

PROPOSED  
SENATE AMENDMENTS TO H.B. 2722  
(Reference to House engrossed bill)

- 1 Page 1, line 8, after "PERSON'S" insert "LAWFUL"  
2 Line 9, after the second comma insert "THE FREEDOM OF THE PRESS,"  
3 Line 11, after "PERSON" insert "OTHER THAN A STATE ACTOR OR AN INTERVENOR"  
4 Line 17, after "B." insert "A PERSON WHO FILES A MOTION PURSUANT TO SUBSECTION  
5 A OF THIS SECTION HAS THE BURDEN OF ESTABLISHING PRIMA FACIE PROOF THAT THE  
6 LEGAL ACTION WAS SUBSTANTIALLY MOTIVATED BY A DESIRE TO DETER, RETALIATE  
7 AGAINST OR PREVENT THE LAWFUL EXERCISE OF A CONSTITUTIONAL RIGHT. THE  
8 MOVING PERSON MAY SUBMIT EVIDENCE BASED ON THE RECORD, A SWORN AFFIDAVIT OR  
9 OTHER EVIDENCE THAT IS SUBMITTED WITH THE MOTION TO DISMISS OR QUASH. A  
10 PARTY IS NOT REQUIRED TO FILE A RESPONSE TO A MOTION FILED PURSUANT TO  
11 SUBSECTION A OF THIS SECTION UNLESS AND UNTIL THE COURT FINDS THAT THE  
12 MOVING PARTY HAS ESTABLISHED THE PRIMA FACIE PROOF AND ORDERS THE PARTY TO  
13 FILE A RESPONSE."  
14 Line 23, strike "SUPPORTED" insert "JUSTIFIED"  
15 Line 24, after "THAT" strike remainder of line  
16 Line 25, strike "OF FACT COULD NOT REASONABLY FIND THAT"; strike "ACTED"  
17 insert "DID NOT ACT"  
18 Line 27, after the period insert "A STATE ACTOR MAY SATISFY THE REQUIREMENTS  
19 OF THIS PARAGRAPH BY DOING ANY OF THE FOLLOWING:  
20 (a) ESTABLISHING THAT THE PERSON WHO INITIATED AND CONDUCTED AN  
21 INVESTIGATION THAT RESULTED IN THE LEGAL ACTION AND THAT MADE THE DECISION  
22 TO PURSUE THE LEGAL ACTION WAS UNAWARE OF THE MOVANT'S LAWFUL EXERCISE OF  
23 THE CONSTITUTIONAL RIGHT.

1 (b) ESTABLISHING THAT THE STATE ACTOR HAS A CONSISTENT PRACTICE OF  
2 PURSUING SIMILAR LEGAL ACTIONS AGAINST SIMILARLY SITUATED PERSONS WHO DID  
3 NOT LAWFULLY EXERCISE CONSTITUTIONAL RIGHTS.

4 (c) PRODUCING ANY OTHER EVIDENCE THAT THE COURT FINDS SUFFICIENT."

5 Page 1, line 30, after the first "OR" insert "SUPPORTED"

6 Line 32, after "shall" insert "CONDUCT AN EVIDENTIARY HEARING OR"

7 Strike lines 39 through 42

8 Page 2, line 1, after "proper" insert ", INCLUDING A LATER TIME AFTER THERE IS  
9 ACTUAL NOTICE OF A PARTY'S MISCONDUCT"; after the period strike remainder  
10 of line

11 Strike lines 2 through 4, insert "IF THE COURT FINDS THAT PRIMA FACIE PROOF  
12 HAS BEEN ESTABLISHED AS PRESCRIBED IN SUBSECTION B OF THIS SECTION, THE  
13 COURT, IF POSSIBLE, SHALL CONDUCT AN EXPEDITED HEARING ON THE MOTION."

14 Lines 6 and 7, strike "THE FILING OF A NOTICE OF MOTION MADE PURSUANT TO"  
15 insert "A FINDING OF PRIMA FACIE PROOF AS PRESCRIBED IN SUBSECTION B OF"

16 Line 12, strike "shall" insert "MAY"

17 Line 14, after "dismiss" insert "OR QUASH"

18 Line 17, after "incurred" strike remainder of line

19 Line 18, strike "pursuant to this section"

20 Line 28, after "H." insert "IF THE COURT DETERMINES THAT THE MOVING PARTY HAS  
21 ESTABLISHED PRIMA FACIE PROOF AS PRESCRIBED IN SUBSECTION B OF THIS  
22 SECTION,"

23 Strike lines 35 and 36, insert:

24 ~~3.~~ 2. Create any privileges or immunities or otherwise affect,  
25 limit or preclude any privileges or immunities authorized by law."

26 Renumber to conform

27 Line 45, after "PROSECUTION" insert ", EXCEPT FOR A DRUG TRAFFICKING OFFENSE  
28 INCLUDED IN TITLE 13, CHAPTER 34 OR 34.1, A RIOT OR A SERIOUS OFFENSE OR  
29 VIOLENT OR AGGRAVATED FELONY AS DEFINED IN SECTION 13-706"

30 Page 3, line 41, after "12-751" insert ", UNLESS THE COURT DID NOT FIND THAT THE  
31 MOVING PARTY ESTABLISHED PRIMA FACIE PROOF AS PRESCRIBED IN SECTION 12-751,  
32 SUBSECTION B"

1 Page 4, between lines 28 and 29, insert:

2 "Sec. 4. Section 22-261, Arizona Revised Statutes, is amended to  
3 read:

4 22-261. Judgments that may be appealed

5 A. Any party to a final judgment of a justice court may appeal to  
6 the superior court.

7 B. The party aggrieved by a judgment in any action in which the  
8 validity of a tax, impost, assessment, toll or ~~a~~ STATE statute ~~of the~~  
9 ~~state~~ is involved may appeal to the superior court without regard to the  
10 amount in controversy.

11 C. UNLESS THE COURT DID NOT FIND THAT THE MOVING PARTY ESTABLISHED  
12 PRIMA FACIE PROOF AS PRESCRIBED IN SECTION 12-751, SUBSECTION B, THE PARTY  
13 AGGRIEVED BY AN ORDER GRANTING OR DENYING A MOTION TO DISMISS OR QUASH  
14 PURSUANT TO SECTION 12-751 MAY FILE AN APPEAL TO THE SUPERIOR COURT. THE  
15 SUPERIOR COURT SHALL EXPEDITE ANY APPEAL FILED PURSUANT TO THIS SUBSECTION  
16 UNLESS THE COURT FOR GOOD CAUSE FINDS THAT EXPEDITED REVIEW IS NOT FEASIBLE  
17 UNDER THE CIRCUMSTANCES OR A COURT RULE SPECIFICALLY PROVIDES OTHERWISE.

18 ~~C.~~ D. An appeal shall be on the record of the proceedings if such  
19 record includes a transcript of the proceedings. De novo trials shall be  
20 granted only when the transcript of the proceedings in the superior court's  
21 evaluation is insufficient or in such a condition that the court cannot  
22 properly consider the appeal. A trial de novo shall not be granted when a  
23 party had the opportunity to request that a transcript of the lower court  
24 proceedings be made and failed to do so. At the beginning of each  
25 proceeding the judge shall advise the parties that their right to appeal is  
26 dependent on their requesting that a record be made of the justice court  
27 proceedings. Any party to an action may request that the proceedings be  
28 recorded for appeal purposes. The cost of recording trial proceedings is  
29 the responsibility of the court. The cost of preparing a transcript, if  
30 appealed, is the responsibility of the party appealing the case. The  
31 supreme court shall establish by rule the methods of recording trial

- 1 proceedings for record appeals to the superior court, including electronic
- 2 recording devices or manual transcription."
- 3 Amend title to conform

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