

COMMITTEE ON GOVERNMENT
SENATE AMENDMENTS TO S.B. 1418
(Reference to printed bill)

1 Strike everything after the enacting clause and insert:

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

4 ARTICLE 3. PROTECTED POLITICAL AND RELIGIOUS BELIEFS

5 12-851. Prohibited adverse actions; jurisdiction; civil,
6 criminal, or administrative action; definitions

7 A. A GOVERNMENT AGENT MAY NOT INITIATE, TAKE, CONDUCT, ASSIST,
8 PARTICIPATE IN, OR CONSPIRE TO HAVE UNDERTAKEN AN ADVERSE ACTION AGAINST
9 ANY NATURAL PERSON IF THE GOVERNMENT AGENT'S DECISION TO DO SO IS MOTIVATED
10 IN WHOLE OR IN PART BY AN UNLAWFUL ANIMUS, EVEN IF THAT NATURAL PERSON
11 WOULD OTHERWISE PROPERLY BE THE SUBJECT OF THE ADVERSE ACTION.

12 B. NO COURT IN THIS STATE HAS JURISDICTION OVER AN ADVERSE ACTION
13 BROUGHT IN VIOLATION OF THIS SECTION.

14 1. THE SUBJECT OF AN ADVERSE ACTION MAY OBJECT TO THE EXERCISE OF
15 JURISDICTION ON THE GROUNDS THAT THE ACTION VIOLATED SUBSECTION A.

16 2. UPON OBJECTION, THE COURT SHALL NOT ASSERT JURISDICTION UNLESS IT
17 FINDS, BY A PREPONDERANCE OF THE EVIDENCE, THAT THE GOVERNMENT HAS NOT
18 VIOLATED SUBSECTION A.

19 C. ALL JUDGMENTS, CONVICTIONS, ORDERS, CRIMINAL AND CIVIL PENALTIES,
20 SENTENCES, AND DECISIONS RENDERED IN VIOLATION OF SUBSECTION A SHALL
21 DELETED FROM ALL GOVERNMENT RECORDS AND DEEMED UNENFORCEABLE AND INVALID.

22 1. ANY NATURAL PERSON SUBJECT TO A VIOLATION OF SUBSECTION A MAY
23 RAISE THE ISSUE AT ANY TIME FOLLOWING DISCOVERY OF UNLAWFUL ANIMUS.

24 2. A CRIMINAL CONVICTION OR PENALTY IMPOSED IN VIOLATION OF
25 SUBSECTION A MAY BE RAISED PURSUANT TO A.R.S. 13-4231(2) EXCEPT THAT RELIEF

1 MAY NOT BE PRECLUDED FOR THE FAILURE TO TIMELY RAISE THE ISSUE OR ON THE
2 GROUNDS THAT THE ACCUSED CONSENTED TO JURISDICTION OF THE COURT.

3 D. ANY EVIDENCE OBTAINED PURSUANT TO A SEARCH OR SEIZURE THAT IS IN
4 VIOLATION OF THIS SECTION IS INADMISSIBLE IN ANY ADMINISTRATIVE, CIVIL OR
5 CRIMINAL PROCEEDING.

6 E. AN ARREST THAT IS MADE IN VIOLATION OF THIS SECTION IS INVALID.

7 F. IF A GOVERNMENT AGENT VIOLATES SUBSECTION A OF THIS SECTION, THE
8 PERSON WHOSE RIGHTS ARE VIOLATED MAY BRING A CAUSE OF ACTION IN STATE OR
9 FEDERAL COURT AGAINST BOTH THE GOVERNMENT AGENT AND THE GOVERNMENT ENTITY
10 THAT EMPLOYS OR CONTRACTS WITH THE GOVERNMENT AGENT, INCLUDING THIS STATE,
11 EXCEPT THAT THIS STATE IS NOT SUBJECT TO A SUIT IN FEDERAL COURT. AN ACTION
12 BROUGHT PURSUANT THIS SUBSECTION SHALL BE COMMENCED WITHIN FOUR YEARS AFTER
13 THE CONCLUSION OF THE ADMINISTRATIVE, CIVIL OR CRIMINAL PROCEEDING OR
14 INVESTIGATION THAT WAS MOTIVATED BY AN UNLAWFUL ANIMUS, INCLUDING ALL
15 APPEALS. IT IS NOT A DEFENSE TO THE CAUSE OF ACTION THAT THE PERSON WHOSE
16 RIGHTS WERE VIOLATED WOULD OTHERWISE PROPERLY BE THE SUBJECT OF THE ADVERSE
17 ACTION OR THAT THE ADVERSE ACTION RESULTED IN AN ADVERSE JUDGMENT,
18 DECISION, OPINION, VERDICT OR RULING AGAINST THE PERSON WHOSE RIGHTS HAVE
19 BEEN VIOLATED.

20 G. IN ANY CAUSE OF ACTION FILED PURSUANT TO SUBSECTION F OF THIS
21 SECTION, A PREVAILING PLAINTIFF MAY RECOVER DECLARATORY RELIEF, INJUNCTIVE
22 RELIEF, COMPENSATORY DAMAGES, NOMINAL DAMAGES, ATTORNEY FEES AND COSTS.

23 H. FOR THE PURPOSES OF THIS SECTION:

24 1. "GOVERNMENT AGENT" MEANS ANY LOCAL, STATE OR FEDERAL OFFICIAL WHO
25 IS EMPLOYED BY OR CONTRACTS WITH GOVERNMENT IN THIS STATE AT ANY LEVEL AND
26 WHO IS ACTING IN THAT CAPACITY OR ANY MEMBER, EMPLOYEE OR CONTRACTOR OF A
27 REGULATORY BOARD OR COMMISSION IN THIS STATE AT ANY LEVEL AND WHO IS ACTING
28 IN THAT CAPACITY.

29 2."INITIATE, TAKE, CONDUCT, ASSIST, OR PARTICIPATE":

30 (a) MEANS INITIATING, ASSISTING, DIRECTING, CONDUCTING, OR CONSPIRING
31 THAT:

1 (i) ANY CRIMINAL OR CIVIL INVESTIGATION OR PROSECUTION, OF ANY
2 NATURAL PERSON BE COMMENCED OR MAINTAINED, OR

3 (ii) ANY PROCEEDING OF ANY SORT THAT SEEKS ANY ADVERSE
4 ADMINISTRATIVE, CIVIL OR CRIMINAL ACTION AGAINST ANY NATURAL PERSON BE
5 COMMENCED OR MAINTAINED. NOTWITHSTANDING, AND FOR THE AVOIDANCE OF DOUBT,
6 AN ARRESTING OFFICER IS IMMUNE FROM LIABILITY UNDER SUBSECTIONS F AND G.

7 (b) DOES NOT INCLUDE AN ACTION THAT IS COMMENCED OR MAINTAINED
8 AGAINST A NATURAL PERSON IN THAT PERSON'S OFFICIAL CAPACITY.

9 3. "UNLAWFUL ANIMUS" MEANS A DISAGREEMENT WITH OR DISLIKE OF A
10 PERSON'S RELIGIOUS OR POLITICAL BELIEFS, POSITIONS, ASSOCIATIONS OR
11 EXPRESSION.

12 Sec. 2. Short title

13 This act may be cited as the "First Amendment Protection Act".

14 Amend title to conform

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