

House Engrossed

FILED
KEN BENNETT
SECRETARY OF STATE

State of Arizona
House of Representatives
Fifty-first Legislature
Second Regular Session
2014

CHAPTER 12

HOUSE BILL 2706

AN ACT

AMENDING SECTIONS 13-3112, 13-4041 AND 21-428, ARIZONA REVISED STATUTES;
AMENDING TITLE 41, CHAPTER 12, ARTICLE 2, ARIZONA REVISED STATUTES, BY ADDING
SECTION 41-1722; RELATING TO CRIMINAL JUSTICE BUDGET RECONCILIATION.

(TEXT OF BILL BEGINS ON NEXT PAGE)

1 Be it enacted by the Legislature of the State of Arizona:

2 Section 1. Section 13-3112, Arizona Revised Statutes, is amended to
3 read:

4 13-3112. Concealed weapons; qualification; application; permit
5 to carry; civil penalty; report; applicability

6 A. The department of public safety shall issue a permit to carry a
7 concealed weapon to a person who is qualified under this section. The person
8 shall carry the permit at all times when the person is in actual possession
9 of the concealed weapon and is required by section 4-229 or 4-244 to carry
10 the permit. If the person is in actual possession of the concealed weapon
11 and is required by section 4-229 or 4-244 to carry the permit, the person
12 shall present the permit for inspection to any law enforcement officer on
13 request.

14 B. The permit of a person who is arrested or indicted for an offense
15 that would make the person unqualified under section 13-3101, subsection A,
16 paragraph 7 or this section shall be immediately suspended and seized. The
17 permit of a person who becomes unqualified on conviction of that offense
18 shall be revoked. The permit shall be restored on presentation of
19 documentation from the court if the permittee is found not guilty or the
20 charges are dismissed. The permit shall be restored on presentation of
21 documentation from the county attorney that the charges against the permittee
22 were dropped or dismissed.

23 C. A permittee who carries a concealed weapon, who is required by
24 section 4-229 or 4-244 to carry a permit and who fails to present the permit
25 for inspection on the request of a law enforcement officer commits a
26 violation of this subsection and is subject to a civil penalty of not more
27 than three hundred dollars. The department of public safety shall be
28 notified of all violations of this subsection and shall immediately suspend
29 the permit. A permittee shall not be convicted of a violation of this
30 subsection if the permittee produces to the court a legible permit that is
31 issued to the permittee and that was valid at the time the permittee failed
32 to present the permit for inspection.

33 D. A law enforcement officer shall not confiscate or forfeit a weapon
34 that is otherwise lawfully possessed by a permittee whose permit is suspended
35 pursuant to subsection C of this section, except that a law enforcement
36 officer may take temporary custody of a firearm during an investigatory stop
37 of the permittee.

38 E. The department of public safety shall issue a permit to an
39 applicant who meets all of the following conditions:

40 1. Is a resident of this state or a United States citizen.

41 2. Is twenty-one years of age or older.

42 3. Is not under indictment for and has not been convicted in any
43 jurisdiction of a felony unless that conviction has been expunged, set aside
44 or vacated or the applicant's rights have been restored and the applicant is
45 currently not a prohibited possessor under state or federal law.

1 4. Does not suffer from mental illness and has not been adjudicated
2 mentally incompetent or committed to a mental institution.

3 5. Is not unlawfully present in the United States.

4 6. Has ever demonstrated competence with a firearm as prescribed by
5 subsection N of this section and provides adequate documentation that the
6 person has satisfactorily completed a training program or demonstrated
7 competence with a firearm in any state or political subdivision in the United
8 States. For the purposes of this paragraph, "adequate documentation" means:

9 (a) A current or expired permit issued by the department of public
10 safety pursuant to this section.

11 (b) An original or copy of a certificate, card or document that shows
12 the applicant has ever completed any course or class prescribed by subsection
13 N of this section or an affidavit from the instructor, school, club or
14 organization that conducted or taught the course or class attesting to the
15 applicant's completion of the course or class.

16 (c) An original or a copy of a United States department of defense
17 form 214 (DD-214) indicating an honorable discharge or general discharge
18 under honorable conditions, a certificate of completion of basic training or
19 any other document demonstrating proof of the applicant's current or former
20 service in the United States armed forces as prescribed by subsection N,
21 paragraph 5 of this section.

22 (d) An original or a copy of a concealed weapon, firearm or handgun
23 permit or a license as prescribed by subsection N, paragraph 6 of this
24 section.

25 F. The application shall be completed on a form prescribed by the
26 department of public safety. The form shall not require the applicant to
27 disclose the type of firearm for which a permit is sought. The applicant
28 shall attest under penalty of perjury that all of the statements made by the
29 applicant are true, that the applicant has been furnished a copy of this
30 chapter and chapter 4 of this title and that the applicant is knowledgeable
31 about the provisions contained in those chapters. The applicant shall submit
32 the application to the department with any documentation prescribed by
33 subsection E of this section, two sets of fingerprints and a reasonable fee
34 determined by the director of the department.

35 G. On receipt of a concealed weapon permit application, the department
36 of public safety shall conduct a check of the applicant's criminal history
37 record pursuant to section 41-1750. The department of public safety may
38 exchange fingerprint card information with the federal bureau of
39 investigation for federal criminal history record checks.

40 H. The department of public safety shall complete all of the required
41 qualification checks within sixty days after receipt of the application and
42 shall issue a permit within fifteen working days after completing the
43 qualification checks if the applicant meets all of the conditions specified
44 in subsection E of this section. If a permit is denied, the department of
45 public safety shall notify the applicant in writing within fifteen working

1 days after the completion of all of the required qualification checks and
2 shall state the reasons why the application was denied. On receipt of the
3 notification of the denial, the applicant has twenty days to submit any
4 additional documentation to the department. On receipt of the additional
5 documentation, the department shall reconsider its decision and inform the
6 applicant within twenty days of the result of the reconsideration. If
7 denied, the applicant shall be informed that the applicant may request a
8 hearing pursuant to title 41, chapter 6, article 10. For the purposes of
9 this subsection, "receipt of the application" means the first day that the
10 department has physical control of the application and that is presumed to be
11 on the date of delivery as evidenced by proof of delivery by the United
12 States postal service or a written receipt, which shall be provided by the
13 department on request of the applicant.

14 I. On issuance, a permit is valid for five years, except a permit that
15 is held by a member of the United States armed forces, including a member of
16 the Arizona national guard or a member of the reserves of any military
17 establishment of the United States, who is on federal active duty and who is
18 deployed overseas shall be extended until ninety days after the end of the
19 member's overseas deployment.

20 J. The department of public safety shall maintain a computerized
21 permit record system that is accessible to criminal justice agencies for the
22 purpose of confirming the permit status of any person who is contacted by a
23 law enforcement officer and who claims to hold a valid permit issued by this
24 state. This information and any other records that are maintained regarding
25 applicants, permit holders or instructors shall not be available to any other
26 person or entity except on an order from a state or federal court. A
27 criminal justice agency shall not use the computerized permit record system
28 to conduct inquiries on whether a person is a concealed weapons permit holder
29 unless the criminal justice agency has reasonable suspicion to believe the
30 person is carrying a concealed weapon and the person is subject to a lawful
31 criminal investigation, arrest, detention or an investigatory stop.

32 K. A permit issued pursuant to this section is renewable every five
33 years. Before a permit may be renewed, a criminal history records check
34 shall be conducted pursuant to section 41-1750 within sixty days after
35 receipt of the application for renewal. For the purposes of permit renewal,
36 the permit holder is not required to submit additional fingerprints.

37 L. Applications for renewal shall be accompanied by a fee determined
38 by the director of the department of public safety.

39 M. The department of public safety shall suspend or revoke a permit
40 issued under this section if the permit holder becomes ineligible pursuant to
41 subsection E of this section. The department of public safety shall notify
42 the permit holder in writing within fifteen working days after the revocation
43 or suspension and shall state the reasons for the revocation or suspension.

44 N. An applicant shall demonstrate competence with a firearm through
45 any of the following:

- 1 1. Completion of any firearms safety or training course or class that
2 is available to the general public, that is offered by a law enforcement
3 agency, a junior college, a college or a private or public institution,
4 academy, organization or firearms training school and that is approved by the
5 department of public safety or that uses instructors who are certified by the
6 national rifle association.
- 7 2. Completion of any hunter education or hunter safety course approved
8 by the Arizona game and fish department or a similar agency of another state.
- 9 3. Completion of any national rifle association firearms safety or
10 training course.
- 11 4. Completion of any law enforcement firearms safety or training
12 course or class that is offered for security guards, investigators, special
13 deputies or other divisions or subdivisions of law enforcement or security
14 enforcement and that is approved by the department of public safety.
- 15 5. Evidence of current military service or proof of honorable
16 discharge or general discharge under honorable conditions from the United
17 States armed forces.
- 18 6. A valid current or expired concealed weapon, firearm or handgun
19 permit or license that is issued by another state or a political subdivision
20 of another state and that has a training or testing requirement for initial
21 issuance.
- 22 7. Completion of any governmental police agency firearms training
23 course and qualification to carry a firearm in the course of normal police
24 duties.
- 25 8. Completion of any other firearms safety or training course or class
26 that is conducted by a department of public safety approved or national rifle
27 association certified firearms instructor.
- 28 O. The department of public safety shall maintain information
29 comparing the number of permits requested, the number of permits issued and
30 the number of permits denied. The department shall annually report this
31 information to the governor and the legislature.
- 32 P. The director of the department of public safety shall adopt rules
33 for the purpose of implementing and administering this section including fees
34 relating to permits that are issued pursuant to this section.
- 35 Q. This state and any political subdivision of this state shall
36 recognize a concealed weapon, firearm or handgun permit or license that is
37 issued by another state or a political subdivision of another state if both:
38 1. The permit or license is recognized as valid in the issuing state.
39 2. The permit or license holder is all of the following:
40 (a) Legally present in this state.
41 (b) Not legally prohibited from possessing a firearm in this state.
- 42 R. For the purpose of establishing mutual permit or license
43 recognition with other states, the department of public safety shall enter
44 into a written agreement if another state requires a written agreement.

1 S. Notwithstanding the provisions of this section, a person with a
2 concealed weapons permit from another state may not carry a concealed weapon
3 in this state if the person is under twenty-one years of age or is under
4 indictment for, or has been convicted of, a felony offense in any
5 jurisdiction, unless that conviction is expunged, set aside or vacated or the
6 person's rights have been restored and the person is currently not a
7 prohibited possessor under state or federal law.

8 T. The department of public safety may issue certificates of firearms
9 proficiency according to the Arizona peace officer standards and training
10 board firearms qualification for the purposes of implementing the law
11 enforcement officers safety act of 2004 (P.L. 108-277; 118 Stat. 865; 18
12 United States Code sections 926B and 926C). A law enforcement agency shall
13 issue to a law enforcement officer who has honorably retired a photographic
14 identification that states that the officer has honorably retired from the
15 agency. The chief law enforcement officer shall determine whether an officer
16 has honorably retired and the determination is not subject to review. A law
17 enforcement agency has no obligation to revoke, alter or modify the honorable
18 discharge photographic identification based on conduct that the agency
19 becomes aware of or that occurs after the officer has separated from the
20 agency.

21 U. THE INITIAL AND RENEWAL APPLICATION FEES COLLECTED PURSUANT TO THIS
22 SECTION SHALL BE DEPOSITED, PURSUANT TO SECTIONS 35-146 AND 35-147, IN THE
23 CONCEALED WEAPONS PERMIT FUND ESTABLISHED BY SECTION 41-1722.

24 Sec. 2. Section 13-4041, Arizona Revised Statutes, is amended to read:
25 13-4041. Fee of counsel assigned in criminal proceeding or
26 insanity hearing on appeal or in postconviction
27 relief proceedings; reimbursement

28 A. Except pursuant to subsection G of this section, if counsel is
29 appointed by the court to represent the defendant in either a criminal
30 proceeding or insanity hearing on appeal, the county in which the court from
31 which the appeal is taken presides shall pay counsel, except that in those
32 appeals where the defendant is represented by a public defender or other
33 publicly funded office, compensation shall not be set or paid. Compensation
34 for services rendered on appeal shall be in an amount as the supreme court in
35 its discretion deems reasonable, considering the services performed.

36 B. After the supreme court has affirmed a defendant's conviction and
37 sentence in a capital case, the supreme court or, if authorized by the
38 supreme court, the presiding judge of the county from which the case
39 originated shall appoint counsel to represent the capital defendant in the
40 state postconviction relief proceeding.

41 C. The supreme court shall establish and maintain a list of persons
42 who are qualified to represent capital defendants in postconviction
43 proceedings. The supreme court may establish by rule more stringent
44 standards of competency for the appointment of postconviction counsel in
45 capital cases than are provided by this subsection. The supreme court may

1 refuse to certify an attorney on the list who meets the qualifications
2 established under this subsection or may remove an attorney from the list who
3 meets the qualifications established under this subsection if the supreme
4 court determines that the attorney is incapable or unable to adequately
5 represent a capital defendant. The court shall appoint counsel from the
6 list. Counsel who are appointed from the list shall meet the following
7 qualifications:

8 1. Be a member in good standing of the state bar of Arizona for at
9 least five years immediately preceding the appointment.

10 2. Have practiced in the area of state criminal appeals or
11 postconviction proceedings for at least three years immediately preceding the
12 appointment.

13 3. Not previously have represented the capital defendant in the case
14 either in the trial court or in the direct appeal, unless the defendant and
15 counsel expressly request continued representation and waive all potential
16 issues that are foreclosed by continued representation.

17 D. Before filing a petition, the capital defendant may personally
18 appear before the trial court and waive counsel. If the trial court finds
19 that the waiver is knowing and voluntary, appointed counsel may withdraw.
20 The time limits in which to file a petition shall not be extended due solely
21 to the change from appointed counsel to self-representation.

22 E. If at any time the trial court determines that the capital
23 defendant is not indigent, appointed counsel shall no longer be compensated
24 by public monies and may withdraw.

25 F. Unless counsel is employed by a publicly funded office, counsel
26 appointed to represent a capital defendant in state postconviction relief
27 proceedings shall be paid an hourly rate of not to exceed one hundred dollars
28 per hour. Monies shall not be paid to court appointed counsel unless either:

29 1. A petition is timely filed.

30 2. If a petition is not filed, a notice is timely filed stating that
31 counsel has reviewed the record and found no meritorious claim.

32 G. The trial court shall compensate appointed counsel from county
33 funds. The court or the court's designee shall review and approve all
34 reasonable fees and costs. If the attorney believes that the court has set
35 an unreasonably low hourly rate or if the court finds that the hours the
36 attorney spent are unreasonable, the attorney may file a special action with
37 the Arizona supreme court. If counsel is appointed in successive
38 postconviction relief proceedings, compensation shall be paid pursuant to
39 section 13-4013, subsection A.

40 H. The county shall request reimbursement for fees it incurs pursuant
41 to subsections F, G and I of this section arising out of the appointment of
42 counsel to represent an indigent capital defendant in a state postconviction
43 relief proceeding. The state shall pay ~~fifty per cent~~ A PORTION of the fees
44 incurred by the county out of monies appropriated to the supreme court for
45 these purposes. THE TOTAL AMOUNT THAT MAY BE SPENT IN ANY FISCAL YEAR BY

1 THIS STATE FOR INDIGENT CAPITAL DEFENSE IN A STATE POSTCONVICTION RELIEF
2 PROCEEDING MAY NOT EXCEED THE AMOUNT APPROPRIATED IN THE GENERAL
3 APPROPRIATIONS ACT FOR THIS PURPOSE, TOGETHER WITH ADDITIONAL AMOUNTS
4 APPROPRIATED BY ANY SPECIAL LEGISLATIVE APPROPRIATION FOR INDIGENT CAPITAL
5 DEFENSE. The supreme court shall approve county requests for reimbursement
6 after certification that the amount requested is owed.

7 I. The trial court may authorize additional monies to pay for
8 investigative and expert services that are reasonably necessary to adequately
9 litigate those claims that are not precluded by section 13-4232.

10 Sec. 3. Section 21-428, Arizona Revised Statutes, is amended to read:

11 21-428. Costs and expenses: state grand jury

12 A. In addition to the fees and amounts stated in section 21-221,
13 persons serving on a state grand jury shall be provided by the county in
14 which the assignment judge is serving with reasonable per diem expenses as
15 established by the supreme court.

16 B. The costs and expenses incurred by a county arising out of or in
17 connection with impaneling a state grand jury and for the performing of its
18 functions and duties or arising out of the prosecution and trial of state
19 grand jury indictments shall be paid for by the state out of monies
20 appropriated to the supreme court for these purposes. THE TOTAL AMOUNT THAT
21 MAY BE SPENT IN ANY FISCAL YEAR BY THIS STATE FOR STATE GRAND JURY COSTS AND
22 EXPENSES MAY NOT EXCEED THE AMOUNT APPROPRIATED IN THE GENERAL APPROPRIATIONS
23 ACT FOR THIS PURPOSE, TOGETHER WITH ADDITIONAL AMOUNTS APPROPRIATED BY ANY
24 SPECIAL LEGISLATIVE APPROPRIATION FOR STATE GRAND JURY COSTS AND EXPENSES.
25 The supreme court shall approve county requests for reimbursement after
26 certification by the assignment judge that the amount requested is owed.

27 C. All costs and expenses incurred by the attorney general arising out
28 of the investigation, prosecution and trial of matters cognizable by a state
29 grand jury are payable from monies appropriated to the attorney general for
30 these purposes.

31 Sec. 4. Title 41, chapter 12, article 2, Arizona Revised Statutes, is
32 amended by adding section 41-1722, to read:

33 41-1722. Concealed weapons permit fund

34 A. THE CONCEALED WEAPONS PERMIT FUND IS ESTABLISHED CONSISTING OF FEES
35 COLLECTED PURSUANT TO SECTION 13-3112.

36 B. THE DEPARTMENT SHALL ADMINISTER THE FUND. MONIES DEPOSITED IN THE
37 FUND ARE SUBJECT TO LEGISLATIVE APPROPRIATION AND MUST ONLY BE USED BY THE
38 DEPARTMENT TO ADMINISTER THE CONCEALED WEAPONS PERMIT PROCESS ESTABLISHED BY
39 SECTION 13-3112 AND ALL MATTERS RELATED TO THAT SECTION.

40 C. MONIES IN THE FUND ARE EXEMPT FROM THE PROVISIONS OF SECTION 35-190
41 RELATING TO LAPSING OF APPROPRIATIONS.

42 Sec. 5. State department of corrections; budget structure

43 Notwithstanding any other law, the state department of corrections
44 shall report actual fiscal year 2013-2014, estimated fiscal year 2014-2015
45 and requested fiscal year 2015-2016 expenditures in the same structure and

1 detail as the prior fiscal year when the department submits the fiscal year
2 2015-2016 budget request pursuant to section 35-113, Arizona Revised
3 Statutes. The information submitted for each line item must contain as much
4 detail as submitted in previous years for prior line items.

5 Sec. 6. State department of corrections; use of funds;
6 permission

7 Notwithstanding any other law, the state department of corrections is
8 permitted to use monies from either of the following funds for department
9 operating expenses in fiscal year 2014-2015:

10 1. The transition program fund established by section 31-284, Arizona
11 Revised Statutes.

12 2. The state department of corrections interagency service agreement
13 fund.

14 Sec. 7. Department of public safety; highway funds; limitation

15 Notwithstanding section 28-6537, Arizona Revised Statutes, the
16 statutory caps and transfers of Arizona highway user revenue fund monies
17 available to fund department of public safety highway patrol costs are
18 suspended for fiscal year 2014-2015.

19 Sec. 8. GIITEM border security and law enforcement subaccount;
20 expenditure plan; annual review

21 Notwithstanding section 41-1724, subsection G, Arizona Revised
22 Statutes, before the department of public safety spends any monies
23 appropriated in the general appropriations act for fiscal year 2014-2015 from
24 the gang and immigration intelligence team enforcement mission border
25 security and law enforcement subaccount established by section 41-1724,
26 Arizona Revised Statutes, the department shall submit the subaccount's entire
27 expenditure plan to the joint legislative budget committee for review.

28 Sec. 9. Nonsupplanting; suspension

29 Notwithstanding any other law, in fiscal year 2014-2015 the provisions
30 relating to supplanting of state monies contained in section 12-102.02,
31 subsection E, section 12-102.03, subsection D, section 12-135, subsection D,
32 section 12-135.01, subsection D, section 12-267, subsection D, section
33 12-268, subsection D and section 12-299.01, subsection C, Arizona Revised
34 Statutes, are suspended. The Arizona supreme court shall submit a report to
35 the joint legislative budget committee identifying any decrease in county
36 funding related to these suspended provisions, including the reasons for the
37 decrease.

38 Sec. 10. Incarceration contracts; authorization; fiscal year
39 2015-2016

40 In fiscal year 2015-2016, as prescribed by Laws 2012, chapter 302,
41 section 27, the state department of corrections may award a contract for the
42 remaining male medium security prison beds under the request for proposals
43 that was issued under the authority of section 41-1609, Arizona Revised
44 Statutes, only if specific legislative authorization for the award is
45 provided.

1 Sec. 11. Attorney general; department of public safety; state
2 aid to indigent defense fund; fiscal year 2014-2015
3 Notwithstanding section 11-588, Arizona Revised Statutes, in fiscal
4 year 2014-2015:
5 1. The attorney general may use monies in the state aid to indigent
6 defense fund established by section 11-588, Arizona Revised Statutes, for
7 activities related to capital postconviction prosecution.
8 2. The department of public safety may use monies in the state aid to
9 indigent defense fund established by section 11-588, Arizona Revised
10 Statutes, for operating expenses.

APPROVED BY THE GOVERNOR APRIL 11, 2014.

FILED IN THE OFFICE OF THE SECRETARY OF STATE APRIL 11, 2014.

Passed the House March 27, 2014

Passed the Senate April 1, 2014

by the following vote: 35 Ayes,

by the following vote: 17 Ayes,

25 Nays, 0 Not Voting

13 Nays, 0 Not Voting

[Signature]
Speaker of the House

[Signature]
President of the Senate

[Signature]
Chief Clerk of the House

[Signature]
Secretary of the Senate

EXECUTIVE DEPARTMENT OF ARIZONA
OFFICE OF GOVERNOR

This Bill received by the Governor this

8 day of April, 2014

at 3:35 o'clock P M.

[Signature]
Secretary to the Governor

Approved this 11th day of

April

at 12:02 o'clock P. M.

[Signature]
Governor of Arizona

EXECUTIVE DEPARTMENT OF ARIZONA
OFFICE OF SECRETARY OF STATE

This Bill received by the Secretary of State

this 11th day of April, 2014

at 2:31 o'clock [Signature] M.

[Signature]
Secretary of State

H.B. 2706