

REFERENCE TITLE: **peace officers; liability; unlawful act**

State of Arizona
House of Representatives
Fifty-fifth Legislature
Second Regular Session
2022

HB 2518

Introduced by
Representatives Bolding: Cano, Longdon, Powers Hannley

AN ACT

AMENDING TITLE 12, CHAPTER 7, ARTICLE 2, ARIZONA REVISED STATUTES, BY
ADDING SECTION 12-820.06; AMENDING SECTION 13-413, ARIZONA REVISED
STATUTES; RELATING TO ACTIONS AGAINST PUBLIC EMPLOYEES.

(TEXT OF BILL BEGINS ON NEXT PAGE)

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

2 Section 1. Title 12, chapter 7, article 2, Arizona Revised
3 Statutes, is amended by adding section 12-820.06, to read:

4 12-820.06. Peace officers; civil liability for violation of
5 declaration of rights; attorney fees and costs;
6 indemnification; statute of limitations

7 A. NOTWITHSTANDING ANY OTHER LAW, A PEACE OFFICER WHO, IN THE
8 PERFORMANCE OF THE PEACE OFFICER'S DUTIES OR THE FAILURE TO INTERVENE,
9 SUBJECTS ANOTHER PERSON OR CAUSES ANOTHER PERSON TO BE SUBJECTED TO THE
10 DEPRIVATION OF ANY INDIVIDUAL RIGHT THAT CREATES A BINDING OBLIGATION ON A
11 GOVERNMENT ACTOR AND THAT IS SECURED BY THE RIGHTS ENUMERATED IN THE
12 DECLARATION OF RIGHTS, ARTICLE II, CONSTITUTION OF ARIZONA, IS LIABLE TO
13 THE INJURED PARTY FOR LEGAL OR EQUITABLE RELIEF OR ANY OTHER APPROPRIATE
14 RELIEF.

15 B. QUALIFIED IMMUNITY IS NOT A DEFENSE TO LIABILITY PURSUANT TO
16 THIS SECTION.

17 C. IN AN ACTION BROUGHT PURSUANT TO THIS SECTION, A COURT SHALL
18 AWARD REASONABLE ATTORNEY FEES AND COSTS TO A PREVAILING PLAINTIFF. IN AN
19 ACTION FOR INJUNCTIVE RELIEF, A COURT SHALL DEEM A PLAINTIFF TO HAVE
20 PREVAILED IF THE PLAINTIFF'S SUIT WAS A SUBSTANTIAL FACTOR OR SIGNIFICANT
21 CATALYST IN OBTAINING THE RESULTS SOUGHT BY THE LITIGATION. IF A JUDGMENT
22 IS ENTERED IN FAVOR OF A DEFENDANT, THE COURT MAY AWARD REASONABLE
23 ATTORNEY FEES AND COSTS TO THE DEFENDANT FOR DEFENDING ANY CLAIM THAT THE
24 COURT FINDS FRIVOLOUS.

25 D. NOTWITHSTANDING ANY OTHER LAW, A PEACE OFFICER'S EMPLOYER SHALL
26 INDEMNIFY A PEACE OFFICER FOR ANY LIABILITY INCURRED BY THE PEACE OFFICER
27 AND FOR ANY JUDGMENT OR SETTLEMENT ENTERED AGAINST THE PEACE OFFICER FOR A
28 CLAIM ARISING PURSUANT TO THIS SECTION UNLESS THE PEACE OFFICER'S EMPLOYER
29 DETERMINES THAT THE PEACE OFFICER DID NOT ACT ON A GOOD FAITH AND
30 REASONABLE BELIEF THAT THE ACTION WAS LAWFUL. IF THE PEACE OFFICER DID
31 NOT ACT ON A GOOD FAITH AND REASONABLE BELIEF THAT THE ACTION WAS LAWFUL,
32 THE PEACE OFFICER IS PERSONALLY LIABLE AND MAY NOT BE INDEMNIFIED BY THE
33 PEACE OFFICER'S EMPLOYER FOR FIVE PERCENT OF THE JUDGMENT OR SETTLEMENT OR
34 \$25,000, WHICHEVER IS LESS. NOTWITHSTANDING ANY OTHER PROVISION OF THIS
35 SECTION, IF THE PEACE OFFICER'S PORTION OF THE JUDGMENT IS UNCOLLECTIBLE
36 FROM THE PEACE OFFICER, THE PEACE OFFICER'S EMPLOYER OR INSURER SHALL
37 SATISFY THE FULL AMOUNT OF THE JUDGMENT OR SETTLEMENT. A PUBLIC ENTITY IS
38 NOT REQUIRED TO INDEMNIFY A PEACE OFFICER IF THE PEACE OFFICER IS
39 CONVICTED OF A CRIMINAL VIOLATION FOR THE CONDUCT FROM WHICH THE CIVIL
40 ACTION ARISES.

41 E. A CIVIL ACTION PURSUANT TO THIS SECTION MUST BE COMMENCED WITHIN
42 TWO YEARS AFTER THE CAUSE OF ACTION ACCRUES.

1 Sec. 2. Section 13-413, Arizona Revised Statutes, is amended to
2 read:

3 13-413. No civil liability for justified conduct; exception

4 A. ~~No~~ A person in this state ~~shall be~~ IS NOT subject to civil
5 liability for engaging in conduct THAT IS otherwise justified pursuant to
6 ~~the provisions of~~ this chapter.

7 B. THIS SECTION DOES NOT APPLY TO A PEACE OFFICER WHO ENGAGES IN
8 CONDUCT THAT IS JUSTIFIED PURSUANT TO SECTION 13-409 OR 13-410.