

REFERENCE TITLE: **peace officers; discipline; modification**

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

HB 2322

Introduced by
Representative Payne

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.