

REFERENCE TITLE: attorneys; court professionals; discipline; juries

State of Arizona
Senate
Fifty-sixth Legislature
First Regular Session
2023

SB 1418

Introduced by
Senator Wadsack: Representative Jones

AN ACT

AMENDING TITLE 32, ARIZONA REVISED STATUTES, BY ADDING CHAPTER 2; RELATING
TO THE SUPREME COURT.

(TEXT OF BILL BEGINS ON NEXT PAGE)

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

2 Section 1. Title 32, Arizona Revised Statutes, is amended by adding
3 chapter 2, to read:

4 CHAPTER 2

5 ATTORNEYS AND COURT PROFESSIONALS

6 ARTICLE 1. GENERAL PROVISIONS

7 32-201. Attorneys; complaints; discipline; right to jury
8 hearings; prohibitions; perjury

9 A. THE SUPREME COURT MAY PROCESS COMPLAINTS FILED AGAINST AN
10 ATTORNEY AND DISCIPLINE AN ATTORNEY THROUGH THE STATE BAR OF ARIZONA. IN
11 DISCIPLINARY PROCEEDINGS, THE SUPREME COURT SHALL PROVIDE NOTICE AND AN
12 OPPORTUNITY FOR A HEARING PURSUANT TO RULES ADOPTED BY THE SUPREME COURT
13 AND SHALL DISCLOSE THE ATTORNEY'S RESPONSES TO THE COMPLAINANT.

14 B. IN ADDITION TO FOLLOWING THE ARIZONA RULES OF PROFESSIONAL
15 CONDUCT, AN ATTORNEY SHALL:

16 1. SWEAR AN OATH TO THE UNITED STATES CONSTITUTION AND THE ARIZONA
17 CONSTITUTION AND DEFEND THE RIGHTS OF THE ATTORNEY'S CLIENTS PURSUANT TO
18 ARTICLE VI, CLAUSE 3, UNITED STATES CONSTITUTION. ANY OTHER OATH SWEARING
19 ALLEGIANCE TO THE COURT OR ANY ENTITY OTHER THAN THE CONSTITUTION IS VOID
20 AND PROHIBITED.

21 2. DEFEND THE RIGHTS OF THE ATTORNEY'S CLIENTS, INCLUDING ARTICLE
22 II, SECTION 23, CONSTITUTION OF ARIZONA, EFFECTUATED BY THE TENTH
23 AMENDMENT, UNITED STATES CONSTITUTION.

24 C. IF AN ATTORNEY WHO IS BEING INVESTIGATED OR DISCIPLINED BY THE
25 STATE BAR OF ARIZONA BELIEVES THAT CIVIL PENALTIES, FINES OR DISCIPLINE
26 ARE EXCESSIVE OR UNJUST OR THAT JUSTICE IS NOT SERVED BY A DECISION OF THE
27 STATE BAR OF ARIZONA IN A DISCIPLINARY PROCEEDING, WITHIN FORTY-FIVE DAYS
28 AFTER THE DECISION THE ATTORNEY MAY REQUEST AND SHALL BE PROVIDED A NEW
29 HEARING IN SUPERIOR COURT IN THE COUNTY OF JURISDICTION WITHIN FORTY-FIVE
30 DAYS AFTER THE REQUEST.

31 D. MEDIATION, INCLUDING DISCUSSIONS AND NEGOTIATIONS BETWEEN THE
32 PARTIES, IS THE PREFERRED METHOD OF SETTLING DISPUTES RELATING TO AN
33 ATTORNEY. RECORDS OF MEDIATION OR THE FACT THAT THERE HAS NOT BEEN
34 MEDIATION SHALL BE PLACED ON THE RECORD FOR THE JUDGE AND JURY TO
35 CONSIDER. IF MEDIATION FAILS, A BENCH TRIAL SHALL BE CONDUCTED IN
36 SUPERIOR COURT AT WHICH A JUDGE SHALL EXAMINE THE EVIDENCE AND ISSUE A
37 RULING. IF THE ATTORNEY BELIEVES THE JUDICIAL RULING IS UNJUST, THE
38 ATTORNEY MAY DEMAND AND SHALL BE FURNISHED ANOTHER BENCH TRIAL WITH THE
39 SAME JUDGE AT WHICH A JURY SHALL EXAMINE EVIDENCE AND RENDER A VERDICT.

40 E. NOTWITHSTANDING ANY OTHER LAW, FOR THE PURPOSES OF THIS SECTION
41 A JURY SHALL CONSIST OF TEN CITIZENS CHOSEN AT RANDOM FROM A JURY
42 POOL. THE JURY MAY ENTER A VERDICT TO DISBAR AN ATTORNEY ONLY BY
43 UNANIMOUS VERDICT USING EVIDENCE THAT REACHES THE STANDARD OF CLEAR AND
44 CONVINCING. IF THE EVIDENCE DOES NOT REACH THIS STANDARD, THE ATTORNEY
45 SHALL REMAIN LICENSED TO PRACTICE LAW OR HAVE SANCTIONS REDUCED AS

1 DETERMINED BY THE JURY. JURY INSTRUCTIONS SHALL INCLUDE A COPY OF THIS
2 SECTION AND THE COURT RECORD.

3 F. PERJURY, PROVIDING FALSE OR MANUFACTURED EVIDENCE OR WITHHOLDING
4 EXCULPATORY EVIDENCE IS PROHIBITED AND:

5 1. IS PUNISHABLE UNDER TITLE 13, CHAPTER 27.

6 2. IS A CLASS 4 FELONY.

7 3. SHALL BE ENFORCED IN CRIMINAL COURT.

8 4. A PERSON MAY REFER A VIOLATION OF THIS SUBSECTION TO THE COUNTY
9 ATTORNEY OR THE ATTORNEY GENERAL.

10 G. TOTAL FEES FOR ALL SUBSEQUENT HEARINGS DESCRIBED IN THIS
11 SECTION, INCLUDING A JURY, MAY NOT EXCEED \$500.

12 H. ATTORNEYS AND COURT APPOINTED PROFESSIONALS SHALL BE VERIFIABLY
13 NOTICED OF THE OPTION TO HAVE A JURY MAKE THE FINAL DECISION FOR
14 SANCTIONS, INCLUDING DISBARMENT. FAILURE TO NOTICE SHALL RENDER DECISIONS
15 MADE BY THE STATE BAR OF ARIZONA VOID AND UNENFORCEABLE REQUIRING FURTHER
16 PROCEEDINGS TO SETTLE A DISPUTE.

17 I. IN A HEARING PURSUANT TO THIS SECTION, A JURY MAY SANCTION A
18 PARTY, INCLUDING THE STATE BAR OF ARIZONA, FOR MISCONDUCT IN AN AMOUNT OF
19 NOT MORE THAN \$5,000, WHICH MAY BE PAID TO ANY PARTY TO THE HEARING.

20 J. FOR DECISIONS MADE BY THE STATE BAR OF ARIZONA BEFORE THE
21 EFFECTIVE DATE OF THIS SECTION, IF THE ATTORNEY DID NOT EXPLICITLY WAIVE
22 THE ATTORNEY'S RIGHT TO A JURY, THE ATTORNEY IS ENTITLED TO A NEW HEARING
23 AS PRESCRIBED IN THIS SECTION.

24 32-202. Licensed professionals; complaints; hearings;
25 prohibitions

26 A. THE SUPREME COURT SHALL EXERCISE REGULATORY RESPONSIBILITY AND
27 AUTHORITY OVER A LICENSED PROFESSIONAL ASSIGNED TO A COURT CASE AND MAY
28 PROHIBIT THE LICENSED PROFESSIONAL FROM PARTICIPATING IN FUTURE COURT
29 PROCEEDINGS.

30 B. IN ADDITION TO THE REQUIREMENTS OF SECTION 32-201:

31 1. ATTORNEYS AND ALL LICENSED PROFESSIONALS WHO ARE ASSIGNED TO A
32 COURT CASE SHALL FOLLOW THEIR CODE OF CONDUCT.

33 2. IF A LICENSED PROFESSIONAL DESCRIBED IN SUBSECTION A OF THIS
34 SECTION BELIEVES THAT JUSTICE IS NOT SERVED OR THE PUBLIC IS NOT PROTECTED
35 BY A DECISION OF THE STATE BAR OF ARIZONA IN A DISCIPLINARY PROCEEDING,
36 THE PERSON MAY REQUEST AND SUBSEQUENTLY SHALL BE PROVIDED A HEARING IN THE
37 SUPERIOR COURT IN THE COUNTY OF JURISDICTION USING THE PROCESS DESCRIBED
38 IN PARAGRAPH 3 OF THIS SUBSECTION THAT APPLIES TO ATTORNEYS AND OTHER
39 LICENSED PROFESSIONALS WHO ARE ASSIGNED TO A LEGAL PROCEEDING THROUGH ANY
40 REGULATORY BODY UNDER THIS TITLE. THE REQUEST SHALL BE FILED WITHIN
41 FORTY-FIVE DAYS AFTER THE DECISION IS RENDERED, AND A NEW HEARING SHALL BE
42 PROVIDED IN SUPERIOR COURT WITHIN FORTY-FIVE DAYS AFTER THE REQUEST IS
43 FILED.

44 3. MEDIATION, INCLUDING DISCUSSIONS AND NEGOTIATIONS BETWEEN THE
45 PARTIES, IS THE PREFERRED METHOD OF SETTLING DISPUTES RELATING TO AN

1 ATTORNEY AND A LICENSED PROFESSIONAL WHO IS ASSIGNED TO A COURT CASE.
2 RECORDS OF MEDIATION OR THE FACT THAT THERE HAS NOT BEEN MEDIATION SHALL
3 BE PLACED ON THE RECORD FOR THE JUDGE AND JURY TO CONSIDER. IF MEDIATION
4 FAILS, A BENCH TRIAL SHALL BE CONDUCTED IN SUPERIOR COURT AT WHICH A JUDGE
5 SHALL EXAMINE THE EVIDENCE AND ISSUE A RULING. IF AN ATTORNEY OR THE
6 LICENSED PROFESSIONAL BELIEVES THE JUDICIAL RULING IS UNJUST, THE ATTORNEY
7 OR THE LICENSED PROFESSIONAL MAY DEMAND AND SHALL BE FURNISHED ANOTHER
8 BENCH TRIAL WITH THE SAME JUDGE AT WHICH THE EVIDENCE SHALL BE EXAMINED
9 AND A JURY VERDICT RENDERED.

10 4. IN A HEARING CONDUCTED PURSUANT TO THIS SECTION, A JURY MAY:

11 (a) RESTORE AN ATTORNEY'S OR OTHER LICENSED PROFESSIONAL'S LICENSE
12 IF THE JURY DOES NOT HAVE MORE THAN TWO DISSENTING VOTES.

13 (b) REVOKE AN ATTORNEY'S OR OTHER LICENSED PROFESSIONAL'S LICENSE
14 IF THE JURY HAS A UNANIMOUS VOTE.

15 Sec. 2. Legislative findings and intent

16 A. The legislature finds that:

17 1. Attorneys are currently officers of the court and members of the
18 judicial branch. This places every attorney who is in the executive and
19 legislative branches in violation of article III, Constitution of Arizona,
20 relating to separation of powers. These attorneys are conflicted and do
21 not work for the public. The public is getting bad legal advice as a
22 result.

23 2. Psychologists, parenting coordinators and other professionals
24 are not regulated after they are assigned to a court case with predictable
25 results of no accountability.

26 3. The right to a hearing decided by a jury cannot be violated and
27 no one has the discretion to violate this right. The right to have a jury
28 make the final decision on attorney licensure and discipline is a
29 fundamental liberty interest and is inviolate pursuant to article II,
30 section 23, Constitution of Arizona.

31 4. The executive and legislative branches rely on sound,
32 independent and competent legal advice with no conflict of interest with
33 the judicial branch.

34 5. An independent judiciary is essential. Judges may not exert
35 undue influence in the form of coercive control over the legal profession.

36 B. The legislature intends to:

37 1. Protect the public from all licensed legal professionals who are
38 assigned to a case and expected to follow a code of conduct.

39 2. Restore separation of powers.

40 3. Restore checks and balances and limits on the government's power
41 that is now unlimited and causing immeasurable harm to the public.

42 4. Dispel the public perception that attorneys and judges may have
43 formed an illegal monopoly and thus to reaffirm the integrity of both the
44 judicial branch the legal profession.