# Council Meeting- February 26, 2016
## LPC Bill Recommendations

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# Council Meeting- February 26, 2016

### Posted Calendars and Committee Hearings

H2201: SOVEREIGN AUTHORITY; COMMANDEERING; PROHIBITION; EXCEPTION
*Calendar:* 2/18 House Third Reading

### SUPPORT

**Bill Summaries**

H2670: NONRESTORABLE DEFENDANTS; INCOMPETENT; INVOLUNTARY COMMITMENT

Various changes related to defendants who are incompetent to stand trial. If a mental health expert determines that a defendant is incompetent to stand trial, the information that must be included in the expert's report is expanded to include the nature of the mental health disorder that may affect the defendant's propensity to reoffend; and if the expert determines that there is no substantial probability that the defendant will regain competency within 21 months, the report must include whether the defendant should be considered "dangerous" (defined) or may be a sexually violent person. If the court finds that a defendant is incompetent to stand trial and that there is no substantial probability that the defendant will regain competency within 21 months, any party is permitted to request that the court hold a hearing to determine if the defendant is dangerous and should be involuntarily committed. The court is also authorized to order an assessment of the defendant's eligibility for private insurance or public benefits that may be applied to the expenses of the defendant's medically necessary maintenance and treatment. If an incompetent defendant is found to be not restorable to competency, the state is permitted to request a hearing to determine if the defendant is dangerous, which must be established by clear and convincing evidence, and should be involuntarily committed, and the defendant must be examined by mental health experts to determine if the defendant should be considered dangerous. After the entry of a commitment order, the defendant's treatment supervisor is required to annually report on a prognosis for the defendant's restoration to competency and whether the defendant remains dangerous. If the report indicates that the defendant is competent or no longer dangerous the court is required to hold a hearing. If after a hearing the court finds that the defendant's competency is restored, the court must order the resumption of criminal proceedings. Much more.

First sponsor: Rep. E. Farnsworth

S1294: CLAIMS; LICENSED PROFESSIONALS; EXPERT WITNESS

Statute regulating expert opinion testimony in claims against licensed professionals in a civil action is extended to claims against licensed professionals in arbitration. An expert witness's opinion or testimony on the appropriate standard of practice or care of a licensed professional does not satisfy the statutory requirements for expert witnesses unless the expert witness is licensed or registered in Arizona or another state and meets a list of specified criteria. Statutory requirements does not limit the power of the trial court or arbitrator to disqualify an expert witness on other grounds. An expert witness is prohibited from testifying if the fee of the witness is in any way contingent on the outcome of the claim.

First sponsor: Sen. Driggs

S1510: JUDICIAL PRODUCTIVITY CREDITS; CALCULATION; SALARY

The formula for determining the total judicial productivity credits of each court, which is used to determine the annual salary of each justice of the peace, is repealed and replaced. Beginning July 1, 2017, the Arizona Supreme Court is required to annually perform the calculations in each justice court for the previous 12-month period ending on June 30 and report the total judicial productivity credits to the applicable board of supervisors by November 1 of each year. Any adjustment to the salary of a justice of the peace is effective on the following January 1.

First sponsor: Sen. Driggs

## OPPOSE

### Bill Summaries

H2201: SOVEREIGN AUTHORITY; COMMANDEERING; PROHIBITION; EXCEPTION

The state and all political subdivisions are prohibited from using any personnel or financial resources to enforce, administer or cooperate with any "action" (defined) of the U.S. government that constitutes "commandeering," defined as any action that is not in pursuance of the U.S. Constitution and that has not been affirmed by a vote of the U.S. Congress and signed into law as prescribed in the U.S. Constitution, or any action that exceeds the powers of the U.S. Congress enumerated in the U.S. Constitution, unless specifically authorized by state legislation.

First sponsor: Rep. Thorpe
Others: Rep. Barton, Rep. Borrelli, Rep. Campbell, Rep. Cobb, Rep. Finchem, Rep. Kern, Rep. Lawrence, Rep. Leach, Rep. Livingston, Rep. Mitchell, Rep. Rivero, Rep. Shope

H2627: CRIMINAL JUSTICE COMMISSION; MEMBERSHIP; REPORT

Increases the number of members of the Arizona Criminal Justice Commission to 23 members by increasing the number of members who are appointed by the Governor to 18, from 14. No more than 9 members appointed by the Governor may be from the same political party, increased from 7. The list of requirements for members appointed by the Governor is expanded to include two public defenders, one from a county with a population of $1.5 million or more (Maricopa County) and one from a county with a population of 800,000 persons or more but less than $1.5 million (Pima County), one crime victim advocate, and one former prison inmate who advocates for prisoner rights. The Commission is required to conduct a comprehensive review of Arizona's sentencing and corrections data and submit a report to the Legislature by December 31, 2016 the includes data-based policy recommendations for a list of specified purposes.

First sponsor: Rep. Meyer
Others: Rep. Alston, Rep. Andrade, Rep. Benally, Rep. Bolding, Rep. Cardenas, Rep. Clark, Rep. Espinoza, Rep. Fernandez, Rep. Friese, Rep. Gabaldon, Rep. Gonzales, Rep. Hale, Rep. Kopec, Rep. Mach, Rep. McCune Davis, Rep. Mendez, Rep. Otondo, Rep. Plumlee, Rep. Rios, Rep. Saldate, Rep. Velasquez, Rep. Wheeler

H2628: JOINT SELECT COMMITTEE ON CORRECTIONS

Establishes a 9-member Joint Select Committee on Corrections to receive testimony on the construction schedule of prison beds previously authorized by the Legislature, on the growth or decline in the Department of Corrections' inmate population and the conditions of confinement of the inmate population, and make recommendations to the Legislature regarding future prisons and capital investments to improve the conditions of confinement and working conditions for Dept staff. The Committee is required to submit a report to the Governor and the Legislature by October 15 of each year. The Committee terminates on July 1, 2024.

First sponsor: Rep. Mach
Others: Rep. Alston, Rep. Andrade, Rep. Benally, Rep. Bolding, Rep. Cardenas, Rep. Clark, Rep. Espinoza, Rep. Fernandez, Rep. Friese, Rep. Gabaldon, Rep. Gonzales, Rep. Hale, Rep. Kopec, Rep. Larkin, Rep. McCune Davis, Rep. Mendez, Rep. Meyer, Rep. Otondo, Rep. Plumlee, Rep. Rios, Rep. Saldate, Rep. Velasquez, Rep. Wheeler

## H2629: PRISONERS; EARNED RELEASE CREDITS

For prisoners who are in the eligible earned release credit class, the earned release credit is increased to one day for every three days served, from one day for every six days served, except for prisoners sentenced to a term of imprisonment for a serious offense or violent or aggravated felony.

First sponsor: Rep. Mach
Others: Rep. Alston, Rep. Andrade, Rep. Benally, Rep. Cardenas, Rep. Clark, Rep. Espinoza, Rep. Fernandez, Rep. Gabaldon, Rep. Gonzales, Rep. Hale, Rep. Kopec, Rep. Larkin, Rep. McCune Davis, Rep. Mendez, Rep. Plumlee, Rep. Rios, Rep. Saldate, Rep. Velasquez, Rep. Wheeler

## H2639: ERRONEOUS CONVICTIONS; CIVIL ACTION

A person who has been erroneously convicted is permitted to apply to a court for compensation. The person claiming to have been erroneously convicted has the burden of proving the erroneous conviction. If the court determines that the person did not commit the offense by clear and convincing evidence, the court must enter a judgment for damages against the agency that prosecuted the person. Damages that the court is permitted to award are specified. A person who was convicted before the effective date of this legislation may file a civil action within two years after the effective date.

First sponsor: Rep. Saldate

## H2680: EMPLOYERS; EX-FELONS; INCOME TAX CREDITS

For tax years 2017 through 2019, establishes an income tax credit for qualified employers who employ persons who are qualified ex-felons. The amount of the credit is 5 percent of the first $6,000 in wages paid to each qualified employee who worked at least 120 but less than 400 hours during the tax year, and 10 percent of the first $6,000 in wages paid to each qualified employee who worked at least 400 hours during the tax year. The aggregate maximum amount of credits is $2 million per fiscal year. If the amount of the credit exceeds taxes due, the unused amount may be carried forward to up to five consecutive tax years. Self-repeals January 1, 2021.

First sponsor: Rep. Velasquez
Others: Rep. Andrade, Rep. Espinoza, Rep. Fernandez, Rep. Rios

## S1057: CRIMES; CULPABLE MENTAL STATE; REQUIREMENT

If a statute defining a criminal offense does not expressly prescribe a culpable mental state that is sufficient for commission of the offense, the culpable mental state is intentional, except for drug offenses in which case the culpable mental state required is knowingly. Does not apply to a moving traffic violation or a violation involving public health and safety included in Title 36 (Public Health and Safety). If a municipality classifies an offense as a misdemeanor and does not expressly prescribe a culpable mental state that is sufficient for commission of the offense, the culpable mental state is intentional, except for misdemeanor drug offenses in which case the culpable mental state required is knowingly. An ordinance defining a strict liability offense must expressly prescribe that it is a strict liability offense. Does not apply to a municipal ordinance that involves a traffic violation, a building code violation or a food or health and safety code violation. Effective January 1, 2017.

First sponsor: Sen. Kavanagh

## S1228: DUI; DRUGS; IGNITION INTERLOCK REQUIREMENT

The Department of Transportation is required to remove the requirement that a person maintain a functioning certified ignition interlock device if the Dept finds that the person is convicted only of a violation of driving while under the influence of any drug, and/or vapor releasing substance or a violation of aggravated driving while under the influence of drug if the violation did not involve intoxicating liquor. An order that requires the installation of a functioning certified ignition interlock device is required to state that the person may request an administrative review within 15 days if the person was convicted of those violations. The administrative review process is specified.

First sponsor: Sen. Kavanagh

S1240: PRIVATE POSTSECONDARY INSTITUTIONS; POLICE OFFICERS

A private postsecondary institution that offers baccalaureate degrees is authorized to appoint persons to be designated as police officers to aid and supplement law enforcement agencies in the protection of persons and property. While engaged in the conduct of this employment, a private postsecondary institution police officer possesses and must exercise law enforcement powers of peace officers. A person appointed as a private postsecondary institution police officer is required to have the minimum qualifications established by the AZ Peace Officer Standards and Training Board for peace officers and police officers. A private postsecondary institution police officer is not eligible to participate in the Public Safety Personnel Retirement System based solely on that employment. The definition of "peace officer" that applies to all statutes and laws of Arizona is expanded to include police officers who are appointed by a private postsecondary institution and who have received a certificate from the AZ Peace Officer Standards and Training Board.

First sponsor: Sen. Kavanagh

## INFO ONLY

### Bill Summaries

H2604: WHITE COLLAR CRIME OFFENDER REGISTRY

The Attorney General is required to establish and maintain a white collar crime offender registry website. The registry is required to include specified information for each convicted offender who is required to register. A person who has been convicted of any of a list of offenses, including several types of fraud, financial exploitation and money laundering, is required to register with the Attorney General. Some exceptions. An offender is permitted to petition the court for an order to remove the offender from the registry if specified conditions exist, including that five years have passed and the offender has not been convicted of any other crime. Appropriates $100,000 from the general fund in FY2016-17 to the Attorney General to establish the registry.

First sponsor: Rep. McCune Davis
Others: Rep. Alston, Rep. Benally, Rep. Fernandez, Rep. Friese, Rep. Gonzales, Rep. Mendez, Rep. Meyer, Rep. Rios, Rep. Velasquez

H2607: MISCONDUCT INVOLVING WEAPONS; FIREARM STORAGE

The list of acts constituting misconduct involving weapons is expanded to include storing a firearm without using a lock and key or combination on the trigger of the firearm or placing the firearm in a securely locked box or other container. Misconduct involving weapons for these actions is a class 1 (highest) misdemeanor.

First sponsor: Rep. Fernandez
Others: Rep. Alston, Rep. Andrade, Sen. Begay, Rep. Benally, Rep. Bolding, Rep. Clark, Rep. Espinoza, Rep. Friese, Rep. Gabaldon, Rep. Gonzales, Rep. Hale, Rep. Kopec, Rep. Larkin, Rep. Mach, Rep. McCune Davis, Rep. Mendez, Rep. Plumlee, Sen. Quezada, Rep. Rios, Rep. Velasquez

H2611: MENTAL HEALTH; INJUNCTION; FIREARM POSSESSION

An immediate family member or a peace officer is authorized to file a verified petition with a magistrate, justice of the peace or superior court judge for an injunction that prohibits a person from possessing, controlling, owning or receiving a firearm. Any court may issue or enforce a mental health injunction against firearm possession, regardless of the location of the person. Information that must be included in the petition is specified. If the court finds that there is clear and convincing evidence to issue a mental health injunction against firearm possession, the court must issue the injunction. Information that must be included in the injunction is specified. Provides for enforcement. More.

First sponsor: Rep. Friese
Others: Rep. Benally, Rep. Fernandez, Rep. Gonzales, Rep. Hale, Rep. Kopec, Rep. Mach, Rep. Mendez, Rep. Velasquez

H2612: RENTAL PROPERTIES; PROHIBITED PENALTIES

Counties and municipalities are prohibited from adopting or enforcing any ordinance that penalizes tenants or landlords based on a list of specified circumstances relating to domestic violence or sexual violence. Condo associations and HOAs are prohibited from imposing on a unit owner or member a requirement to terminate or not renew a lease agreement or prohibiting the unit owner or member from renting the unit based on a list of specified circumstances relating to domestic violence or sexual violence.

First sponsor: Rep. Plumlee
Others: Rep. Bolding, Rep. Cardenas, Rep. Clark, Rep. Espinoza, Rep. Fernandez, Rep. Friese, Rep. Kopec, Rep. Larkin, Rep. McCune Davis

H2681: BOARD OF EXECUTIVE CLEMENCY; MEMBERSHIP

Increases the number of members of the Board of Executive Clemency to nine members, from five, establishes required expertise or professions for six members, and prohibits more than two of the remaining three public members from belonging to the same political party. Session law provides for terms of additional Board members.

First sponsor: Rep. Velasquez
Others: Rep. Andrade, Rep. Bolding, Rep. Clark, Rep. Espinoza, Rep. Fernandez, Rep. Gabaldon, Rep. Mendez, Rep. Otondo, Rep. Plumlee, Rep. Rios, Rep. Rivero

S1271: NOTARIES; UNLAWFUL PRACTICES; IMMIGRATION

If a person commits a violation of the Immigration and Law Practice Act while acting in the capacity of a commissioned notary public, it is a class 4 (mid-level) felony, increased from a class 6 (lowest) felony. The county attorney in the county where the violation occurred is authorized to initiate appropriate proceedings to prevent or stop violations of the Act.

First sponsor: Sen. Quezada

## NEUTRAL

### Bill Summaries

H2524: UNIFORM FIREARMS TRANSFER COMPACT

The state of Arizona adopts and agrees to be bound by a uniform firearms transfer compact, which prohibits member states from enacting or enforcing any law, regulation or policy that would "impose any fee, tax, penalty, mandate or regulation governing, punishing, restricting, conditioning or otherwise burdening in any respect or at any time the transfer of firearms by any person" in addition to then-existing federal law. Some exceptions. Any law, regulation or

policy existing on the effective date of this compact which is in conflict with this prohibition is repealed and held for naught to the extent of the conflict. Provides for construction, enforcement, withdrawal from and severability of the compact.

First sponsor: Rep. Thorpe
Others: Rep. Borrelli, Rep. Bowers, Rep. Boyer, Sen. Burges, Rep. Finchem, Sen. Kavanagh, Rep. Lawrence, Sen. Lesko, Rep. Mesnard, Rep. Mitchell, Rep. Montenegro, Rep. Olson, Rep. Rivero, Rep. Shope, Sen. Smith

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H2618: MEDICAL MARIJUANA DISPENSARIES; LOCATION CHANGE

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After the Department of Health Services issues a registration certificate to a nonprofit medical marijuana dispensary, the dispensary is permitted to change its location or the cultivation site only to another location in the same community health analysis area as established by the Dept at the time the original registration certificate was issued, and the new dispensary is subject to the other requirements for a new dispensary. Due to voter protection, this legislation requires the affirmative vote of at least 3/4 of the members of each house of the Legislature for passage.

First sponsor: Rep. Leach