

REFERENCE TITLE: **criminal justice; 2022-2023.**

State of Arizona
Senate
Fifty-fifth Legislature
Second Regular Session
2022

SB 1727

Introduced by
Senators Fann: Borrelli, Gowan, Gray, Leach (with permission of Committee
on Rules)

AN ACT

AMENDING TITLE 26, CHAPTER 1, ARTICLE 1, ARIZONA REVISED STATUTES, BY
ADDING SECTION 26-106; AMENDING SECTIONS 41-1712 AND 41-1730, ARIZONA
REVISED STATUTES; AMENDING TITLE 41, CHAPTER 12, ARIZONA REVISED STATUTES,
BY ADDING ARTICLE 4.1; AMENDING SECTIONS 41-2401 AND 41-2409, ARIZONA
REVISED STATUTES; AMENDING TITLE 41, CHAPTER 21, ARTICLE 1, ARIZONA
REVISED STATUTES, BY ADDING SECTION 41-2410; RELATING TO CRIMINAL JUSTICE.

(TEXT OF BILL BEGINS ON NEXT PAGE)

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

2 Section 1. Title 26, chapter 1, article 1, Arizona Revised
3 Statutes, is amended by adding section 26-106, to read:

4 26-106. Anti-human trafficking grant fund

5 THE ANTI-HUMAN TRAFFICKING GRANT FUND IS ESTABLISHED CONSISTING OF
6 MONIES APPROPRIATED BY THE LEGISLATURE. MONIES IN THE FUND ARE
7 CONTINUOUSLY APPROPRIATED. THE DEPARTMENT OF EMERGENCY AND MILITARY
8 AFFAIRS SHALL ADMINISTER THE FUND AND DISTRIBUTE MONIES FROM THE FUND TO
9 PROGRAMS TO REDUCE HUMAN TRAFFICKING IN THIS STATE. TO BE ELIGIBLE FOR
10 GRANT MONIES, AN ANTI-HUMAN TRAFFICKING PROGRAM SHALL DO EITHER OF THE
11 FOLLOWING:

12 1. WORK TO REDUCE HUMAN TRAFFICKING BY PROVIDING ASSISTANCE AND
13 ANALYTICAL SERVICES TO LAW ENFORCEMENT AGENCIES.

14 2. PROVIDE SERVICES TO VICTIMS AND TRAINING TO LAW ENFORCEMENT
15 AGENCIES, PROSECUTORIAL AGENCIES AND THE PUBLIC ON PREVENTING AND
16 IDENTIFYING HUMAN TRAFFICKING.

17 Sec. 2. Section 41-1712, Arizona Revised Statutes, is amended to
18 read:

19 41-1712. Organization of department; divisions

20 A. The department shall consist of the following divisions:

- 21 1. Arizona highway patrol.
- 22 2. Narcotics enforcement and criminal investigation.
- 23 3. Scientific criminal analysis.
- 24 4. Training and education.
- 25 5. MAJOR INCIDENT DIVISION.

26 B. The department may establish district headquarters and stations
27 at various places in ~~the~~ THIS state, using existing facilities wherever
28 possible, with the personnel and equipment necessary for the proper
29 functioning and operation of the headquarters and stations.

30 C. The director may establish other divisions or reserves or
31 reorganize or consolidate the department.

32 Sec. 3. Section 41-1730, Arizona Revised Statutes, is amended to
33 read:

34 41-1730. Department of public safety forensics fund;
35 purposes; distributions; annual adjustment

36 A. The department of public safety forensics fund is established.
37 The department shall administer the fund. Monies in the fund are subject
38 to legislative appropriation. The department of public safety forensics
39 fund consists of the following:

- 40 1. Monies deposited pursuant to section 12-116.01, subsection J.
- 41 2. Monies deposited pursuant to section 41-2401, subsection D,
42 paragraphs 1 and ~~11~~ 10.
- 43 3. Surcharge monies deposited pursuant to section 28-3396.
- 44 4. Monies contributed to the fund from any other source.

1 B. Monies in the department of public safety forensics fund shall
2 be used for the following purposes:

- 3 1. Purchasing and installing fingerprint identification equipment.
- 4 2. Operating, maintaining and administering the Arizona automated
5 fingerprint identification system and the system's remote terminals.
- 6 3. Crime laboratory operations and enhanced services.
- 7 4. Educating and training forensic scientists who are regularly
8 employed in a crime laboratory.
- 9 5. Purchasing and maintaining scientific equipment for crime
10 laboratory use.
- 11 6. Implementing, operating and maintaining deoxyribonucleic acid
12 testing and administering the Arizona deoxyribonucleic acid identification
13 system.

14 C. On a quarterly basis, the department of public safety shall
15 allocate and distribute the monies in the department of public safety
16 forensics fund that are collected pursuant to section 12-116.01 and
17 deposited pursuant to section 41-2401, subsection D, paragraph ~~11~~ 10. The
18 department may use fifty-five percent of the monies for the purposes
19 prescribed in subsection B of this section and shall distribute the
20 remaining monies to political subdivisions that operate a crime laboratory
21 as follows:

- 22 1. Twenty-two percent to the Phoenix police department.
- 23 2. Twelve percent to the Tucson police department.
- 24 3. Seven percent to the Mesa police department.
- 25 4. Four percent to the Scottsdale police department.

26 D. The distribution of monies pursuant to subsection C of this
27 section may be adjusted annually, if appropriate, based on the crime
28 laboratory services provided and the percentage of the state population
29 served by each crime laboratory. The crime laboratory directors of the
30 political subdivisions providing crime laboratory services in this state
31 must agree on the distribution formula and allocation. The minimum
32 allocation for a political subdivision that provides crime laboratory
33 services is four percent.

34 E. For the purposes of subsections C and D of this section, "crime
35 laboratory" means a laboratory that meets all of the following:

- 36 1. Is operated by a political subdivision.
- 37 2. Has at least one regularly employed forensic scientist who holds
38 a minimum of a bachelor's degree in a physical or natural science.
- 39 3. Is registered as an analytical laboratory with the drug
40 enforcement administration of the United States department of justice for
41 the possession of all scheduled controlled substances.

1 Sec. 4. Title 41, chapter 12, Arizona Revised Statutes, is amended
2 by adding article 4.1, to read:

3 ARTICLE 4.1. MAJOR INCIDENT DIVISION

4 41-1762. Major incident division; superintendent;
5 qualifications; powers; jurisdiction; definition

6 A. SUBJECT TO LEGISLATIVE APPROPRIATION, THE DEPARTMENT SHALL
7 MAINTAIN A DIVISION KNOWN AS THE MAJOR INCIDENT DIVISION.

8 B. THE SUPERINTENDENT OF THE MAJOR INCIDENT DIVISION SHALL BE
9 SELECTED ON THE BASIS OF TRAINING AND EXPERIENCE AND HAVE A MINIMUM OF
10 FIVE YEARS OF EXPERIENCE IN THE ADMINISTRATION OF LAW ENFORCEMENT AND BE A
11 CERTIFIED PEACE OFFICER.

12 C. THE DIRECTOR MAY ADOPT RULES GOVERNING THE POLICIES, PROCEDURES
13 AND ADMINISTRATION OF ALL ACTIVITIES OF THE MAJOR INCIDENT DIVISION.

14 D. THE MAJOR INCIDENT DIVISION SHALL:

15 1. USE INVESTIGATORS WHO ARE CERTIFIED BY THE ARIZONA PEACE OFFICER
16 STANDARDS AND TRAINING BOARD OR WHO WERE SWORN EMPLOYEES OF A FEDERAL,
17 STATE, COUNTY OR LOCAL LAW ENFORCEMENT AGENCY, WHO HAVE DEMONSTRATED THE
18 SKILLS, KNOWLEDGE, ABILITIES AND TRAINING AS APPROVED BY THE DIRECTOR AND
19 WHO HAVE SUCCESSFULLY COMPLETED INVESTIGATIVE COURSES IDENTIFIED BY THE
20 DIRECTOR AND APPROVED BY THE ARIZONA PEACE OFFICER STANDARDS AND TRAINING
21 BOARD TO CONDUCT INDEPENDENT INVESTIGATIONS OF CRITICAL FORCE INCIDENTS.
22 IF AN INVESTIGATOR DESCRIBED IN THIS PARAGRAPH WAS EMPLOYED BY A FEDERAL,
23 STATE, COUNTY OR LOCAL LAW ENFORCEMENT AGENCY, THE INVESTIGATOR MUST:

24 (a) HAVE RETIRED OR LEFT THE LAW ENFORCEMENT AGENCY IN GOOD
25 STANDING.

26 (b) NOT HAVE BEEN UNDER INVESTIGATION AT THE TIME OF RETIREMENT OR
27 RESIGNATION FROM THE LAW ENFORCEMENT AGENCY.

28 (c) NOT HAVE RETIRED OR RESIGNED IN LIEU OF TERMINATION OR
29 DISCIPLINE.

30 (d) IF A VETERAN OF THE UNITED STATES MILITARY, HAVE BEEN HONORABLY
31 DISCHARGED.

32 2. AT THE WRITTEN REQUEST OF A CHIEF OF POLICE OR A COUNTY SHERIFF,
33 INVESTIGATE A CRIMINAL ALLEGATION AGAINST A PEACE OFFICER WHO IS EMPLOYED
34 BY THE LAW ENFORCEMENT AGENCY.

35 E. EACH LAW ENFORCEMENT AGENCY IN THIS STATE SHALL REQUIRE THE
36 MAJOR INCIDENT DIVISION, A REGIONAL LAW ENFORCEMENT TASK FORCE OR ANOTHER
37 LAW ENFORCEMENT AGENCY TO PERFORM THE CRIMINAL INVESTIGATION OF ANY
38 CRITICAL FORCE INCIDENTS IN THIS STATE.

39 F. FOR THE PURPOSES OF THIS SECTION, "CRITICAL FORCE INCIDENT"
40 MEANS:

41 1. ANY DISCHARGE OF A FIREARM BY A PEACE OFFICER, DUE TO A USE OF
42 FORCE ENCOUNTER, REGARDLESS OF WHETHER IT RESULTS IN THE INJURY OR DEATH
43 OF AN INDIVIDUAL.

1 2. AN INCIDENT INVOLVING A PEACE OFFICER'S INTENDED USE OF DEADLY
2 FORCE OR USE OF FORCE BY ANY OTHER MEANS THAT RESULTS IN DEATH OR SERIOUS
3 BODILY INJURY OF ANOTHER PERSON, EITHER DURING AN ON-DUTY INCIDENT OR
4 OFF-DUTY INCIDENT WHILE ACTING UNDER THE COLOR OF AUTHORITY.

5 Sec. 5. Section 41-2401, Arizona Revised Statutes, is amended to
6 read:

7 41-2401. Criminal justice enhancement fund

8 A. The criminal justice enhancement fund is established consisting
9 of monies collected pursuant to section 12-116.01 and monies available
10 from any other source. The state treasurer shall administer the fund.

11 B. On or before November 1 of each year, each department, agency or
12 office that receives monies pursuant to this section shall provide to the
13 Arizona criminal justice commission a report for the preceding fiscal
14 year. The report shall be in a form prescribed by the Arizona criminal
15 justice commission. The report shall set forth the sources of all monies
16 and all expenditures. The report shall not include any identifying
17 information about specific investigations.

18 C. On or before December 1 of each year, the Arizona criminal
19 justice commission shall compile all reports into a single comprehensive
20 report and shall submit a copy of the comprehensive report to the
21 governor, the president of the senate, the speaker of the house of
22 representatives and the director of the joint legislative budget
23 committee.

24 D. On the first day of each month, the state treasurer shall
25 distribute or deposit:

26 1. ~~19.09~~ 20.81 percent in the department of public safety forensics
27 fund established by section 41-1730.

28 2. ~~1.84~~ 3.57 percent to the department of juvenile corrections for
29 the treatment and rehabilitation of youth who have committed drug-related
30 offenses.

31 ~~3. 18.97 percent in the peace officers' training fund established~~
32 ~~by section 41-1825.~~

33 ~~4. 3. 3.45~~ 5.18 percent in the prosecuting attorneys' advisory
34 council training fund established by section 41-1830.03.

35 ~~5. 4. 10.66~~ 12.38 percent to the supreme court for the purpose of
36 reducing juvenile crime.

37 ~~6. 5. 8.29~~ 10.01 percent to the department of public safety for
38 allocation to state and local law enforcement authorities for the
39 following purposes:

40 (a) To enhance projects that are designed to prevent residential
41 and commercial burglaries, to control street crime, including the
42 activities of criminal street gangs, and to locate missing children.

1 (b) To provide support to the Arizona automated fingerprint
2 identification system.

3 (c) Operational costs of the criminal justice information system.

4 ~~7.~~ 6. ~~10.66~~ 12.38 percent to the department of law for allocation
5 to county attorneys for the purpose of enhancing prosecutorial efforts.

6 ~~8.~~ 7. ~~6.86~~ 8.59 percent to the supreme court for the purpose of
7 enhancing the ability of the courts to process criminal and delinquency
8 cases, orders of protection, injunctions against harassment and any
9 proceeding relating to domestic violence matters, for auditing and
10 investigating persons or entities licensed or certified by the supreme
11 court and for processing judicial discipline cases. Notwithstanding
12 section 12-143, subsection A, the salary of superior court judges pro
13 tempore who are appointed for the purposes provided in this paragraph
14 shall, and the salary of other superior court judges pro tempore who are
15 appointed pursuant to section 12-141 for the purposes provided in this
16 paragraph may, be paid in full by the monies received pursuant to this
17 paragraph.

18 ~~9.~~ 8. ~~13.34~~ 15.06 percent to the county sheriffs for the purpose
19 of enhancing county jail facilities and operations, including county jails
20 under the jurisdiction of county jail districts.

21 ~~10.~~ 9. ~~1.79~~ 3.52 percent to the Arizona criminal justice
22 commission.

23 ~~11.~~ 10. ~~2.62~~ 4.34 percent in the department of public safety
24 forensics fund established by section 41-1730.

25 ~~12.~~ 11. ~~2.43~~ 4.16 percent to the supreme court for the purpose of
26 providing drug treatment services to adult probationers through the
27 community punishment program established in title 12, chapter 2,
28 article 11.

29 E. Monies distributed pursuant to subsection D, paragraphs 3,
30 ~~4, 7, 9~~ 6, 8 and ~~11~~ 10 of this section constitute a continuing
31 appropriation. Monies distributed pursuant to subsection D, paragraphs 1,
32 2, ~~5, 8, 10~~ 4, 7, 9 and ~~12~~ 11 of this section are subject to legislative
33 appropriation.

34 F. The portion of the monies for direct operating expenses of the
35 department of public safety in subsection D, paragraph ~~6~~ 5 of this
36 section is subject to legislative appropriation. The remainder of the
37 monies in subsection D, paragraph ~~6~~ 5 of this section, including the
38 portion for local law enforcement, is continuously appropriated.

39 G. The allocation of monies pursuant to subsection D, paragraphs 5,
40 6, ~~7,~~ AND 8 ~~and 9~~ of this section shall be made in accordance with rules
41 adopted by the Arizona criminal justice commission pursuant to section
42 41-2405.

1 Sec. 6. Section 41-2409, Arizona Revised Statutes, is amended to
2 read:

3 41-2409. State aid; administration; report

4 A. The Arizona criminal justice commission shall administer the
5 state aid to county attorneys fund established by section 11-539. ~~By~~ **ON**
6 **OR BEFORE** September 1 of each year, the commission shall distribute monies
7 in the fund to each county according to the following composite index
8 formula:

9 1. The ~~three year~~ **THREE-YEAR** average of the total felony filings in
10 the superior court in the county, divided by the statewide ~~three year~~
11 **THREE-YEAR** average of the total felony filings in the superior court.

12 2. The county population, as adopted by the ~~department of economic~~
13 ~~security~~ **OFFICE OF ECONOMIC OPPORTUNITY**, divided by the statewide
14 population, as adopted by the ~~department of economic security~~ **OFFICE OF**
15 **ECONOMIC OPPORTUNITY**.

16 3. The sum of paragraphs 1 and 2 **OF THIS SUBSECTION** divided by two
17 equals the composite index.

18 4. The composite index for each county shall be used as the
19 multiplier against the total funds appropriated from the state general
20 fund and other monies distributed to the fund pursuant to section 41-2421.

21 B. The board of supervisors in each county shall separately account
22 for the monies transmitted pursuant to subsection A of this section and
23 may expend these monies only for the purposes specified in section
24 11-539. The county treasurer shall invest these monies and interest
25 earned shall be expended only for the purposes specified in section
26 11-539.

27 C. The Arizona criminal justice commission shall administer the
28 state aid to indigent defense fund established by section 11-588. By
29 September 1 of each fiscal year, the commission shall distribute monies in
30 the fund to each county according to the following composite index
31 formula:

32 1. The ~~three year~~ **THREE-YEAR** average of the total felony filings in
33 the superior court in the county divided by the statewide ~~three year~~
34 **THREE-YEAR** average of the total felony filings in the superior court.

35 2. The county population, as adopted by the ~~department of economic~~
36 ~~security~~ **OFFICE OF ECONOMIC OPPORTUNITY**, divided by the statewide
37 population, as adopted by the ~~department of economic security~~ **OFFICE OF**
38 **ECONOMIC OPPORTUNITY**.

39 3. The sum of paragraphs 1 and 2 **OF THIS SUBSECTION** divided by two
40 equals the composite index.

41 4. The composite index for each county shall be used as the
42 multiplier against the total funds appropriated from the state general
43 fund and other monies distributed to the fund pursuant to section 41-2421.

1 D. The board of supervisors shall separately account for the monies
2 transmitted pursuant to subsection C of this section and may expend these
3 monies only for the purposes specified in section 11-588. The county
4 treasurer shall invest these monies and interest earned shall be expended
5 only for the purposes specified in section 11-588.

6 E. THE ARIZONA CRIMINAL JUSTICE COMMISSION SHALL ADMINISTER THE
7 STATE AID FOR JUVENILE DEPENDENCY PROCEEDINGS FUND ESTABLISHED BY SECTION
8 41-2410. ON OR BEFORE SEPTEMBER 1 OF EACH FISCAL YEAR, THE ARIZONA
9 CRIMINAL JUSTICE COMMISSION SHALL DISTRIBUTE MONIES IN THE FUND TO EACH
10 ELIGIBLE COUNTY IN WHICH THE THREE-YEAR AVERAGE OF THE TOTAL JUVENILE
11 DEPENDENCY CASE FILINGS IN THE SUPERIOR COURT IN THE COUNTY EXCEEDS THE
12 THREE-YEAR AVERAGE JUVENILE DEPENDENCY CASE FILINGS IN THE SUPERIOR COURT
13 OF THE COUNTY FOR FISCAL YEARS 2012-2013, 2013-2014 AND 2014-2015 BASED ON
14 THE PROPORTIONAL SHARE OF THE INCREASE IN PETITIONS FOR EACH COUNTY.

15 F. THE BOARD OF SUPERVISORS SHALL SEPARATELY ACCOUNT FOR THE MONIES
16 DISTRIBUTED PURSUANT TO SUBSECTION E OF THIS SECTION AND MAY SPEND THESE
17 MONIES ONLY FOR THE PURPOSES SPECIFIED IN SECTION 41-2410. THE COUNTY
18 TREASURER SHALL INVEST THESE MONIES AND INTEREST EARNED SHALL BE SPENT
19 ONLY FOR THE PURPOSES SPECIFIED IN SECTION 41-2410.

20 ~~E. G. By January 8, 2001 and by~~ ON OR BEFORE January 8 each year
21 ~~thereafter~~, the commission shall report to each county board of
22 supervisors, the governor, the legislature, the joint legislative budget
23 committee, the chief justice of the supreme court and the attorney general
24 on the expenditure of the monies in the state aid to county attorneys fund
25 and the state aid to indigent defense fund for the prior fiscal year and
26 on the progress made in achieving the goal of improved criminal case
27 processing.

28 Sec. 7. Title 41, chapter 21, article 1, Arizona Revised Statutes,
29 is amended by adding section 41-2410, to read:

30 41-2410. State aid for juvenile dependency proceedings fund;
31 exemption

32 A. THE STATE AID FOR JUVENILE DEPENDENCY PROCEEDINGS FUND IS
33 ESTABLISHED CONSISTING OF LEGISLATIVE APPROPRIATIONS. MONIES IN THE FUND
34 SHALL BE USED TO PROVIDE STATE AID TO COUNTY PUBLIC DEFENDERS, LEGAL
35 DEFENDERS AND CONTRACT INDIGENT DEFENSE COUNSEL FOR THE PROCESSING OF
36 JUVENILE DEPENDENCY CASES.

37 B. THE ARIZONA CRIMINAL JUSTICE COMMISSION SHALL ADMINISTER THE
38 FUND. MONIES IN THE FUND ARE CONTINUOUSLY APPROPRIATED AND ARE EXEMPT
39 FROM THE PROVISIONS OF SECTION 35-190 RELATING TO LAPSING OF
40 APPROPRIATIONS. THE COMMISSION SHALL DISTRIBUTE MONIES IN THE FUND TO
41 EACH COUNTY PURSUANT TO SECTION 41-2409, SUBSECTION E.

42 C. ON NOTICE FROM THE COMMISSION, THE STATE TREASURER SHALL INVEST
43 AND DIVEST MONIES IN THE FUND AS PROVIDED BY SECTION 35-313, AND MONIES
44 EARNED FROM INVESTMENTS SHALL BE CREDITED TO THE FUND.

1 Sec. 8. Attorney general; compensation; outside counsel

2 Notwithstanding section 41-191, subsection D, Arizona Revised
3 Statutes, the attorney general may compensate counsel appointed in suits
4 to enforce state or federal statutes pertaining to antitrust, restraint of
5 trade or price-fixing activities or conspiracies pursuant to sections
6 41-4801, 41-4802, 41-4803 and 41-4804, Arizona Revised Statutes, at a rate
7 that may exceed \$50 per hour.

8 Sec. 9. Effective date

9 Section 41-1712, Arizona Revised Statutes, as amended by this act,
10 and title 41, chapter 12, article 4.1, Arizona Revised Statutes, as added
11 by this act, are effective from and after June 30, 2025.