apply:
 - a) All people in the video, except the peace officer, consent and any identifying information is redacted; or
 - b) DPS determines there is an important public purpose for releasing the video recording. (Sec. 20)
74. Requires DPS to review the recording before release to determine whether redacting or withholding the recording is appropriate and outlines guidelines for redaction or withholding. (Sec. 20)
75. Prohibits DPS from releasing a video recording, upon a public record request, unless all requirements have been met. (Sec. 20)
76. Allows a person making a public record request for a video recording to submit subsequent requests if the initial request is denied for failing to provide all relevant information. (Sec. 20)
77. Authorizes DPS to establish a fee charged to the person requesting the video and outlines information to be considered when determining the fee amount. (Sec. 20)

Rapid DNA Testing

78. Requires the director of DPS to adopt rules prescribing procedures for administering rapid DNA testing of crime scene DNA samples. (Sec. 21)
79. Defines *crime scene DNA sample* and *rapid DNA testing*. (Sec. 21)

Military Installation Fund

80. Extends, as session law, the ability of DEMA to use \$1,250,000 in the Military Installation Fund to construct a readiness center over the combined FYs 2019 through 2026. (Sec. 23)
81. Exempts the appropriation from lapsing until July 1, 2026. (Sec. 23)

Juvenile Probation Services Fund

82. Extends, as session law, from FY 2020 to FY 2022, the ability of the Supreme Court to use up to \$2,600,000 to design, implement and upgrade a new appellate case management system. (Sec. 24)
83. Reduces the total monies allocated from \$3,150,000 to \$2,600,000. (Sec. 24)

ADC Budget Structure

84. Continues to require ADC to report detailed expenditures when the agency submits its FY 2023 budget request. (Sec. 25)

DPS – State Aid to Indigent Defense Fund

85. Continues to permit DPS to use money in the State Aid to Indigent Defense Fund for operating expenses in FY 2022. (Sec. 26)

DPS – White Mountain Apache Police Department

86. Requires DPS to purchase one virtual firing range for the White Mountain Apache police department. (Sec. 27)

Miscellaneous

87. Makes technical and conforming changes. (Sec. 2, 3, 5, 9, 10, 13,16, 17, 18, 22)

Prop 105 (45 votes) Prop 108 (40 votes) Emergency (40 votes) Fiscal Note