

REFERENCE TITLE: death benefit; assault; first responders

State of Arizona
House of Representatives
Fifty-sixth Legislature
First Regular Session
2023

HCR 2025

Introduced by
Representative Payne

A CONCURRENT RESOLUTION

ENACTING AND ORDERING THE SUBMISSION TO THE PEOPLE OF A MEASURE RELATING
TO FIRST RESPONDERS.

(TEXT OF BILL BEGINS ON NEXT PAGE)

1 Be it resolved by the House of Representatives of the State of Arizona,
2 the Senate concurring:

3 1. Under the power of the referendum, as vested in the
4 Legislature, the following measure, relating to first responders, is
5 enacted to become valid as a law if approved by the voters and on
6 proclamation of the Governor:

7 AN ACT

8 AMENDING SECTIONS 12-116.01 AND 13-1204, ARIZONA REVISED
9 STATUTES; AMENDING TITLE 38, CHAPTER 8, ARIZONA REVISED
10 STATUTES, BY ADDING ARTICLE 4; REPEALING TITLE 38, CHAPTER 8,
11 ARTICLE 4, ARIZONA REVISED STATUTES; AMENDING SECTION 41-1730,
12 ARIZONA REVISED STATUTES; RELATING TO FIRST RESPONDERS.

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

14 Section. 1. Section 12-116.01, Arizona Revised
15 Statutes, is amended to read:

16 12-116.01. Surcharges; remittance reports; fund
17 deposits

18 A. In addition to any penalty provided by law, a
19 surcharge shall be levied in an amount of forty-two percent on
20 every fine, penalty and forfeiture imposed and collected by
21 the courts for criminal offenses and any civil penalty imposed
22 and collected for a civil traffic violation and fine, penalty
23 or forfeiture for a violation of the motor vehicle statutes,
24 for any local ordinance relating to the stopping, standing or
25 operation of a vehicle or for a violation of the game and fish
26 statutes in title 17.

27 B. In addition to any penalty provided by law, a
28 surcharge shall be levied in an amount of seven percent on
29 every fine, penalty and forfeiture imposed and collected by
30 the courts for criminal offenses and any civil penalty imposed
31 and collected for a civil traffic violation and fine, penalty
32 or forfeiture for a violation of the motor vehicle statutes,
33 for any local ordinance relating to the stopping, standing or
34 operation of a vehicle or for a violation of the game and fish
35 statutes in title 17.

36 C. BEGINNING ON THE EFFECTIVE DATE OF THIS AMENDMENT TO
37 THIS SECTION THROUGH DECEMBER 31, 2032, IN ADDITION TO ANY
38 PENALTY PROVIDED BY LAW, A SURCHARGE SHALL BE LEVIED IN AN
39 AMOUNT OF TWO PERCENT ON EVERY FINE, PENALTY AND FORFEITURE
40 IMPOSED AND COLLECTED BY THE COURTS FOR CRIMINAL OFFENSES.

41 ~~C.~~ D. In addition to any penalty provided by law, a
42 surcharge shall be levied in an amount of six percent, ~~—~~ on
43 every fine, penalty and forfeiture imposed and collected by
44 the courts for criminal offenses and any civil penalty imposed
45 and collected for a civil traffic violation and fine, penalty

1 or forfeiture for a violation of the motor vehicle statutes,
2 for any local ordinance relating to the stopping, standing or
3 operation of a vehicle or for a violation of the game and fish
4 statutes in title 17.

5 ~~D.~~ E. If any deposit of bail or bond or deposit for an
6 alleged civil traffic violation is to be made for a violation,
7 the court shall require a sufficient amount to include the
8 surcharge prescribed in this section for forfeited bail, bond
9 or deposit. If bail, bond or deposit is forfeited, the court
10 shall transmit the amount of the surcharge pursuant to
11 subsection ~~G.~~ H of this section. If bail, bond or deposit is
12 returned, the surcharge made pursuant to this article shall
13 also be returned.

14 ~~E.~~ F. After addition of the surcharge, the courts may
15 round the total amount due to the nearest ~~one-quarter dollar~~
16 \$.25.

17 ~~F.~~ G. The ~~surcharge~~ SURCHARGES imposed by this section
18 shall be applied to the base fine, civil penalty or forfeiture
19 and not to any other surcharge imposed.

20 ~~G.~~ H. After a determination by the court of the amount
21 due, the court shall transmit, on the last day of each month,
22 the surcharges collected pursuant to subsections A, B, C, ~~and~~
23 D AND E of this section and a remittance report of the fines,
24 civil penalties, assessments and surcharges collected pursuant
25 to subsections A, B, C, ~~and~~ D AND E of this section to the
26 county treasurer, except that municipal courts shall transmit
27 the surcharges and the remittance report of the fines, civil
28 penalties, assessments and surcharges to the city treasurer.

29 ~~H.~~ I. The appropriate authorities specified in
30 subsection ~~G.~~ H of this section shall transmit the surcharge
31 prescribed in subsection A of this section and the remittance
32 report as required in subsection ~~G.~~ H of this section to the
33 state treasurer on or before the fifteenth day of each month
34 for deposit in the criminal justice enhancement fund
35 established by section 41-2401.

36 ~~I.~~ J. The appropriate authorities specified in
37 subsection ~~G.~~ H of this section shall transmit the seven
38 percent surcharge prescribed in subsection B of this section
39 and the remittance report as required in subsection ~~G.~~ H of
40 this section to the state treasurer on or before the fifteenth
41 day of each month for allocation pursuant to section 41-2421,
42 subsection J.

43 K. BEGINNING ON THE EFFECTIVE DATE OF THIS AMENDMENT TO
44 THIS SECTION THROUGH DECEMBER 31, 2032, THE APPROPRIATE
45 AUTHORITIES SPECIFIED IN SUBSECTION H OF THIS SECTION SHALL

1 TRANSMIT THE TWO PERCENT SURCHARGE PRESCRIBED IN SUBSECTION C
2 OF THIS SECTION AND THE REMITTANCE REPORT AS REQUIRED IN
3 SUBSECTION H OF THIS SECTION TO THE STATE TREASURER ON OR
4 BEFORE THE FIFTEENTH DAY OF EACH MONTH FOR DEPOSIT, PURSUANT
5 TO SECTIONS 35-146 AND 35-147, IN THE STATE SUPPLEMENTAL
6 BENEFIT FUND ESTABLISHED BY SECTION 38-1173.

7 ~~J.~~ L. The appropriate authorities specified in
8 subsection ~~G~~ H of this section shall transmit the surcharge
9 prescribed in subsection ~~E~~ D of this section and the
10 remittance report as required in subsection ~~G~~ H of this
11 section to the state treasurer on or before the fifteenth day
12 of each month for deposit in the department of public safety
13 forensics fund established by section 41-1730.

14 ~~K.~~ M. Partial payments of the amount due shall be
15 transmitted as prescribed in subsections ~~G~~, H, I, ~~and~~ J, K AND
16 L of this section and shall be divided according to the
17 proportion that the civil penalty, fine, bail or bond and the
18 surcharge represent of the total amount due.

19 Sec. 2. Section 13-1204, Arizona Revised Statutes, is
20 amended to read:

21 13-1204. Aggravated assault; classification;
22 definitions

23 A. A person commits aggravated assault if the person
24 commits assault as prescribed by section 13-1203 under any of
25 the following circumstances:

26 1. If the person causes serious physical injury to
27 another.

28 2. If the person uses a deadly weapon or dangerous
29 instrument.

30 3. If the person commits the assault by any means of
31 force that causes temporary but substantial disfigurement,
32 temporary but substantial loss or impairment of any body
33 organ or part or a fracture of any body part.

34 4. If the person commits the assault while the victim
35 is bound or otherwise physically restrained or while the
36 victim's capacity to resist is substantially impaired.

37 5. If the person commits the assault after entering
38 the private home of another with the intent to commit the
39 assault.

40 6. If the person is eighteen years of age or older and
41 commits the assault on a minor under fifteen years of age.

42 7. If the person commits assault as prescribed by
43 section 13-1203, subsection A, paragraph 1 or 3 and the
44 person is in violation of an order of protection issued
45 against the person pursuant to section 13-3602 or 13-3624.

1 8. If the person commits the assault knowing or having
2 reason to know that the victim is any of the following:

3 (a) A ~~peace officer~~ FIRST RESPONDER or a person
4 summoned and directed by the ~~officer~~ FIRST RESPONDER.

5 (b) A constable or a person summoned and directed by
6 the constable while engaged in the execution of any official
7 duties or if the assault results from the execution of the
8 constable's official duties.

9 ~~(c) A firefighter, fire investigator, fire inspector,
10 emergency medical technician or paramedic engaged in the
11 execution of any official duties or a person summoned and
12 directed by such individual while engaged in the execution of
13 any official duties or if the assault results from the
14 execution of the official duties of the firefighter, fire
15 investigator, fire inspector, emergency medical technician or
16 paramedic.~~

17 ~~(d)~~ (c) A teacher or other person employed by any
18 school and the teacher or other employee is on the grounds of
19 a school or grounds adjacent to the school or is in any part
20 of a building or vehicle used for school purposes, any
21 teacher or school nurse visiting a private home in the course
22 of the teacher's or nurse's professional duties or any
23 teacher engaged in any authorized and organized classroom
24 activity held on other than school grounds.

25 ~~(e)~~ (d) A health care worker while engaged in the
26 health care worker's work duties or a health care
27 practitioner who is certified or licensed pursuant to title
28 32, chapter 13, 14, 15, 17 or 25, or a person summoned and
29 directed by the licensed health care practitioner while
30 engaged in the person's professional duties. This
31 subdivision does not apply if the person who commits the
32 assault does not have the ability to form the culpable mental
33 state because of a mental disability or because the person is
34 seriously mentally ill, as defined in section 36-550.

35 ~~(f)~~ (e) A prosecutor while engaged in the execution
36 of any official duties or if the assault results from the
37 execution of the prosecutor's official duties.

38 ~~(g)~~ (f) A code enforcement officer as defined in
39 section 39-123 while engaged in the execution of any official
40 duties or if the assault results from the execution of the
41 code enforcement officer's official duties.

42 ~~(h)~~ (g) A state or municipal park ranger while
43 engaged in the execution of any official duties or if the
44 assault results from the execution of the park ranger's
45 official duties.

1 ~~(j)~~ (h) A public defender while engaged in the
2 execution of any official duties or if the assault results
3 from the execution of the public defender's official duties.

4 ~~(j)~~ (i) A judicial officer while engaged in the
5 execution of any official duties or if the assault results
6 from the execution of the judicial officer's official duties.

7 9. If the person knowingly takes or attempts to
8 exercise control over any of the following:

9 (a) A ~~peace officer's~~ FIRST RESPONDER'S or other
10 officer's firearm and the person knows or has reason to know
11 that the victim is a ~~peace officer~~ FIRST RESPONDER or other
12 officer employed by one of the agencies listed in paragraph
13 10, subdivision (a), item (i), (ii), (iii), (iv) or (v) of
14 this subsection.

15 (b) Any weapon other than a firearm that is being used
16 by a ~~peace officer~~ FIRST RESPONDER or other officer or that
17 the FIRST RESPONDER OR OTHER officer is attempting to use,
18 and the person knows or has reason to know that the victim is
19 a ~~peace officer~~ FIRST RESPONDER or other officer employed by
20 one of the agencies listed in paragraph 10, subdivision (a),
21 item (i), (ii), (iii), (iv) or (v) of this subsection.

22 (c) Any implement that is being used by a ~~peace~~
23 ~~officer~~ FIRST RESPONDER or other officer or that the FIRST
24 RESPONDER OR OTHER officer is attempting to use, and the
25 person knows or has reason to know that the victim is a ~~peace~~
26 ~~officer~~ FIRST RESPONDER or other officer employed by one of
27 the agencies listed in paragraph 10, subdivision (a), item
28 (i), (ii), (iii), (iv) or (v) of this subsection. For the
29 purposes of this subdivision, "implement" means an object
30 that is designed for or that is capable of restraining or
31 injuring an individual. Implement does not include
32 handcuffs.

33 10. If the person meets both of the following
34 conditions:

35 (a) Is imprisoned or otherwise subject to the custody
36 of any of the following:

37 (i) The state department of corrections.

38 (ii) The department of juvenile corrections.

39 (iii) A law enforcement agency.

40 (iv) A county or city jail or an adult or juvenile
41 detention facility of a city or county.

42 (v) Any other entity that is contracting with the
43 state department of corrections, the department of juvenile
44 corrections, a law enforcement agency, another state, any
45 private correctional facility, a county, a city or the

1 federal bureau of prisons or other federal agency that has
2 responsibility for sentenced or unsentenced prisoners.

3 (b) Commits an assault knowing or having reason to
4 know that the victim is acting in an official capacity as an
5 employee of any of the entities listed in subdivision (a) of
6 this paragraph.

7 11. If the person uses a simulated deadly weapon.

8 B. A person commits aggravated assault if the person
9 commits assault by either intentionally, knowingly or
10 recklessly causing any physical injury to another person,
11 intentionally placing another person in reasonable
12 apprehension of imminent physical injury or knowingly
13 touching another person with the intent to injure the person,
14 and both of the following occur:

15 1. The person intentionally or knowingly impedes the
16 normal breathing or circulation of blood of another person by
17 applying pressure to the throat or neck or by obstructing the
18 nose and mouth either manually or through the use of an
19 instrument.

20 2. Any of the circumstances exists that are set forth
21 in section 13-3601, subsection A, paragraph 1, 2, 3, 4, 5 or
22 6.

23 C. A person who is convicted of intentionally or
24 knowingly committing aggravated assault on a ~~peace officer~~
25 **FIRST RESPONDER** pursuant to subsection A, paragraph 1 or 2 of
26 this section shall be sentenced to imprisonment for not less
27 than the presumptive sentence authorized under chapter 7 of
28 this title and is not eligible for suspension of sentence,
29 commutation or release on any basis until the sentence
30 imposed is served.

31 D. It is not a defense to a prosecution for assaulting
32 a peace officer or a mitigating circumstance that the peace
33 officer was not on duty or engaged in the execution of any
34 official duties.

35 E. Except pursuant to subsections F and G of this
36 section, aggravated assault pursuant to subsection A,
37 paragraph 1 or 2, paragraph 9, subdivision (a) or paragraph
38 11 of this section is a class 3 felony except if the
39 aggravated assault is a violation of subsection A, paragraph
40 1 or 2 of this section and the victim is under fifteen years
41 of age it is a class 2 felony punishable pursuant to section
42 13-705. Aggravated assault pursuant to subsection A,
43 paragraph 3 or subsection B of this section is a class 4
44 felony. Aggravated assault pursuant to subsection A,
45 paragraph 9, subdivision (b) or paragraph 10 of this section

1 is a class 5 felony. Aggravated assault pursuant to
2 subsection A, paragraph 4, 5, 6, 7 or 8 or paragraph 9,
3 subdivision (c) of this section is a class 6 felony.

4 F. Aggravated assault pursuant to subsection A,
5 paragraph 1 or 2 of this section committed on a ~~peace officer~~
6 **FIRST RESPONDER** is a class 2 felony. Aggravated assault
7 pursuant to subsection A, paragraph 3 of this section
8 committed on a ~~peace officer~~ **FIRST RESPONDER** is a class 3
9 felony. Aggravated assault pursuant to subsection A,
10 paragraph 8, subdivision (a) of this section committed on a
11 ~~peace officer~~ **FIRST RESPONDER** is a class ~~5~~ 4 felony unless
12 the assault results in any physical injury to the ~~peace~~
13 ~~officer~~ **FIRST RESPONDER**, in which case it is a class ~~4~~ 3
14 felony.

15 G. Aggravated assault pursuant to:
16 1. Subsection A, paragraph 1 or 2 of this section is a
17 class 2 felony if committed on a prosecutor.

18 2. Subsection A, paragraph 3 of this section is a
19 class 3 felony if committed on a prosecutor.

20 3. Subsection A, paragraph 8, subdivision ~~(f)~~ (e) of
21 this section is a class 5 felony if the assault results in
22 physical injury to a prosecutor.

23 H. For the purposes of this section:

24 1. **"FIRST RESPONDER" MEANS:**
25 (a) **A PEACE OFFICER.**
26 (b) **A FIREFIGHTER, A FIRE INVESTIGATOR, A FIRE**
27 **INSPECTOR, AN EMERGENCY MEDICAL CARE TECHNICIAN OR A PARAMEDIC**
28 **WHO IS ENGAGED IN THE EXECUTION OF ANY OFFICIAL DUTIES.**

29 ~~1.~~ 2. **"Health care worker" means:**

30 (a) A person who is employed by or contracted to work
31 at a health care institution that is licensed pursuant to
32 title 36.

33 (b) A person who is employed or contracted to provide
34 health care or related services in a fieldwork setting,
35 including:

36 (i) Home health care, home-based hospice and
37 home-based social work, unless the worker is employed or
38 contracted by an individual who privately employs, in the
39 individual's residence, the worker to perform covered
40 services for the individual or a family member of the
41 individual.

42 (ii) Any emergency services and transport, including
43 the services provided by firefighters and emergency
44 responders.

1 ~~2.~~ 3. "Judicial officer" means a justice of the
2 supreme court, judge, justice of the peace or magistrate or a
3 commissioner or hearing officer of a state, county or
4 municipal court.

5 ~~3.~~ 4. "Mental disability" means a disabling
6 neurological condition, or brain injury, or involuntary
7 impairment as a result of a medication that is administered
8 by a health care provider or a medical procedure that is
9 performed at a health care treatment site.

10 ~~4.~~ 5. "Prosecutor" means a county attorney, a
11 municipal prosecutor or the attorney general and includes an
12 assistant or deputy county attorney, municipal prosecutor or
13 attorney general.

14 Sec. 3. Title 38, chapter 8, Arizona Revised Statutes,
15 is amended by adding article 4, to read:

16 ARTICLE 4. FIRST RESPONDERS

17 38-1171. Definitions

18 IN THIS ARTICLE, UNLESS THE CONTEXT OTHERWISE REQUIRES:

19 1. "FIRST RESPONDER":

20 (a) HAS THE SAME MEANING PRESCRIBED IN SECTION 13-1204.

21 (b) INCLUDES A MEMBER OF THE ARIZONA NATIONAL GUARD WHO
22 IS ON STATE ACTIVE DUTY IN THIS STATE AND A CORRECTIONAL
23 OFFICER WHO IS EMPLOYED BY THE STATE DEPARTMENT OF
24 CORRECTIONS.

25 2. "KILLED IN THE LINE OF DUTY" MEANS KILLED AS THE
26 RESULT OF ANOTHER PERSON'S CRIMINAL ACT.

27 38-1172. State death benefit

28 IN ADDITION TO ANY OTHER DEATH BENEFIT, BEGINNING ON THE
29 EFFECTIVE DATE OF THIS SECTION, IF A FIRST RESPONDER IS KILLED
30 IN THE LINE OF DUTY, ON WRITTEN NOTICE TO THE STATE TREASURER
31 FROM THE FIRST RESPONDER'S EMPLOYER THIS STATE SHALL PAY A
32 STATE DEATH BENEFIT OF \$250,000 TO THE FIRST RESPONDER'S
33 SURVIVING SPOUSE. IF THE FIRST RESPONDER DOES NOT HAVE A
34 SURVIVING SPOUSE BUT HAS CHILDREN, THIS STATE SHALL PAY A
35 STATE DEATH BENEFIT OF \$250,000, DIVIDED EQUALLY AMONG THE
36 FIRST RESPONDER'S CHILDREN. THE STATE SHALL PAY THE DEATH
37 BENEFIT WITHIN THIRTY DAYS AFTER RECEIVING THE WRITTEN NOTICE
38 FROM THE FIRST RESPONDER'S EMPLOYER.

39 38-1173. State supplemental benefit fund

40 THE STATE SUPPLEMENTAL BENEFIT FUND IS ESTABLISHED
41 CONSISTING OF MONIES DEPOSITED PURSUANT TO SECTION 12-116.01.
42 THE STATE TREASURER SHALL ADMINISTER THE FUND FOR THE PURPOSES
43 SPECIFIED IN SECTION 38-1172. MONIES IN THE FUND ARE
44 CONTINUOUSLY APPROPRIATED.

1 Sec. 4. Delayed repeal
2 Title 38, chapter 8, article 4, Arizona Revised
3 Statutes, as added by this act, is repealed from and after
4 December 31, 2032.

5 Sec. 5. Section 41-1730, Arizona Revised Statutes, is
6 amended to read:

7 41-1730. Department of public safety forensics fund;
8 purposes; distributions; annual adjustment

9 A. The department of public safety forensics fund is
10 established. The department shall administer the
11 fund. Monies in the fund are subject to legislative
12 appropriation. The department of public safety forensics fund
13 consists of the following:

14 1. Monies deposited pursuant to section 12-116.01,
15 subsection ~~J~~ L.

16 2. Monies deposited pursuant to section 41-2401,
17 subsection D, paragraphs 1 and 10.

18 3. Surcharge monies deposited pursuant to section
19 28-3396.

20 4. Monies contributed to the fund from any other
21 source.

22 B. Monies in the department of public safety forensics
23 fund shall be used for the following purposes:

24 1. Purchasing and installing fingerprint identification
25 equipment.

26 2. Operating, maintaining and administering the Arizona
27 automated fingerprint identification system and the system's
28 remote terminals.

29 3. Crime laboratory operations and enhanced services.

30 4. Educating and training forensic scientists who are
31 regularly employed in a crime laboratory.

32 5. Purchasing and maintaining scientific equipment for
33 crime laboratory use.

34 6. Implementing, operating and maintaining
35 deoxyribonucleic acid testing and administering the Arizona
36 deoxyribonucleic acid identification system.

37 C. On a quarterly basis, the department of public
38 safety shall allocate and distribute the monies in the
39 department of public safety forensics fund that are collected
40 pursuant to section 12-116.01 and deposited pursuant to
41 section 41-2401, subsection D, paragraph 10. The department
42 may use fifty-five percent of the monies for the purposes
43 prescribed in subsection B of this section and shall
44 distribute the remaining monies to political subdivisions that
45 operate a crime laboratory as follows:

- 1 1. Twenty-two percent to the Phoenix police department.
- 2 2. Twelve percent to the Tucson police department.
- 3 3. Seven percent to the Mesa police department.
- 4 4. Four percent to the Scottsdale police department.
- 5 D. The distribution of monies pursuant to subsection C
- 6 of this section may be adjusted annually, if appropriate,
- 7 based on the crime laboratory services provided and the
- 8 percentage of the state population served by each crime
- 9 laboratory. The crime laboratory directors of the political
- 10 subdivisions providing crime laboratory services in this state
- 11 must agree on the distribution formula and allocation. The
- 12 minimum allocation for a political subdivision that provides
- 13 crime laboratory services is four percent.
- 14 E. For the purposes of subsections C and D of this
- 15 section, "crime laboratory" means a laboratory that meets all
- 16 of the following:
- 17 1. Is operated by a political subdivision.
- 18 2. Has at least one regularly employed forensic
- 19 scientist who holds a minimum of a bachelor's degree in a
- 20 physical or natural science.
- 21 3. Is registered as an analytical laboratory with the
- 22 drug enforcement administration of the United States
- 23 department of justice for the possession of all scheduled
- 24 controlled substances.
- 25 Sec. 6. Finding; intent; purpose
- 26 A. The people of this state find and declare that:
- 27 1. Arizona's first responders are on the front lines
- 28 for public safety and the peaceful enjoyment of this state's
- 29 civil society.
- 30 2. First responders nationally and in this state have
- 31 increasingly become targets for criminal assault, causing
- 32 their injury and death. This has resulted in both heightened
- 33 early retirements of first responders and difficulty in
- 34 recruiting new first responders.
- 35 B. The intent of this act is to increase the criminal
- 36 penalties against persons who assault first responders in this
- 37 state and to increase the death benefits for the families of
- 38 first responders who are killed in the line of duty in this
- 39 state.
- 40 C. The purpose of this act is:
- 41 1. To stem the violence against first responders in
- 42 this state.
- 43 2. To help retain and recruit first responders in this
- 44 state by better providing for the families of first responders
- 45 who are killed in the line of duty in this state.

1 Sec. 7. Severability

2 If a provision of this act or its application to any
3 person or circumstance is held invalid, the invalidity does
4 not affect other provisions or application of the act that can
5 be given effect without the invalid provision or application,
6 and to this end the provisions of this act are severable.

7 Sec. 8. Short title

8 This act may be cited as the "Back the Blue Act".

9 2. The Secretary of State shall submit this proposition to the
10 voters at the next general election as provided by article IV, part 1,
11 section 1, Constitution of Arizona.