

REFERENCE TITLE: law enforcement officers; database; rules

State of Arizona
House of Representatives
Fifty-fifth Legislature
First Regular Session
2021

HB 2295

Introduced by
Representatives Payne: Pingerelli

AN ACT

AMENDING TITLE 38, CHAPTER 8, ARTICLE 1, ARIZONA REVISED STATUTES, BY
ADDING SECTION 38-1117; RELATING TO LAW ENFORCEMENT OFFICERS.

(TEXT OF BILL BEGINS ON NEXT PAGE)

1 Be it enacted by the Legislature of the State of Arizona:

2 Section 1. Title 38, chapter 8, article 1, Arizona Revised
3 Statutes, is amended by adding section 38-1117, to read:

4 38-1117. Law enforcement officers; database; notice; request
5 for reconsideration; definitions

6 A. AT LEAST TEN DAYS BEFORE A PROSECUTING AGENCY CONSIDERS PLACING
7 A LAW ENFORCEMENT OFFICER'S NAME IN THE RULE 15.1 DATABASE, THE
8 PROSECUTING AGENCY SHALL SEND A WRITTEN NOTICE BY MAIL OR EMAIL TO THE LAW
9 ENFORCEMENT OFFICER'S CURRENT OR LAST KNOWN EMPLOYMENT ADDRESS. ON
10 RECEIPT OF THE NOTICE AND IF THE LAW ENFORCEMENT OFFICER'S CONTACT
11 INFORMATION IS AVAILABLE, THE LAW ENFORCEMENT OFFICER'S CURRENT OR LAST
12 KNOWN EMPLOYER SHALL PROVIDE THE WRITTEN NOTICE TO THE LAW ENFORCEMENT
13 OFFICER.

14 B. AT A MINIMUM, THE WRITTEN NOTICE SHALL INCLUDE:

15 1. A NOTICE OF POSSIBLE PLACEMENT IN THE RULE 15.1 DATABASE.

16 2. THE LAW ENFORCEMENT OFFICER'S RIGHT TO REQUEST RELEVANT
17 MATERIALS FROM THE PROSECUTING AGENCY.

18 3. THE LAW ENFORCEMENT OFFICER'S RIGHT TO PROVIDE INPUT TO THE
19 PROSECUTING AGENCY BEFORE THE PROSECUTING AGENCY MAKES A DETERMINATION OF
20 WHETHER THE LAW ENFORCEMENT OFFICER'S NAME SHOULD BE ADDED TO THE
21 RULE 15.1 DATABASE.

22 4. THE PROSECUTING AGENCY'S PROCEDURAL REQUIREMENTS FOR A LAW
23 ENFORCEMENT OFFICER TO PROVIDE THE INPUT.

24 C. IF THE PROSECUTING AGENCY MAKES A DETERMINATION TO PLACE THE LAW
25 ENFORCEMENT OFFICER'S NAME IN THE RULE 15.1 DATABASE, THE PROSECUTING
26 AGENCY SHALL SEND A WRITTEN NOTICE BY MAIL OR EMAIL TO THE LAW ENFORCEMENT
27 OFFICER'S CURRENT OR LAST KNOWN EMPLOYMENT ADDRESS. ON RECEIPT OF THE
28 NOTICE AND IF THE LAW ENFORCEMENT OFFICER'S CONTACT INFORMATION IS
29 AVAILABLE, THE LAW ENFORCEMENT OFFICER'S CURRENT OR LAST KNOWN EMPLOYER
30 SHALL PROVIDE THE WRITTEN NOTICE TO THE LAW ENFORCEMENT OFFICER. THE
31 NOTICE SHALL INCLUDE:

32 1. THE LAW ENFORCEMENT OFFICER'S RIGHT TO MAKE A REQUEST TO
33 RECONSIDER THE ALLEGATIONS AND PLACEMENT IN THE RULE 15.1 DATABASE.

34 2. THE PROSECUTING AGENCY'S PROCEDURAL REQUIREMENTS FOR SUBMITTING
35 A WRITTEN REQUEST FOR RECONSIDERATION, INCLUDING THE METHOD AND TIME FRAME
36 FOR SUBMITTING THE REQUEST FOR RECONSIDERATION AND ANY SUPPORTING AND
37 CORROBORATING DOCUMENTS AND EVIDENCE FROM ANY PERTINENT SOURCES.

38 3. A STATEMENT THAT, IF THE LAW ENFORCEMENT OFFICER INTENDS TO MAKE
39 A REQUEST TO RECONSIDER THE PLACEMENT IN THE RULE 15.1 DATABASE, THE LAW
40 ENFORCEMENT OFFICER MUST SUBMIT THE WRITTEN REQUEST FOR RECONSIDERATION TO
41 THE PROSECUTING AGENCY WITHIN TEN BUSINESS DAYS AFTER RECEIVING THE
42 NOTICE.

43 D. IF A LAW ENFORCEMENT OFFICER SUBMITS A REQUEST FOR
44 RECONSIDERATION PURSUANT TO THIS SECTION AND THE LAW ENFORCEMENT OFFICER'S

1 REQUEST FOR RECONSIDERATION IS APPROVED BY THE PROSECUTING AGENCY ON ITS
2 MERITS, THE LAW ENFORCEMENT OFFICER'S NAME SHALL BE REMOVED FROM THE
3 RULE 15.1 DATABASE. IF THE LAW ENFORCEMENT OFFICER'S REQUEST FOR
4 RECONSIDERATION IS DENIED BY THE PROSECUTING AGENCY, THE LAW ENFORCEMENT
5 OFFICER'S NAME SHALL REMAIN IN THE RULE 15.1 DATABASE. IF A LAW
6 ENFORCEMENT OFFICER DOES NOT SUBMIT A REQUEST FOR RECONSIDERATION OR FAILS
7 TO COMPLY WITH THE REQUIREMENTS FOR SUBMITTING A REQUEST FOR
8 RECONSIDERATION, THE LAW ENFORCEMENT OFFICER'S NAME SHALL REMAIN IN THE
9 RULE 15.1 DATABASE.

10 E. A PROSECUTING AGENCY THAT MAINTAINS A RULE 15.1 DATABASE SHALL
11 ADOPT A POLICY THAT, AT A MINIMUM, INCLUDES ALL OF THE FOLLOWING:

12 1. THE CRITERIA USED BY THE PROSECUTING AGENCY TO PLACE A LAW
13 ENFORCEMENT OFFICER'S NAME IN THE RULE 15.1 DATABASE.

14 2. THE LAW ENFORCEMENT OFFICER'S RIGHT TO RECEIVE WRITTEN NOTICE AT
15 LEAST TEN DAYS BEFORE THE PROSECUTING AGENCY INTENDS TO CONSIDER PLACING
16 THE LAW ENFORCEMENT OFFICER'S NAME IN THE RULE 15.1 DATABASE AND THE LAW
17 ENFORCEMENT OFFICER'S RIGHT TO PROVIDE INPUT TO THE PROSECUTING AGENCY
18 BEFORE THE PROSECUTING AGENCY MAKES A DETERMINATION OF WHETHER THE LAW
19 ENFORCEMENT OFFICER'S NAME SHOULD BE ADDED TO THE RULE 15.1 DATABASE.

20 3. THE DUTY OF THE PROSECUTING AGENCY TO PROVIDE NOTICE OF THE
21 PROSECUTING AGENCY'S DECISION REGARDING PLACING THE LAW ENFORCEMENT
22 OFFICER'S NAME IN THE RULE 15.1 DATABASE TO THE LAW ENFORCEMENT OFFICER'S
23 CURRENT OR LAST EMPLOYER.

24 4. THE LAW ENFORCEMENT OFFICER'S RIGHT TO MAKE A REQUEST FOR
25 RECONSIDERATION OF THE PLACEMENT OF THE LAW ENFORCEMENT OFFICER'S NAME IN
26 THE RULE 15.1 DATABASE AND SUBMIT SUPPORTING AND CORROBORATING DOCUMENTS
27 AND EVIDENCE IN SUPPORT OF THE REQUEST FOR RECONSIDERATION.

28 5. THE APPLICABLE TIME FRAME AND PROCEDURES FOR NOTIFYING THE LAW
29 ENFORCEMENT OFFICER OF THE PROSECUTING AGENCY'S FINAL DECISION ON THE LAW
30 ENFORCEMENT OFFICER'S REQUEST FOR RECONSIDERATION.

31 F. THIS SECTION DOES NOT LIMIT THE DUTY OF A PROSECUTING AGENCY TO
32 PRODUCE RULE 15.1 DISCLOSURE INFORMATION IN ALL CASES AS REQUIRED BY THE
33 ARIZONA RULES OF CRIMINAL PROCEDURE.

34 G. THIS SECTION DOES NOT LIMIT OR RESTRICT A PROSECUTING AGENCY'S
35 ABILITY TO REMOVE A LAW ENFORCEMENT OFFICER'S NAME FROM THE RULE 15.1
36 DATABASE IF, ON RECEIPT OF ADDITIONAL SUPPORTING AND CORROBORATING
37 INFORMATION OR A CHANGE IN FACTUAL CIRCUMSTANCES AT ANY TIME, THE
38 PROSECUTING AGENCY DETERMINES THAT THE LAW ENFORCEMENT OFFICER'S NAME NO
39 LONGER REQUIRES PLACEMENT IN THE RULE 15.1 DATABASE.

40 H. A LAW ENFORCEMENT AGENCY MAY NOT USE THE PLACEMENT OF A LAW
41 ENFORCEMENT OFFICER'S NAME IN A RULE 15.1 DATABASE AS THE SOLE REASON FOR
42 TAKING OR DENYING ANY OF THE FOLLOWING EMPLOYMENT ACTIONS AGAINST THE LAW
43 ENFORCEMENT OFFICER:

44 1. DEMOTION.

1 2. SUSPENSION.
2 3. TERMINATION.
3 4. ANY OTHER DISCIPLINARY ACTION.
4 I. NOTWITHSTANDING SUBSECTION H OF THIS SECTION, A LAW ENFORCEMENT
5 AGENCY IS NOT RESTRICTED IN USING THE UNDERLYING FACTS THAT WERE THE BASIS
6 FOR PLACING THE LAW ENFORCEMENT OFFICER'S NAME IN THE RULE 15.1 DATABASE
7 FOR TAKING A DISCIPLINARY ACTION AGAINST THE LAW ENFORCEMENT OFFICER IN
8 ACCORDANCE WITH THE LAW ENFORCEMENT AGENCY'S ADOPTED PROCEDURES AND
9 GOVERNING LAW.
10 J. A PROSECUTING AGENCY THAT MAINTAINS A RULE 15.1 DATABASE SHALL
11 USE THE DATABASE ONLY TO MAKE A REPORT THAT IS REQUIRED BY THE UNITED
12 STATES CONSTITUTION, THE ARIZONA CONSTITUTION, RULE 15.1, ARIZONA RULES OF
13 CRIMINAL PROCEDURE, OR ANY OTHER RULE THAT IS ADOPTED BY THE ARIZONA
14 SUPREME COURT.
15 K. FOR THE PURPOSES OF THIS SECTION:
16 1. "PROSECUTING AGENCY" MEANS THE ATTORNEY GENERAL, A COUNTY
17 ATTORNEY FROM EACH COUNTY AND THE ENTITY IN A CITY OR TOWN THAT IS
18 RESPONSIBLE FOR PROSECUTING CRIMINAL VIOLATIONS.
19 2. "RULE 15.1 DATABASE" OR "DATABASE" MEANS ANY LIST THAT A
20 PROSECUTING AGENCY MAINTAINS TO COMPLY WITH THE UNITED STATES
21 CONSTITUTION, THE ARIZONA CONSTITUTION, RULE 15.1, ARIZONA RULES OF
22 CRIMINAL PROCEDURE, OR ANY OTHER RULE THAT IS ADOPTED BY THE ARIZONA
23 SUPREME COURT.