

Senate Engrossed

~~attorneys; court professionals; discipline; juries~~
(now: religious; political beliefs; adverse actions)

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

SENATE BILL 1418

AN ACT

AMENDING TITLE 12, CHAPTER 7, ARIZONA REVISED STATUTES, BY ADDING ARTICLE
3; RELATING TO GOVERNMENT.

(TEXT OF BILL BEGINS ON NEXT PAGE)

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

2 Section 1. Title 12, chapter 7, Arizona Revised Statutes, is
3 amended 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 A SUBSTANTIAL MOTIVATION FOR THE GOVERNMENT AGENT'S
10 DECISION TO DO SO IS MOTIVATED BY AN UNLAWFUL ANIMUS, EVEN IF THAT NATURAL
11 PERSON 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. THE SUBJECT OF AN ADVERSE ACTION
14 MAY OBJECT TO THE EXERCISE OF A COURT'S JURISDICTION ON THE GROUNDS THAT
15 THE ACTION IS IN VIOLATION OF SUBSECTION A OF THIS SECTION. ON OBJECTION,
16 THE COURT SHALL NOT ASSERT JURISDICTION UNLESS IT FINDS, BY A
17 PREPONDERANCE OF THE EVIDENCE, THAT THE GOVERNMENT AGENT HAS NOT VIOLATED
18 SUBSECTION A OF THIS SECTION.

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

23 D. ANY NATURAL PERSON WHO IS SUBJECT TO A VIOLATION OF SUBSECTION A
24 OF THIS SECTION MAY RAISE THE ISSUE AT ANY TIME FOLLOWING THE DISCOVERY OF
25 THE UNLAWFUL ANIMUS.

26 E. A CRIMINAL CONVICTION OR PENALTY THAT IS IMPOSED IN VIOLATION OF
27 SUBSECTION A OF THIS SECTION MAY BE RAISED PURSUANT TO SECTION 13-4231,
28 PARAGRAPH 2 EXCEPT THAT RELIEF MAY NOT BE PRECLUDED FOR THE FAILURE TO
29 TIMELY RAISE THE ISSUE OR ON THE GROUNDS THAT THE ACCUSED CONSENTED TO
30 JURISDICTION OF THE COURT.

31 F. ANY EVIDENCE OBTAINED PURSUANT TO A SEARCH OR SEIZURE THAT IS IN
32 VIOLATION OF THIS SECTION IS INADMISSIBLE IN ANY ADMINISTRATIVE, CIVIL OR
33 CRIMINAL PROCEEDING.

34 G. AN ARREST THAT IS MADE IN VIOLATION OF THIS SECTION IS INVALID.

35 H. IF A GOVERNMENT AGENT VIOLATES SUBSECTION A OF THIS SECTION, THE
36 NATURAL PERSON WHOSE RIGHTS ARE VIOLATED MAY BRING A CAUSE OF ACTION IN
37 STATE OR FEDERAL COURT AGAINST BOTH THE GOVERNMENT AGENT AND THE
38 GOVERNMENT ENTITY THAT EMPLOYS OR CONTRACTS WITH THE GOVERNMENT AGENT,
39 INCLUDING THIS STATE, EXCEPT THAT THIS STATE IS NOT SUBJECT TO A SUIT IN
40 FEDERAL COURT. AN ACTION BROUGHT PURSUANT TO THIS SUBSECTION SHALL BE
41 COMMENCED WITHIN FOUR YEARS AFTER THE CONCLUSION OF THE ADMINISTRATIVE,
42 CIVIL OR CRIMINAL PROCEEDING OR INVESTIGATION THAT WAS MOTIVATED BY AN
43 UNLAWFUL ANIMUS, INCLUDING ALL APPEALS. IT IS NOT A DEFENSE TO THE CAUSE
44 OF ACTION THAT THE NATURAL PERSON WHOSE RIGHTS WERE VIOLATED WOULD
45 OTHERWISE PROPERLY BE THE SUBJECT OF THE ADVERSE ACTION OR THAT THE

1 ADVERSE ACTION RESULTED IN AN ADVERSE JUDGMENT, DECISION, OPINION, VERDICT
2 OR RULING AGAINST THE NATURAL PERSON WHOSE RIGHTS HAVE BEEN VIOLATED.

3 I. IN ANY CAUSE OF ACTION FILED PURSUANT TO SUBSECTION H OF THIS
4 SECTION, A PREVAILING PLAINTIFF MAY RECOVER DECLARATORY RELIEF, INJUNCTIVE
5 RELIEF, COMPENSATORY DAMAGES, NOMINAL DAMAGES, ATTORNEY FEES AND COSTS.

6 J. SUBSECTIONS H AND I OF THIS SECTION DO NOT APPLY TO A PEACE
7 OFFICER WHO MAKES AN ARREST OF A NATURAL PERSON WHO IS SUBJECT TO AN
8 ADVERSE ACTION IN VIOLATION OF SUBSECTION A OF THIS SECTION.

9 K. FOR THE PURPOSES OF THIS SECTION:

10 1. "ADVERSE ACTION":

11 (a) MEANS:

12 (i) ANY CRIMINAL OR CIVIL INVESTIGATION OR PROSECUTION OF ANY
13 NATURAL PERSON.

14 (ii) ANY PROCEEDING OF ANY SORT THAT SEEKS ANY ADVERSE
15 ADMINISTRATIVE, CIVIL OR CRIMINAL ACTION AGAINST ANY NATURAL PERSON.

16 (b) DOES NOT INCLUDE AN ACTION AGAINST A NATURAL PERSON IN THAT
17 NATURAL PERSON'S OFFICIAL CAPACITY.

18 2. "GOVERNMENT AGENT" MEANS ANY LOCAL, STATE OR FEDERAL OFFICIAL
19 WHO IS EMPLOYED BY OR CONTRACTS WITH GOVERNMENT IN THIS STATE AT ANY LEVEL
20 AND WHO IS ACTING IN THAT CAPACITY OR ANY MEMBER, EMPLOYEE OR CONTRACTOR
21 OF A REGULATORY BOARD OR COMMISSION IN THIS STATE AT ANY LEVEL AND WHO IS
22 ACTING IN THAT CAPACITY.

23 3. "UNLAWFUL ANIMUS" MEANS A DISAGREEMENT WITH OR DISLIKE OF A
24 NATURAL PERSON'S RELIGIOUS OR POLITICAL BELIEFS, POSITIONS, ASSOCIATIONS
25 OR EXPRESSION.

26 Sec. 2. Short title

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