

**BILL #** HCR 2014

**TITLE:** ~~bailable offenses; Cassie's amendment~~  
NOW: bailable offenses

**SPONSOR:** Voss

**STATUS:** As Amended by House Judiciary

**REQUESTED BY:** House

**PREPARED BY:** Kim Hohman

**FISCAL YEAR**

	<b>2001</b>	<b>2002</b>	<b>2003</b>
<b>EXPENDITURES</b>			
General Fund	\$-0-	\$-0-	\$-0-

**FISCAL ANALYSIS**

**Description**

This bill amends the Arizona Constitution by adding domestic violence offenses to the list of crimes potentially ineligible for bail. A domestic violence offender will not be eligible for bail if a court determines that release will pose a substantial danger to another person or to the community.

**Estimated Impact**

The JLBC Staff estimates that there will be no General Fund impact as a result of this bill. The costs associated with this bill will be borne entirely by counties and municipalities. Due to difficulty obtaining estimates for the number of domestic violence offenders who may be ineligible for bail under this new provision, a precise local cost estimate cannot be determined.

**Assumptions**

Current language in the Arizona Constitution outlines three categories of crimes not eligible for bail. One of these categories includes felony offenses when the person charged poses a substantial danger to any other person or to the community. Since domestic violence cases can be categorized as both felonies and misdemeanors, and because felony offenses appear to be covered within current language in the Constitution, the new element contained in this bill is the addition of misdemeanor domestic violence offenses. Since those arrested for misdemeanor domestic violence offenses are held in county jail, the JLBC Staff assumes that the increased jail time associated with this bill will not result in a cost to the state General Fund.

**Local Government Impact**

The JLBC Staff assumes that the increased costs as a result of the bill will be borne by Arizona counties and municipalities. After arrest, domestic violence offenders are held at county jails. The costs associated with increased county jail time as a result of the bill will be experienced by counties and cities throughout the state, as the state does not fund jail costs. Cities will reimburse counties for jail costs associated with this bill.

Based on a survey administered by the Governor's Office for Domestic Violence Prevention, the total number of domestic violence arrests in 1998 was 19,060. This represents approximately 80% of the law enforcement agencies surveyed around the state. This total does not include a breakdown of misdemeanor and felony offenses. We assume that the total number of misdemeanor domestic violence cases would reflect a potential "cost ceiling" associated with the bill. However, we have no data on what percentage of the 19,000 are misdemeanor offenses. In addition, according to the Administrative Office of the Courts, an estimate of the number of offenders expected to be held without bail as a result of this bill is difficult, if not impossible, to determine.

(Continued)

### **Local Government Impact (Continued)**

The average number of days spent in jail, from arrest to trial, is approximately 90 days, based on information provided by the Phoenix City Prosecutor's Office. The average cost per day for an offender to be jailed in the county jail is approximately \$60. This information was provided by the Arizona Association of Counties Office. Actual per diem jail costs will vary county by county, resulting in differing costs to cities.

In addition to increased jail time as a result of this bill, there may also be an increase in court costs if defense counsel challenges the determination that a person may not be released on bail. It is possible that in each of these cases where a defendant is not released on bail, that a full evidentiary hearing may occur to determine whether the court was justified in its judgement of 'substantial danger.' Depending on the number of misdemeanor domestic violence offenses ineligible for bail, the costs associated with these hearings could range from significant to minimal.

Since information on the number of domestic violence offenders potentially affected by this bill is not available, the JLBC Staff has not determined a specific cost estimate for this bill. However, if an estimate of the number of misdemeanor domestic violence cases affected by the bill becomes available, this number would be multiplied by the average number of days spent in jail and by the average jail per diem. The number of misdemeanor domestic violence cases where the defendant poses a substantial danger to another person or to the community, and is therefore ineligible for bail, is not likely to equal the total number of misdemeanor domestic violence cases in general.

### **Amendments**

The House Judiciary Committee amended HCR 2014 to remove the language referring to the amendment as "Cassie's Amendment." The amendment has no fiscal impact.

3/19/01