

BALLOT PROPOSITION #100

Bail; Undocumented Immigrants

FISCAL ANALYSIS

Description

Proposition 100 amends the Arizona Constitution to prohibit bail for individuals who are both charged with committing a serious felony offense, and who have entered or remained in the United States illegally. A.R.S. § 13-3961 defines serious offenses to include any Class 1, 2, 3 or 4 felony or any aggravated driving while under the influence of intoxicating liquor or drugs violation.

Estimated Impact

Proposition 100 is not estimated to have a fiscal impact to state government.

The proposition is anticipated to have a cost to Arizona counties, however, the magnitude of this impact cannot be determined in advanced. Actual costs to counties will be influenced by: 1) the number of persons who enter into or remain in the United States illegally and commit a serious offense; 2) a county's case processing time; 3) the cost to detain an individual per day; 4) the number of days an individual who would otherwise be eligible for bail would be required to remain in custody; and 5) the number of individuals who would no longer be eligible for bail that would have otherwise posted bail in absence of the bill.

The Arizona Association of Counties and Arizona League of Cities and Towns did not have a fiscal estimate of the proposition.

Analysis

Currently, Article II, Section 22 of the Constitution of Arizona indicates outlines which offenses have been identified as being not eligible for bail. As indicated above, Proposition 100 would expand these offenses to include any Class 1, 2, 3, or 4 felony offenses and aggravated driving violations while under the influence of intoxicating liquor or drugs, if the individual charged with the offense entered into or remains in the United States illegally.

The Administrative Office of the Courts FY 2005 Data Report indicates that a total of 54,426 felony cases were filed in all 15 counties in FY 2005. However, this amount includes felonies that are not considered a serious offense under the proposition. Data collected from 12 of the 15 counties (Maricopa, Mohave and Pima counties not included) suggest that approximately 75% of all felonies filed would be considered serious offenses under the proposition. The extent to which the data in those 12 counties is representative of the remaining 3 counties is unknown. Furthermore, the percentage of individuals who were charged with committing a serious offense and had entered into or were in the United States illegally is not available. However, the Arizona Department of Corrections (ADC) indicates the percentage of foreign nationals to the total population that was under the supervision of the ADC is approximately 12.7%. Since ADC does not determine immigration status, a foreign national may or may not have entered into or remain in the United States illegally.

As indicated above, individuals otherwise eligible for bail would now require incarceration in a county jail until their hearing. The average cost to detain an individual is dependent upon the county jail the individual is referred to. The Arizona Association of Counties indicates the average daily cost to counties was approximately \$79 per person, per day in FY 2005; however, larger counties had a lower daily cost due to economies of scale.

The number of days between the initial arrest and hearing depends on the type of crime the accused has committed and the circumstances of the case. As a result, it is difficult to quantify the average number of days a person who would otherwise be eligible for bail would be detained under the proposition. Additionally, it is unknown what percentage of the population impacted under the proposition would otherwise post bail. The Conference of State Court Administrators and the Conference of Chief Justices have adopted felony case disposition time standards equal to 180 days. The actual number of days would depend on various factors, including the offense, court caseload and court processing times.

Local Government Impact

Please see the Estimated Impact and Analysis section for details.

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This estimate was prepared by Martin Lorenzo (602-926-5491).