



**ARIZONA STATE SENATE**  
*Fiftieth Legislature, Second Regular Session*

**AMENDED**  
FACT SHEET FOR H.B. 2018

missing child; reporting; offense

Purpose

Establishes a class 5 felony for a parent, guardian or custodian who fails to report a child as missing under certain circumstances. Requires a city or town that meets specified requirements to forfeit control of law enforcement.

Background

Currently, Arizona does not have a reporting requirement related to missing children; however, there are statutory requirements related to child injury. Specifically, it is a class 1 misdemeanor for a person who has custody of a child under 16 to knowingly cause or permit the life of the child to be endangered or his or her health to be injured by neglect, abuse or immoral associations (A.R.S. § 13-3619). Additionally, A.R.S § 13-3620 requires any caregiver of a child to immediately report if the caregiver believes the child has been a victim of physical injury, abuse or neglect. Failure to report is a class 1 misdemeanor, except if the failure to report involves a reportable offense, it is a class 6 felony.

Arizona has 91 incorporated cities and towns that provide or contract for services including police and fire, emergency response, water, wastewater, airports and garbage removal. Pursuant to A.R.S. § 41-1822, the Arizona Peace Officer Standards and Training Board (AzPOST) prescribes reasonable minimum qualifications for officers to be appointed to enforce laws of the state and its political subdivisions, and certifies officers in compliance with the qualifications. AzPOST also prescribes minimum courses and standards for officer training facilities. Finally, with respect to officer misconduct, AzPOST may: receive complaints; conduct investigations or direct law enforcement agencies to conduct investigations; and deny, suspend, revoke or cancel an officer's certification.

There may be a fiscal impact associated with this legislation related to incarceration costs. The presumptive sentence for a class 5 felony is 1.5 years in prison.

Provisions

*Missing Children*

1. Requires a parent, stepparent, guardian or person who has the care, custody or control of a minor under nine years of age and who knows or has reason to know the minor has been

missing for more than 24 hours to report the minor as missing as soon as reasonably possible to a law enforcement agency.

2. Classifies failure to report as a class 5 felony.
3. Requires each sheriff and municipal law enforcement agency, by September 1 of each year, to electronically submit a report to AzPOST on the number of missing child reports received during the previous year. Requires AzPOST to make the information available on its website by November 1 of each year.

#### *Law Enforcement Forfeiture*

4. Eliminates a city's or town's authority to establish, regulate, appoint or remove the city or town police or to prescribe their powers and duties if 50 percent or more of the officers have had their certifications revoked by AzPOST.
5. Specifies the percentage of revocations is determined as follows:
  - a) the numerator is the number of officers whose certifications have been revoked over any consecutive eight year period; and
  - b) the denominator is average number of certified officers employed by the city or town as determined by the department's peace officer standards training certification records over the same time period.
6. Prohibits the eight year period from encompassing any year before 2003.
7. Requires AzPOST to determine if the above requirements are met and notify the Attorney General (AG), who must verify the information and notify the appropriate county board of supervisors (board).
8. Requires the board, on agreement by a majority vote, to notify the city or town that it must forfeit control of its law enforcement authority.
9. Requires the board to notify the county sheriff of the determination. The sheriff must immediately assume the law enforcement functions within the city or town.
10. Specifies the deadline for determining forfeiture is December 31, 2012.
11. Requires the city or town to reimburse the sheriff for all reasonable costs for providing the law enforcement functions within 60 days after the board's notification to the sheriff.
12. Requires the board to determine reasonable costs by using the average of the monies budgeted for law enforcement functions over the three previous fiscal years. Prohibits the sheriff's costs from exceeding that amount in any year the sheriff provides the functions.
13. Requires the State Treasurer to withhold a portion of the city's or town's transaction privilege tax distribution if the city or town fails to reimburse the county, and to transfer those monies to the county.

14. Requires the sheriff in consultation with the board and the city or town, and within six months after assuming law enforcement functions, to begin to prepare a written report to include at least:
  - a) the causes of the certification revocations;
  - b) a cost analysis of assuming the law enforcement functions by the city or town; and
  - c) a list of training requirements, policies and procedures intended to remedy the reasons for the revocations.
15. Requires the sheriff to forward a copy of the report to the AG.
16. Permits the city or town, after five years from the forfeiture, to request to the board to reinstate control of law enforcement functions.
17. Requires the board to act on the request within 60 days of receipt, and to reinstate control if a majority of the board agrees.
18. Specifies that these provisions do not give a city, town or law enforcement agency any legal interest or standing in an AzPOST proceeding involving the agency's officer certifications.

#### *Miscellaneous*

19. Requires AzPOST to examine the issue of whether it should also certify policy agencies as to the agency's ability to enforce the laws of this state and political subdivisions based on qualifications AzPOST determines are necessary.
20. Requires AzPOST to report its findings and make recommendations to the Governor, the President of the Senate, the Speaker of the House of Representatives and the Secretary of State by December 1, 2013.
21. Repeals the law enforcement forfeiture requirements on January 1, 2019.
22. Contains a severability clause.
23. Becomes effective on the general effective date.

#### Amendments Adopted by Committee

- Increases the maximum age of minors certain people must report as missing and requires the report to be made as soon as reasonably possible.

#### Amendments Adopted by Committee of the Whole

1. Decreases the age of a minor who must be reported missing to under nine years of age.

2. Requires a county sheriff to assume a city's or town's law enforcement functions if certain requirements are met. Includes related deadlines and protocol, and procedures for the city or town to request to reinstate control of law enforcement after five years.
3. Prescribes several AzPOST and law enforcement reporting requirements, adds a delayed repeal for the law enforcement forfeiture language and a severability clause.

House Action

JUD            1/12/12    DP    8-1-0-0  
3<sup>rd</sup> Read       2/6/12            57-0-2-0-1

Senate Action

PSHS            3/14/12    DPA    5-0-1-0  
3<sup>rd</sup> Read       5/3/12            26-1-3

Prepared by Senate Research

May 7, 2012

AW/ly