

House Engrossed

peace officers; discipline; modification

State of Arizona  
House of Representatives  
Fifty-sixth Legislature  
Second Regular Session  
2024

# HOUSE BILL 2322

AN ACT

AMENDING SECTION 41-1830.16, ARIZONA REVISED STATUTES; RELATING TO THE LAW ENFORCEMENT MERIT SYSTEM COUNCIL.

(TEXT OF BILL BEGINS ON NEXT PAGE)

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

2 Section 1. Section 41-1830.16, Arizona Revised Statutes, is amended  
3 to read:

4 41-1830.16. Law enforcement merit system council duties;  
5 authority; appeals of covered full authority  
6 peace officers employed by agencies in the  
7 state personnel system; definitions

8 A. The law enforcement merit system council shall adopt rules the  
9 council deems necessary for the administration of hearings and the review  
10 of appeals as prescribed in this section.

11 B. A covered employee in the state personnel system who is a full  
12 authority peace officer as certified by the Arizona peace officer  
13 standards and training board, WHO is appointed to a position that requires  
14 such a certification in the covered service and who has completed the  
15 employee's original probationary period of service as provided by the  
16 personnel rules may appeal to the law enforcement merit system council the  
17 covered employee's dismissal from covered service, suspension for more  
18 than forty working hours or involuntary demotion resulting from  
19 disciplinary action. The covered employee shall file the appeal ~~no~~ NOT  
20 later than ten working days after the effective date of the action. The  
21 covered employee shall be furnished with specified charges in writing when  
22 the action is taken. The appeal shall be in writing and must state  
23 specific facts relating directly to the charges on which the appeal is  
24 based. Notwithstanding section 41-1092.05, subsection D, the law  
25 enforcement merit system council shall hear the appeal within thirty days  
26 after the council's receipt OF THE APPEAL. The law enforcement merit  
27 system council shall provide the employing agency with a copy of the  
28 appeal not less than twenty days ~~in advance of~~ BEFORE the hearing.

29 C. In hearing and reviewing an appeal, the council:

30 1. Shall determine whether the employing agency has proven by a  
31 preponderance of the evidence that the employing agency had just cause to  
32 discipline the employee.

33 2. May recommend modification of a disciplinary action if EITHER OF  
34 THE FOLLOWING IS MET:

35 (a) The state agency head has not proven by a preponderance of the  
36 evidence that the employing agency had just cause to discipline the  
37 employee.

38 (b) THE STATE AGENCY HEAD HAS PROVEN THAT THE EMPLOYING AGENCY HAD  
39 JUST CAUSE TO DISCIPLINE THE EMPLOYEE BUT EVIDENCE PRESENTED BY THE  
40 EMPLOYEE OR THE EMPLOYING AGENCY, ANY LEGAL BASIS BROUGHT IN THE APPEAL OR  
41 ANY OTHER FACTS OR CIRCUMSTANCES OFFERED FOR THE COUNCIL'S CONSIDERATION  
42 DEMONSTRATE THAT THE DISCIPLINARY ACTION SHOULD BE MODIFIED.

1           3. Shall reverse the decision of the state agency head if the  
2 council finds that just cause did not exist for any discipline to be  
3 imposed and, in the case of dismissal or demotion, return the employee to  
4 the same position the employee held before the dismissal or demotion with  
5 or without back pay.

6           D. On a finding that the state agency head has not proven just  
7 cause to discipline the employee by a preponderance of the evidence, the  
8 council may recommend a proposed disciplinary action in light of the facts  
9 proven.

10          E. Within forty-five days after the conclusion of the hearing, the  
11 council shall enter its decision or recommendation and shall at the same  
12 time send a copy of the decision or recommendation by certified mail to  
13 the employing agency and to the employee at the employee's address as  
14 given at the hearing or to a representative designated by the employee to  
15 receive a copy of the decision or recommendation. The state agency head  
16 or the agency head's designee shall accept, modify or reverse the  
17 council's decision or accept, modify or reject the council's  
18 recommendation within fourteen days ~~of~~ AFTER receipt of the findings or  
19 recommendation from the law enforcement merit system council. The state  
20 agency head or the agency head's designee shall accept the council's  
21 recommendation unless the recommendation is arbitrary or without  
22 reasonable justification. If the state agency head or the agency head's  
23 designee does not accept the council's recommendation, the state agency  
24 head or the agency head's designee shall state the reasons for rejecting  
25 the recommendation. The decision of the agency head or agency head's  
26 designee is final and binding. The agency head shall send a copy of the  
27 agency's final determination to the covered employee pursuant to this  
28 section.

29          F. Any party may appeal the decision of the law enforcement merit  
30 system council or the final decision of the agency pursuant to title 12,  
31 chapter 7, article 6 to the superior court in the covered employee's  
32 county of residence.

33          G. An appeal shall be available to the court of appeals from the  
34 order of the superior court pursuant to title 12, chapter 7, article 6 as  
35 in other civil cases.

36          H. For the purposes of this section:

37           1. "Covered employee" has the same meaning prescribed in section  
38 41-741.

39           2. "Covered service" has the same meaning prescribed in section  
40 41-741.

41           3. "Employing agency" means the agency in the state personnel  
42 system where the covered employee is or, in the case of dismissal, was  
43 employed.

1           4. "Full authority peace officer" means a peace officer whose  
2 authority to enforce the laws of this state is not limited by the rules  
3 adopted by the Arizona peace officer standards and training board.

4           5. "Just cause" has the same meaning prescribed in ~~title 38,~~  
5 ~~chapter 8, article 1~~ SECTION 38-1101.

6           6. "Original probationary period" has the same meaning prescribed  
7 in section 41-741.

8           7. "Personnel rules" means the rules adopted by the department of  
9 administration, human resources division.

10          8. "State agency head" means the chief executive officer of the  
11 employing agency.

12          9. "State personnel system" has the same meaning prescribed in  
13 section 41-741.