

REFERENCE TITLE: riot; unlawful assembly; classification; liability

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

## HB 2059

Introduced by  
Representatives Diaz: Marshall, Nguyen, Peña

### AN ACT

AMENDING TITLE 13, CHAPTER 7, ARIZONA REVISED STATUTES, BY ADDING SECTION 13-720; AMENDING SECTIONS 13-1204 AND 13-1508, ARIZONA REVISED STATUTES; AMENDING TITLE 13, CHAPTER 29, ARIZONA REVISED STATUTES, BY ADDING SECTION 13-2903.01; AMENDING SECTION 13-2906, ARIZONA REVISED STATUTES; AMENDING TITLE 13, CHAPTER 29, ARIZONA REVISED STATUTES, BY ADDING SECTION 13-2925; AMENDING SECTION 13-3703, ARIZONA REVISED STATUTES; AMENDING TITLE 13, CHAPTER 38, ARTICLE 1, ARIZONA REVISED STATUTES, BY ADDING SECTION 13-3805; RELATING TO RIOTS AND UNLAWFUL ASSEMBLIES.

(TEXT OF BILL BEGINS ON NEXT PAGE)

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

2 Section 1. Title 13, chapter 7, Arizona Revised Statutes, is  
3 amended by adding section 13-720, to read:

4 13-720. Offenses committed in furtherance of a riot or an  
5 unlawful assembly

6 A PERSON WHO IS CONVICTED OF ANY OFFENSE THAT IS COMMITTED IN  
7 FURTHERANCE OF A RIOT OR AN UNLAWFUL ASSEMBLY SHALL BE SENTENCED FOR THE  
8 NEXT HIGHER CLASS OF OFFENSE THAN THAT FOR WHICH THE PERSON CURRENTLY IS  
9 CONVICTED.

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

12 13-1204. Aggravated assault; classification; definitions

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

16 1. If the person causes serious physical injury to another.

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

18 3. If the person commits the assault by any means of force that  
19 causes temporary but substantial disfigurement, temporary but substantial  
20 loss or impairment of any body organ or part or a fracture of any body  
21 part.

22 4. If the person commits the assault while the victim is bound or  
23 otherwise physically restrained or while the victim's capacity to resist  
24 is substantially impaired.

25 5. If the person commits the assault after entering the private  
26 home of another with the intent to commit the assault.

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

29 7. If the person commits assault as prescribed by section 13-1203,  
30 subsection A, paragraph 1 or 3 and the person is in violation of an order  
31 of protection issued against the person pursuant to section 13-3602 or  
32 13-3624.

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

35 (a) A peace officer or a person summoned and directed by the  
36 officer.

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

40 (c) A firefighter, fire investigator, fire inspector, emergency  
41 medical technician or paramedic engaged in the execution of any official  
42 duties or a person summoned and directed by such individual while engaged  
43 in the execution of any official duties or if the assault results from the  
44 execution of the official duties of the firefighter, fire investigator,  
45 fire inspector, emergency medical technician or paramedic.

1 (d) A teacher or other person employed by any school and the  
2 teacher or other employee is on the grounds of a school or grounds  
3 adjacent to the school or is in any part of a building or vehicle used for  
4 school purposes, any teacher or school nurse visiting a private home in  
5 the course of the teacher's or nurse's professional duties or any teacher  
6 engaged in any authorized and organized classroom activity held on other  
7 than school grounds.

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

16 (f) A prosecutor while engaged in the execution of any official  
17 duties or if the assault results from the execution of the prosecutor's  
18 official duties.

19 (g) A code enforcement officer as defined in section 39-123 while  
20 engaged in the execution of any official duties or if the assault results  
21 from the execution of the code enforcement officer's official duties.

22 (h) A state or municipal park ranger while engaged in the execution  
23 of any official duties or if the assault results from the execution of the  
24 park ranger's official duties.

25 (i) A public defender while engaged in the execution of any  
26 official duties or if the assault results from the execution of the public  
27 defender's official duties.

28 (j) A judicial officer while engaged in the execution of any  
29 official duties or if the assault results from the execution of the  
30 judicial officer's official duties.

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

33 (a) A peace officer's or other officer's firearm and the person  
34 knows or has reason to know that the victim is a peace officer or other  
35 officer employed by one of the agencies listed in paragraph 10,  
36 subdivision (a), item (i), (ii), (iii), (iv) or (v) of this subsection.

37 (b) Any weapon other than a firearm that is being used by a peace  
38 officer or other officer or that the officer is attempting to use, and the  
39 person knows or has reason to know that the victim is a peace officer or  
40 other officer employed by one of the agencies listed in paragraph 10,  
41 subdivision (a), item (i), (ii), (iii), (iv) or (v) of this subsection.

42 (c) Any implement that is being used by a peace officer or other  
43 officer or that the officer is attempting to use, and the person knows or  
44 has reason to know that the victim is a peace officer or other officer  
45 employed by one of the agencies listed in paragraph 10, subdivision (a),

1 item (i), (ii), (iii), (iv) or (v) of this subsection. For the purposes  
2 of this subdivision, "implement" means an object that is designed for or  
3 that is capable of restraining or injuring an individual. Implement does  
4 not include handcuffs.

5 10. If the person meets both of the following conditions:

6 (a) Is imprisoned or otherwise subject to the custody of any of the  
7 following:

8 (i) The state department of corrections.

9 (ii) The department of juvenile corrections.

10 (iii) A law enforcement agency.

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

13 (v) Any other entity that is contracting with the state department  
14 of corrections, the department of juvenile corrections, a law enforcement  
15 agency, another state, any private correctional facility, a county, a city  
16 or the federal bureau of prisons or other federal agency that has  
17 responsibility for sentenced or unsentenced prisoners.

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

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

22 12. IF THE PERSON COMMITS THE ASSAULT ON A PEACE OFFICER IN THE  
23 FURTHERANCE OF A RIOT OR AN UNLAWFUL ASSEMBLY.

24 B. A person commits aggravated assault if the person commits  
25 assault by either intentionally, knowingly or recklessly causing any  
26 physical injury to another person, intentionally placing another person in  
27 reasonable apprehension of imminent physical injury or knowingly touching  
28 another person with the intent to injure the person, and both of the  
29 following occur:

30 1. The person intentionally or knowingly impedes the normal  
31 breathing or circulation of blood of another person by applying pressure  
32 to the throat or neck or by obstructing the nose and mouth either manually  
33 or through the use of an instrument.

34 2. Any of the circumstances exists that are set forth in section  
35 13-3601, subsection A, paragraph 1, 2, 3, 4, 5 or 6.

36 C. A person who is convicted of intentionally or knowingly  
37 committing aggravated assault on a peace officer pursuant to subsection A,  
38 paragraph 1 or 2 of this section shall be sentenced to imprisonment for  
39 not less than the presumptive sentence authorized under chapter 7 of this  
40 title and is not eligible for suspension of sentence, commutation or  
41 release on any basis until the sentence imposed is served. A PERSON WHO  
42 IS CONVICTED OF COMMITTING AGGRAVATED ASSAULT ON A PEACE OFFICER PURSUANT  
43 TO SUBSECTION A, PARAGRAPH 12 OF THIS SECTION SHALL BE SENTENCED TO SERVE  
44 NOT LESS THAN THE MINIMUM SENTENCE AND IS NOT ELIGIBLE FOR PROBATION OR  
45 SUSPENSION OF EXECUTION OF SENTENCE UNTIL THE ENTIRE SENTENCE IS SERVED.

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

4 E. Except pursuant to subsections F and G of this section,  
5 aggravated assault pursuant to subsection A, paragraph 1 or 2, paragraph  
6 9, subdivision (a) or paragraph 11 of this section is a class 3 felony  
7 except if the aggravated assault is a violation of subsection A, paragraph  
8 1 or 2 of this section and the victim is under fifteen years of age it is  
9 a class 2 felony punishable pursuant to section 13-705. Aggravated assault  
10 pursuant to subsection A, paragraph 3 or subsection B of this section is a  
11 class 4 felony. Aggravated assault pursuant to subsection A, paragraph 9,  
12 subdivision (b) or paragraph 10 of this section is a class 5 felony.  
13 Aggravated assault pursuant to subsection A, paragraph 4, 5, 6, 7 or 8, ~~or~~  
14 paragraph 9, subdivision (c) OR PARAGRAPH 12 of this section is a class 6  
15 felony.

16 F. Aggravated assault pursuant to subsection A, paragraph 1 or 2 of  
17 this section committed on a peace officer is a class 2 felony. Aggravated  
18 assault pursuant to subsection A, paragraph 3 of this section committed on  
19 a peace officer is a class 3 felony. Aggravated assault pursuant to  
20 subsection A, paragraph 8, subdivision (a) of this section committed on a  
21 peace officer is a class 5 felony unless the assault results in any  
22 physical injury to the peace officer, in which case it is a class 4  
23 felony.

24 G. Aggravated assault pursuant to:

25 1. Subsection A, paragraph 1 or 2 of this section is a class 2  
26 felony if committed on a prosecutor.

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

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

31 H. For the purposes of this section:

32 1. "Health care worker" means:

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

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

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

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

43 2. "Judicial officer" means a justice of the supreme court, judge,  
44 justice of the peace or magistrate or a commissioner or hearing officer of  
45 a state, county or municipal court.

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

5           4. "Prosecutor" means a county attorney, a municipal prosecutor or  
6 the attorney general and includes an assistant or deputy county attorney,  
7 municipal prosecutor or attorney general.

8           Sec. 3. Section 13-1508, Arizona Revised Statutes, is amended to  
9 read:

10           13-1508. Burglary in the first degree; classification

11           A. A person commits burglary in the first degree if ~~such~~ THE person  
12 or an accomplice violates the provisions of either section 13-1506 or  
13 13-1507 and EITHER:

14           1. Knowingly possesses explosives, a deadly weapon or a dangerous  
15 instrument in the course of committing any theft or any felony.

16           2. COMMITS THE BURGLARY DURING A RIOT AND THE PERPETRATION OF THE  
17 BURGLARY IS FACILITATED BY CONDITIONS ARISING FROM THE RIOT. FOR THE  
18 PURPOSES OF THIS PARAGRAPH, "CONDITIONS ARISING FROM THE RIOT" MEANS CIVIL  
19 UNREST, POWER OUTAGES, CURFEWS OR A REDUCTION IN THE PRESENCE OF OR  
20 RESPONSE TIME FOR FIRST RESPONDERS.

21           B. Burglary in the first degree of a nonresidential structure or a  
22 fenced commercial or residential yard is a class 3 felony. It is a class  
23 2 felony if committed in a residential structure.

24           Sec. 4. Title 13, chapter 29, Arizona Revised Statutes, is amended  
25 by adding section 13-2903.01, to read:

26           13-2903.01. Aggravated riot; classification

27           A. A PERSON COMMITS AGGRAVATED RIOT IF, IN THE COURSE OF COMMITTING  
28 A RIOT, THE PERSON DOES ANY OF THE FOLLOWING:

29           1. PARTICIPATES WITH TWENTY-FIVE OR MORE OTHER PERSONS.

30           2. CAUSES SERIOUS PHYSICAL INJURY TO ANOTHER PERSON WHO IS NOT  
31 PARTICIPATING IN THE RIOT.

32           3. CAUSES PROPERTY DAMAGE IN EXCESS OF \$5,000.

33           4. DISPLAYS, USES, THREATENS TO USE OR ATTEMPTS TO USE A DEADLY  
34 WEAPON.

35           5. BY FORCE OR THE THREAT OF FORCE, ENDANGERS THE SAFE MOVEMENT OF  
36 A MOTOR VEHICLE THAT IS TRAVELING ON A PUBLIC STREET.

37           B. AGGRAVATED RIOT IS A CLASS 3 FELONY.

38           Sec. 5. Section 13-2906, Arizona Revised Statutes, is amended to  
39 read:

40           13-2906. Obstructing a highway or other public thoroughfare;  
41 classification; definition

42           A. A person commits obstructing a highway or other public  
43 thoroughfare if the person, alone or with other persons, does any of the  
44 following:

1           1. Having no legal privilege to do so, recklessly **IMPEDES, HINDERS,**  
2 **STIFLES, RETARDS, RESTRAINS OR** interferes with the ~~passage~~ **FREE,**  
3 **CONVENIENT AND NORMAL USE** of any highway or public thoroughfare by  
4 creating an unreasonable inconvenience or hazard.

5           2. Intentionally activates a pedestrian signal on a highway or  
6 public thoroughfare if the person's reason for activating the signal is  
7 not to cross the highway or public thoroughfare but to do both of the  
8 following:

9           (a) Stop the passage of traffic on the highway or public  
10 thoroughfare.

11           (b) Solicit a driver for a donation or business.

12           3. After receiving a verbal warning to desist, intentionally  
13 interferes with passage on a highway or other public thoroughfare or  
14 entrance into a public forum that results in preventing other persons from  
15 gaining access to a governmental meeting, a governmental hearing or a  
16 political campaign event.

17           4. **WHILE ENGAGING IN UNLAWFUL ASSEMBLY UNDER SECTION 13-2902, RIOT**  
18 **UNDER SECTION 13-2903 OR AGGRAVATED RIOT UNDER SECTION 13-2903.01,**  
19 **RECKLESSLY INTERFERES WITH THE PASSAGE OF ANY HIGHWAY OR PUBLIC**  
20 **THOROUGHFARE BY CREATING AN UNREASONABLE INCONVENIENCE OR HAZARD.**

21           B. Obstructing a highway or other public thoroughfare under:

22           1. **SUBSECTION A, PARAGRAPH 4 OF THIS SECTION IS A CLASS 6 FELONY.**

23           ~~1.~~ 2. Subsection A, paragraph 3 of this section is a class 1  
24 misdemeanor.

25           ~~2.~~ 3. Subsection A, paragraph 1 of this section is a class 2  
26 misdemeanor, except that a second or subsequent violation within a period  
27 of twenty-four months is a class 1 misdemeanor.

28           ~~3.~~ 4. Subsection A, paragraph 2 of this section is a class 3  
29 misdemeanor.

30           C. For the purposes of this section, "public forum" has the same  
31 meaning prescribed in section 15-1861.

32           Sec. 6. Title 13, chapter 29, Arizona Revised Statutes, is amended  
33 by adding section 13-2925, to read:

34           13-2925. Mob intimidation; classification

35           A. **A PERSON COMMITS MOB INTIMIDATION IF THE PERSON, ASSEMBLED WITH**  
36 **TWO OR MORE OTHER PERSONS AND ACTING WITH A COMMON INTENT, USES FORCE OR**  
37 **THREATENS TO USE IMMINENT FORCE TO COMPEL OR INDUCE, OR ATTEMPT TO COMPEL**  
38 **OR INDUCE, ANOTHER PERSON TO DO OR REFRAIN FROM DOING ANY ACT OR TO**  
39 **ASSUME, ABANDON OR MAINTAIN A PARTICULAR VIEWPOINT AGAINST THE PERSON'S**  
40 **WILL.**

41           B. **MOB INTIMIDATION IS A CLASS 1 MISDEMEANOR.**

1           Sec. 7. Section 13-3703, Arizona Revised Statutes, is amended to  
2 read:

3           13-3703. Abuse of venerated objects; classification;  
4                         definitions

5           A. A person commits abuse of venerated objects by intentionally:

6                 1. Desecrating any public monument, memorial or property of a  
7 public park; or

8                 2. In any manner likely to provoke immediate physical retaliation:

9                         (a) Exhibiting or displaying, placing or causing to be placed any  
10 word, figure, mark, picture, design, drawing or advertisement of any  
11 nature ~~upon~~ ON a flag or exposing or causing to be exposed to public view  
12 a flag ~~upon~~ ON which there is printed, painted or otherwise produced or to  
13 which there is attached, appended or annexed any word, figure, mark,  
14 picture, design, drawing or advertisement; or

15                         (b) Exposing to public view, manufacturing, selling, offering to  
16 sell, giving or having in possession for any purpose any article of  
17 merchandise or receptacle for holding or carrying merchandise ~~upon~~ ON or  
18 to which there is printed, painted, placed or attached any flag in order  
19 to advertise, call attention to, decorate, mark or distinguish the article  
20 or substance; or

21                         (c) Casting contempt ~~upon~~ ON, mutilating, defacing, defiling,  
22 burning, trampling or otherwise dishonoring or causing to bring dishonor  
23 ~~upon~~ ON a flag.

24           B. ~~The provisions of~~ This section ~~shall~~ DOES not apply to:

25                 1. Any act ~~permitted~~ ALLOWED by a statute of the United States; or

26                 2. Any act ~~permitted~~ ALLOWED by United States military regulations;

27 or

28                 3. Any act where the United States government has granted  
29 permission for the use of such flag; or

30                 4. A newspaper, periodical, book, pamphlet, circular, certificate,  
31 diploma, warrant, commission of appointment to office, ornament, picture,  
32 badge or stationery on which shall be printed, painted or placed such flag  
33 and which is disconnected from any advertisement for the purpose of sale,  
34 barter or trade.

35           ~~C.~~ C. Abuse of venerated objects PURSUANT TO SUBSECTION A,  
36 PARAGRAPH 1 OF THIS SECTION IS A CLASS 6 FELONY. ABUSE OF VENERATED  
37 OBJECTS PURSUANT TO SUBSECTION A, PARAGRAPH 2 OF THIS SECTION is a class 2  
38 misdemeanor.

39           ~~C.~~ D. For the purposes of this section:

40                 1. "Desecrate" means defacing, damaging, polluting or otherwise  
41 doing a physical act in a manner likely to provoke immediate physical  
42 retaliation.

43                 2. "Flag" means any emblem, banner or other symbol, of any size,  
44 composed of any substance or represented on any substance that evidently  
45 purports to be the flag of the United States or of this state.



1           Sec. 8. Title 13, chapter 38, article 1, Arizona Revised Statutes,  
2 is amended by adding section 13-3805, to read:

3           13-3805. Duty to protect during riot or unlawful assembly;  
4                           civil liability

5           A CITY OR TOWN HAS A DUTY TO ALLOW A CITY OR TOWN LAW ENFORCEMENT  
6 AGENCY TO RESPOND APPROPRIATELY TO PROTECT PERSONS AND PROPERTY DURING A  
7 RIOT OR UNLAWFUL ASSEMBLY BASED ON THE AVAILABILITY OF ADEQUATE EQUIPMENT  
8 TO ITS CITY AND TOWN LAW ENFORCEMENT OFFICERS AND RELEVANT STATE AND  
9 FEDERAL LAWS. NOTWITHSTANDING SECTIONS 12-820.01 AND 12-820.02, IF THE  
10 CITY'S OR TOWN'S GOVERNING BODY OR A PERSON WHO IS AUTHORIZED BY THE  
11 CITY'S OR TOWN'S GOVERNING BODY BREACHES THAT DUTY, THE CITY OR TOWN IS  
12 LIABLE IN A CIVIL ACTION FOR ANY DAMAGES, INCLUDING DAMAGES ARISING FROM  
13 PERSONAL INJURY, WRONGFUL DEATH OR PROPERTY DAMAGES PROXIMATELY CAUSED BY  
14 THE CITY'S OR TOWN'S BREACH OF DUTY.