

PROPOSED

HOUSE OF REPRESENTATIVES AMENDMENTS TO S.B. 1238

(Reference to Senate engrossed bill)

1 Strike everything after the enacting clause and insert:

2 "Section 1. Title 13, chapter 34, Arizona Revised Statutes, is
3 amended by adding section 13-3411.01, to read:

4 13-3411.01. Sale or transfer or use of dangerous drugs or
5 narcotic drugs; drug-free homeless service zone;
6 violation; classification; definitions

7 A. IT IS UNLAWFUL FOR A PERSON TO DO EITHER OF THE FOLLOWING:

8 1. INTENTIONALLY BE PRESENT IN A DRUG-FREE HOMELESS SERVICE ZONE TO
9 SELL OR TRANSFER DANGEROUS DRUGS OR NARCOTIC DRUGS.

10 2. AS AN EMPLOYEE OF A FACILITY-BASED SERVICE THAT PRIMARILY SERVES
11 HOMELESS INDIVIDUALS AND THAT RECEIVES STATE, LOCAL OR FEDERAL MONIES,
12 KNOWINGLY VIOLATES ANY FORMAL POLICY PURSUANT TO SUBSECTION F OF THIS
13 SECTION, INCLUDING INTENTIONALLY ALLOWING THE POSSESSION OR USE OF
14 DANGEROUS DRUGS OR NARCOTIC DRUGS IN A DRUG-FREE HOMELESS SERVICE ZONE.

15 B. A PERSON WHO VIOLATES SUBSECTION A, PARAGRAPH 1 OF THIS SECTION
16 IS GUILTY OF THE SAME CLASS OF FELONY THAT THE PERSON WOULD OTHERWISE BE
17 GUILTY OF HAD THE VIOLATION NOT OCCURRED WITHIN A DRUG-FREE HOMELESS
18 SERVICE ZONE, EXCEPT THAT THE PRESUMPTIVE, MINIMUM AND MAXIMUM SENTENCES
19 SHALL BE INCREASED BY ONE YEAR. THE ADDITIONAL SENTENCE IMPOSED UNDER THIS
20 SUBSECTION IS IN ADDITION TO ANY ENHANCED PUNISHMENT THAT MAY BE APPLICABLE
21 UNDER SECTIONS 13-703 OR 13-704 OR SECTION 13-708, SUBSECTION D OR ANY
22 PROVISION IN THIS CHAPTER. A PERSON IS NOT ELIGIBLE FOR SUSPENSION OF
23 SENTENCE, PROBATION, PARDON OR RELEASE FROM CONFINEMENT ON ANY BASIS EXCEPT
24 PURSUANT TO SECTION 31-233, SUBSECTION A OR B UNTIL THE SENTENCE IMPOSED BY
25 THE COURT HAS BEEN SERVED OR COMMUTED.

1 C. A PERSON WHO VIOLATES SUBSECTION A, PARAGRAPH 2 OF THIS SECTION
2 IS GUILTY OF A CLASS 1 MISDEMEANOR.

3 D. IN ADDITION TO ANY OTHER PENALTY PRESCRIBED BY THIS TITLE, THE
4 COURT SHALL ORDER A PERSON WHO IS CONVICTED OF A VIOLATION OF THIS SECTION
5 TO PAY A FINE OF NOT LESS THAN \$2,000 OR THREE TIMES THE VALUE, AS
6 DETERMINED BY THE COURT, OF THE DRUGS INVOLVED IN OR GIVING RISE TO THE
7 CHARGE, WHICHEVER IS GREATER, AND NOT MORE THAN THE MAXIMUM AUTHORIZED BY
8 CHAPTER 8 OF THIS TITLE. A JUDGE MAY NOT SUSPEND ANY PART OR ALL OF THE
9 IMPOSITION OF ANY FINE REQUIRED BY THIS SUBSECTION.

10 E. EACH OPERATOR OR PROVIDER OF FACILITY-BASED SERVICES THAT
11 PRIMARILY SERVE HOMELESS INDIVIDUALS SHALL PLACE AND MAINTAIN A PERMANENTLY
12 AFFIXED SIGN LOCATED IN A VISIBLE MANNER INSIDE THE FACILITY AND OUTSIDE
13 THE MAIN ENTRANCE OF THE FACILITY THAT IDENTIFIES THE BUILDING AND ITS
14 ACCOMPANYING GROUNDS AS A DRUG-FREE ZONE. IF AN OPERATOR OR PROVIDER OF
15 FACILITY-BASED SERVICES PRIMARILY SERVES DOMESTIC VIOLENCE VICTIMS OR
16 FAMILIES, THE OPERATOR OR PROVIDER SHALL PLACE AND MAINTAIN A PERMANENTLY
17 AFFIXED SIGN LOCATED IN A VISIBLE MANNER INSIDE THE FACILITY THAT
18 IDENTIFIES THE BUILDING AS A DRUG-FREE ZONE.

19 F. AN OPERATOR OF FACILITY-BASED SERVICES THAT SERVE HOMELESS
20 INDIVIDUALS MUST ADOPT A FORMAL POLICY THAT PROHIBITS THE USE OR POSSESSION
21 OF DANGEROUS DRUGS OR NARCOTIC DRUGS WITHIN DRUG-FREE HOMELESS SERVICE
22 ZONES.

23 G. FOR THE PURPOSES OF THIS SECTION:

24 1. "DANGEROUS DRUG" HAS THE SAME MEANING PRESCRIBED IN SECTION
25 13-3401.

26 2. "DRUG-FREE HOMELESS SERVICE ZONE" MEANS A FACILITY AND ITS
27 ACCOMPANYING GROUNDS IN WHICH SERVICES, SHELTER OR PERMANENT SUPPORTIVE
28 HOUSING ARE PROVIDED TO INDIVIDUALS WHO ARE EXPERIENCING HOMELESSNESS.

29 3. "HOMELESS INDIVIDUAL" MEANS AN INDIVIDUAL WHO DOES NOT HAVE A
30 HOME OR PERMANENT PLACE OF RESIDENCE.

31 4. "NARCOTIC DRUG" HAS THE SAME MEANING PRESCRIBED IN SECTION
32 13-3401.

1 Sec. 2. Section 41-2405, Arizona Revised Statutes, is amended to
2 read:

3 41-2405. Arizona criminal justice commission; powers and
4 duties; staff

5 A. The Arizona criminal justice commission shall:

6 1. Monitor the progress and implementation of new and continuing
7 criminal justice legislation.

8 2. Facilitate research among criminal justice agencies and maintain
9 criminal justice system information.

10 3. Facilitate coordinated statewide efforts to improve criminal
11 justice information and data sharing.

12 4. Prepare for the governor a biennial criminal justice system
13 review report. The report shall contain:

14 (a) An analysis of all criminal justice programs created by the
15 legislature in the preceding two years.

16 (b) An analysis of the effectiveness of the criminal code, with a
17 discussion of any problems and recommendations for revisions if deemed
18 necessary.

19 (c) A study of the level of activity in the several areas of the
20 criminal justice system, with recommendations for redistribution of
21 criminal justice revenues if deemed necessary.

22 (d) An overall review of the entire criminal justice system,
23 including crime prevention, criminal apprehension, prosecution, court
24 administration and incarceration at the state and local levels as well as
25 funding needs for the system.

26 (e) Recommendations for constitutional, statutory and administrative
27 revisions that are necessary to develop and maintain a cohesive and
28 effective criminal justice system.

29 5. Provide supplemental reports on criminal justice issues of
30 special timeliness.

31 6. In coordination with other governmental agencies, gather
32 information on programs that are designed to effectuate community crime

1 prevention and education using citizen participation and on programs for
2 alcohol and drug abuse prevention, education and treatment and disseminate
3 that information to the public, political subdivisions, law enforcement
4 agencies and the legislature.

5 7. Make recommendations to the legislature and the governor
6 regarding the purposes and formula for allocation of fund monies as
7 provided in section 41-2401, subsection D and section 41-2402 through the
8 biennial agency budget request.

9 8. Adopt rules for the purpose of allocating fund monies as provided
10 in sections 41-2401, 41-2402 and 41-2407 that are consistent with the
11 purposes set forth in those sections and that promote effective and
12 efficient use of the monies.

13 9. Make reports to the governor and the legislature as they require.

14 10. Oversee the research, analyses, studies, reports and publication
15 of crime and criminal justice statistics prepared by the Arizona
16 statistical analysis center, which is an operating section of the Arizona
17 criminal justice commission.

18 11. Prepare an annual report on law enforcement activities in this
19 state that are funded by the drug and gang enforcement fund or the criminal
20 justice enhancement fund and that relate to illicit drugs and ~~drug-related~~
21 **DRUG-RELATED** gang activity. The report shall be submitted by October 31 of
22 each year to the governor, the president of the senate and the speaker of
23 the house of representatives and a copy shall be submitted to the secretary
24 of state. The report shall include:

25 (a) The name and a description of each law enforcement program
26 dealing with illegal drug activity or street gang activity, or both.

27 (b) The objective and goals of each program.

28 (c) The source and amount of monies received by each program.

29 (d) The name of the agency or entity that administers each program.

30 (e) The effectiveness of each program.

31 12. Compile and disseminate information on best practices for cold
32 case investigations, including effective victim communication procedures.

1 For the purposes of this paragraph, "cold case" means a homicide or a
2 felony sexual offense that remains unsolved for one year or more after
3 being reported to a law enforcement agency and that has no viable and
4 unexplored investigatory leads.

5 13. ~~Beginning January 1, 2019,~~ Submit an annual recidivism report to
6 the legislature that compares the recidivism rate for a person who serves a
7 term of mandatory incarceration in a county jail pursuant to section
8 28-1383 and a person who serves that term of mandatory incarceration in
9 prison.

10 14. DIRECT FIRST RESPONDERS, MEDICAL EXAMINERS AND THE ARIZONA
11 HEALTH CARE COST CONTAINMENT SYSTEM TO PROVIDE INFORMATION AND DATA ON DRUG
12 OVERDOSES AMONG INDIVIDUALS EXPERIENCING HOMELESSNESS, INCLUDING THE NUMBER
13 OF DRUG OVERDOSES AND DEATHS CAUSED BY DRUG OVERDOSES, TO THE ARIZONA
14 CRIMINAL JUSTICE COMMISSION.

15 15. DIRECT CRIMINAL JUSTICE AGENCIES IN THIS STATE TO COLLECT AND
16 PROVIDE INFORMATION INDICATING CRIMES COMMITTED BY INDIVIDUALS WHO ARE
17 IDENTIFIED AS HOMELESS AND CRIMES COMMITTED AGAINST INDIVIDUALS WHO ARE
18 IDENTIFIED AS HOMELESS.

19 16. SUBMIT AN ANNUAL REPORT ON PARAGRAPHS 14 AND 15 OF THIS
20 SUBSECTION TO THE GOVERNOR, THE PRESIDENT OF THE SENATE AND THE SPEAKER OF
21 THE HOUSE OF REPRESENTATIVES AND PROVIDE A COPY OF THIS REPORT TO THE
22 SECRETARY OF STATE.

23 B. The Arizona criminal justice commission, as necessary to perform
24 its functions, may:

25 1. Request any state or local criminal justice agency to submit any
26 necessary information.

27 2. Form subcommittees, make studies, conduct inquiries and hold
28 hearings.

29 3. Subject to chapter 4, article 4 of this title, employ consultants
30 for special projects and such staff as deemed necessary or advisable to
31 carry out this section.

1 4. ANY INSTANCES AND DURATION OF TIME THE INDIVIDUAL HAS RETURNED TO
2 HOMELESSNESS.

3 D. ON OR BEFORE DECEMBER 1, 2024 AND EACH YEAR THEREAFTER FOR THREE
4 YEARS, EACH GRANT RECIPIENT PURSUANT TO THIS SECTION SHALL SUBMIT A REPORT
5 TO THE DEPARTMENT THAT INCLUDES A SUMMARY OF ALL OF THE KEY METRICS TRACKED
6 PURSUANT TO SUBSECTION C OF THIS SECTION FOR EACH HOMELESS INDIVIDUAL ON
7 WHICH GRANT MONIES WERE SPENT.

8 E. THE DEPARTMENT SHALL PRESCRIBE A SIMPLIFIED FORM AND PROCEDURE TO
9 APPLY FOR AND APPROVE GRANTS AND ESTABLISH REQUIREMENTS AND CRITERIA BY
10 WHICH GRANTS WILL BE AWARDED.

11 F. THE DEPARTMENT SHALL PRIORITIZE PROVIDING GRANTS FOR SERVICES FOR
12 INDIVIDUALS EXPERIENCING HOMELESSNESS WHO ARE ANY OF THE FOLLOWING:

- 13 1. CHILDREN.
- 14 2. PARENTS OR LEGAL GUARDIANS WITH CHILDREN.
- 15 3. SENIOR CITIZENS.
- 16 4. VETERANS.

17 G. ANY POLITICAL SUBDIVISION OF THIS STATE THAT RECEIVES MONIES
18 PURSUANT TO THIS SECTION MAY NOT RECEIVE ANY FURTHER FUNDING UNDER THIS
19 SECTION UNTIL THE DEPARTMENT DETERMINES THAT THE POLITICAL SUBDIVISION OF
20 THIS STATE IS IN COMPLIANCE WITH SUBSECTION I OF THIS SECTION.

21 H. A PERSON MAY NOT USE OR ALLOW TO BE USED STATE OR LOCAL
22 GOVERNMENT-OWNED LANDS FOR ANY UNAUTHORIZED SLEEPING, CAMPING OR LONG-TERM
23 SHELTER. A PERSON WHO VIOLATES THIS SUBSECTION SHALL RECEIVE A WARNING FOR
24 ANY OFFENSE, AND A CITATION MAY NOT BE ISSUED, EXCEPT THAT SERVICES OR
25 SHELTER MAY BE OFFERED INSTEAD OF A CRIMINAL CITATION IF THE INDIVIDUAL
26 DOES NOT CONTINUE TO USE THE LAND FOR PROHIBITED PURPOSES.

27 I. A POLITICAL SUBDIVISION OF THIS STATE MAY NOT:
28 1. ADOPT OR ENFORCE ANY POLICIES THAT DIRECTLY PROHIBIT OR
29 DISCOURAGE ENFORCING ANY ORDER OR ORDINANCE THAT PROHIBITS PUBLIC CAMPING,
30 SLEEPING OR OBSTRUCTING A PUBLIC RIGHT-OF-WAY, INCLUDING ROADS AND
31 SIDEWALKS.

1 2. DIRECTLY PROHIBIT OR DISCOURAGE A PEACE OFFICER OR PROSECUTING
2 ATTORNEY WHO IS EMPLOYED BY OR UNDER THE DIRECTION OR CONTROL OF THE
3 POLITICAL SUBDIVISION OF THIS STATE FROM ENFORCING ANY ORDER OR ORDINANCE
4 THAT PROHIBITS PUBLIC CAMPING, SLEEPING OR OBSTRUCTING A PUBLIC
5 RIGHT-OF-WAY, INCLUDING ROADS AND SIDEWALKS.

6 J. THIS SECTION DOES NOT PROHIBIT A POLITICAL SUBDIVISION OF THIS
7 STATE FROM OFFERING DIVERSION PROGRAMS OR SERVICES INSTEAD OF ISSUING A
8 CITATION OR MAKING AN ARREST IF THE INDIVIDUAL DOES NOT CONTINUE TO USE THE
9 LAND FOR PROHIBITED PURPOSES.

10 K. A COUNTY ATTORNEY MAY BRING A CIVIL ACTION IN ANY COURT OF
11 COMPETENT JURISDICTION AGAINST ANY POLITICAL SUBDIVISION OF THIS STATE TO
12 ENJOIN THE POLITICAL SUBDIVISION OF THIS STATE FROM VIOLATING THIS SECTION.
13 THE COUNTY ATTORNEY MAY RECOVER REASONABLE EXPENSES INCURRED IN ANY CIVIL
14 ACTION BROUGHT UNDER THIS SECTION, INCLUDING COURT COSTS, ATTORNEY FEES,
15 INVESTIGATIVE COSTS, WITNESS FEES AND DEPOSITION COSTS.

16 L. THE DEPARTMENT SHALL PROVIDE A QUARTERLY REPORT TO THE JOINT
17 LEGISLATIVE BUDGET COMMITTEE THAT OUTLINES FUND EXPENDITURES, GRANT
18 RECIPIENTS, THE NUMBER OF INDIVIDUALS SERVED, SELECTED VENDORS AND OTHER
19 INFORMATION AS REQUESTED BY THE CHAIRMAN OF THE JOINT LEGISLATIVE BUDGET
20 COMMITTEE.

21 M. FOR THE PURPOSES OF THIS SECTION, "INDIVIDUAL EXPERIENCING
22 HOMELESSNESS" MEANS AN INDIVIDUAL WHO DOES NOT HAVE A HOME OR PERMANENT
23 PLACE OF RESIDENCE AND WHO IS A UNITED STATES CITIZEN.

24 41-3958. Hotel owners; mixed hoteling; signs; definitions

25 A. IF A HOTEL OWNER ENGAGES IN MIXED HOTELING, THE HOTEL OWNER SHALL
26 POST SIGNS OVER EACH ENTRANCE AND EXIT TO THE BUILDING AND IN A PLACE
27 CLEARLY VISIBLE FROM THE RECEPTION DESK THAT STATES:

28 THIS BUSINESS IS BEING USED TO HOUSE HOMELESS INDIVIDUALS
29 ALONGSIDE THE GENERAL PUBLIC. IT IS RECOMMENDED THAT ALL
30 GUESTS KEEP HOTEL DOORS LOCKED, SAFELY STORE THEIR BELONGINGS
31 AND REPORT ANY HEALTH OR SAFETY CONCERNS TO LOCAL LAW
32 ENFORCEMENT.

1 B. ALL SIGNS REQUIRED BY SUBSECTION A OF THIS SECTION MUST BE IN RED
2 TWENTY-FIVE POINT HIGHWAY GOTHIC BOLDED FONT, ON A WHITE BACKGROUND AND ON
3 A SIGN THAT IS AT LEAST EIGHTEEN INCHES IN WIDTH AND TWENTY-FOUR INCHES IN
4 HEIGHT. ALL HOTELS PARTICIPATING IN MIXED HOTELING MUST DISCLOSE THAT THE
5 HOTEL IS ENGAGING IN MIXED HOTELING AND MUST SHARE THE TEXT OF THE SIGN
6 WITH THE CUSTOMER AT THE TIME OF ARRIVAL. AT THE TIME OF ARRIVAL, ANY
7 GUEST WHO OBJECTS TO MIXED HOTELING SHALL BE ISSUED A FULL REFUND.

8 C. STATE OR LOCAL MONIES MAY NOT BE USED FOR MIXED HOTELING.

9 D. FOR THE PURPOSES OF THIS SECTION:

10 1. "HOMELESS INDIVIDUAL" MEANS AN INDIVIDUAL WHO DOES NOT HAVE A
11 HOME OR PERMANENT PLACE OF RESIDENCE AND FOR WHOM THE HOTEL KNOWS THAT
12 ACCOMMODATIONS ARE BEING SUBSIDIZED BY A GOVERNMENT OR A NONPROFIT
13 ORGANIZATION.

14 2. "MIXED HOTELING" MEANS PROVIDING ROOMS OR SHELTER SERVICES,
15 WHETHER EMERGENCY, TEMPORARY OR TRANSITIONAL ROOMS OR SHELTER, TO HOMELESS
16 INDIVIDUALS WHILE CONCURRENTLY PROVIDING HOTEL SERVICES TO THE GENERAL
17 PUBLIC IN THE SAME BUILDING OR ON THE SAME PREMISES. MIXED HOTELING DOES
18 NOT INCLUDE PROVIDING EMERGENCY OR TEMPORARY SHELTER TO INDIVIDUALS WHO ARE
19 VICTIMS OF DOMESTIC VIOLENCE OR PARENTS OR LEGAL GUARDIANS WITH CHILDREN.

20 Sec. 4. Performance audit: report

21 A. The auditor general shall conduct a special audit, as defined in
22 section 41-1278, Arizona Revised Statutes, of the amount of monies spent on
23 programs and services for individuals experiencing homelessness in this
24 state, including all of the following:

25 1. Expenditures by this state.

26 2. Expenditures by municipalities and counties or any political
27 subdivision thereof, with homeless populations higher than the per capita
28 average of this state.

29 3. Expenditures of federal monies allocated to this state for
30 homeless programs.

31 4. Expenditures by state and local law enforcement agencies to
32 address homelessness, including transportation to emergency shelters,

1 responding to crisis calls, providing overnight shelter in jail and
2 enforcing camping bans.

3 B. All state and local governmental entities of this state shall
4 cooperate with the special audit and grant access, at no cost, to all
5 financial records and any other information necessary to complete the
6 special audit.

7 C. The special audit shall examine all of the following:

8 1. The awarding of any contracts and grants relating to homeless
9 services and support.

10 2. Any metrics used to examine the success of any expenditures.

11 3. The efficiency of the use of data management systems in relation
12 to such programs.

13 4. The expenditure for each individual experiencing homelessness for
14 each service provided.

15 D. On or before December 31, 2025, the auditor general shall submit
16 copies of the special audit report to the governor, the president of the
17 senate, the speaker of the house of representatives and provide a copy of
18 this report to the secretary of state.

19 Sec. 5. Applicability of requirements; transfer of monies;
20 appropriation

21 A. Notwithstanding Laws 2023, chapter 133, sections 49 and 104, any
22 monies expended for programs that provide shelter and services to
23 unsheltered persons who are experiencing homelessness are subject to the
24 requirements established by section 41-3956, Arizona Revised Statutes, as
25 added by this act. These appropriations may only be used for individuals
26 who are United States citizens.

27 B. Notwithstanding Laws 2023, chapter 133, section 49, \$5,500,000
28 from the \$150,000,000 appropriation in the housing trust fund deposit line
29 item is transferred to the following agencies:

30 1. \$5,000,000 shall be transferred to the auditor general for all
31 necessary costs to conduct the special audit of the amount of monies spent

1 on programs and services for individuals experiencing homelessness in this
2 state pursuant to this act.

3 2. \$500,000 shall be transferred to the Arizona criminal justice
4 commission to implement the data collection requirements pursuant to
5 section 41-2405, subsection A, paragraphs 14 through 16, Arizona Revised
6 Statutes, as added by this act.

7 C. The sum of \$50,000,000 is appropriated from the consumer
8 remediation subaccount of the consumer restitution and remediation
9 revolving fund established by section 44-1531.02, Arizona Revised Statutes,
10 to the Arizona health care cost containment system to establish five
11 additional secure behavioral health residential facilities for individuals
12 experiencing homelessness and for provider support for the new facilities
13 established pursuant to this subsection."

14 Amend title to conform

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