



## ARIZONA STATE SENATE

### *Fiftieth Legislature, Second Regular Session*

#### FACT SHEET FOR S.B. 1225

##### superior court clerk; arbitration; records

##### Purpose

Authorizes a county court clerk to transfer arbitration appeal deposits in a certain circumstance. Limits access to certain records when a person is wrongfully arrested, indicted or charged with a crime and subsequently cleared.

##### Background

##### *Arbitration; Appeals; Deposits*

The superior court establishes jurisdictional limits of up to \$65,000 for submission of disputes to arbitration and requires arbitration in cases filed in superior court in which the court finds, or the parties agree, that the amount in controversy does not exceed the jurisdictional limit (A.R.S. § 12-133, subsection A). The court may waive the arbitration requirement on a showing of good cause if all parties file a written stipulation waiving the requirement (A.R.S. § 12-133, subsection B). Arbitrators are paid up to \$140 per day for each day necessarily expended in the hearing and determination of the case. Arbitrator compensation is paid by the county where the court has jurisdiction (A.R.S. § 12-133, subsection G).

Arbitration awards must be in writing, signed by a majority of the arbitrators and filed with the court. The court must enter the award in its record of judgments. The award has the effect of a judgment upon the parties unless reversed upon appeal (A.R.S. § 12-133, subsection E). Any party to the arbitration proceeding may appeal the arbitration award to the court in which the award is entered by filing, within the time limited by court rule, a demand for a trial *de novo* on law and fact (A.R.S. § 12-133, subsection H).

Upon appeal, as a condition of filing the demand for trial *de novo*, the appellant must deposit a sum equal to the total compensation of the arbitrators, but not exceeding ten per cent of the amount in controversy, with the county. If the court finds that the appellant is unable to make the deposit based on a lack of funds, the court may allow the filing of the appeal without the deposit. The deposit must be refunded to the appellant if the judgment on the trial *de novo* is at least 23 per cent more favorable than the monetary relief or other type of relief granted by the arbitration award. If the judgment is not at least 23 per cent more favorable than the monetary relief or other type of relief granted, the court is required to order that the deposit be used to pay, or that the appellant pay if the deposit is insufficient, the following costs and fees: a) to the county, the compensation actually paid to the arbitrator; b) to the appellee, civil action costs and reasonable attorney fees; and c) reasonable expert witness fees that are incurred by the appellee, with certain exceptions (A.R.S. § 12-133, subsection I).

**FACT SHEET**

S.B. 1225

Page 2

***Entry on Records; Court Order***

A person who is wrongfully arrested, indicted or otherwise charged for a crime may petition the superior court for an entry upon all court records, police records and any other agency records relating to the arrest or indictment a notation that the person has been cleared. After a hearing on the petition, if the judge believes that justice will be served by such entry, the judge will issue an order requiring an entry on the records that the person has been cleared. Copies of the order are then delivered to all law enforcement agencies and courts. The order further prohibits law enforcement agencies and courts from releasing copies of records to any person, except upon order of the court (A.R.S. § 13-4051).

There is no anticipated fiscal impact to the state General Fund.

**Provisions**

***Arbitration; Appeals; Deposits***

1. Requires the court to refund the deposit on motion of the appellant within 30 days after the judgment on the trial *de novo* if the judgment is at least 23 percent more favorable than the monetary relief or other type of relief granted by the arbitration award.
2. Requires the court, on its own motion or on motion of the appellee, within 30 days after the trial *de novo* judgment to order that the deposit be used to pay certain costs and fees if the judgment is not at least 23 percent more favorable than the monetary relief or other type of relief granted by the arbitration award.
3. Authorizes the clerk of the court to transfer the deposit to the county General Fund in an amount that does not exceed the deposit, but is sufficient to reimburse the county for the compensation paid to the arbiter, if the court does not provide an order for the disposition of the deposit within 90 days after the trial.
4. Requires the court clerk to refund any deposit balance to the appellant.

***Entry on Records; Court Order***

5. Prohibits law enforcement agencies and courts from providing access to court records, police records or any other agency records relating to the arrest or indictment of a person who has been cleared, except on order of the court.
6. Makes technical and conforming changes.
7. Becomes effective on the general effective date.

Prepared by Senate Research

February 2, 2012

GK/tf