

Senate Engrossed

public entity liability; sexual offenses

State of Arizona
Senate
Fifty-sixth Legislature
Second Regular Session
2024

SENATE BILL 1435

AN ACT

AMENDING SECTION 12-820.05, ARIZONA REVISED STATUTES; AMENDING SECTION 12-820.05, ARIZONA REVISED STATUTES, AS AMENDED BY THIS ACT; RELATING TO SPECIAL ACTIONS.

(TEXT OF BILL BEGINS ON NEXT PAGE)

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

2 Section 1. Section 12-820.05, Arizona Revised Statutes, is amended
3 to read:

4 12-820.05. Other immunities

5 A. Except as specifically provided in this article, this article
6 does not affect, alter or otherwise modify any other rules of tort
7 immunity regarding public entities and public officers as developed at
8 common law and as established under the statutes and the constitution of
9 this state.

10 B. A public entity is not liable for losses that arise out of and
11 are directly attributable to an act or omission determined by a court to
12 be a criminal felony by a public employee unless the public entity knew of
13 the public employee's propensity for that action. This subsection does
14 not apply to acts or omissions arising out of **EITHER OF THE FOLLOWING:**

15 1. The operation or use of a motor vehicle.

16 2. **A SEXUAL OFFENSE IF THE VICTIM IS A MINOR OR A CHILD WITH A**
17 **DISABILITY AS DEFINED IN SECTION 15-761 AND ONE OR MORE OF THE FOLLOWING**
18 **CONDITIONS EXIST:**

19 (a) **THE PUBLIC ENTITY WAS IN VIOLATION OF A STATUTORY DUTY RELATING**
20 **TO OBTAINING INFORMATION REGARDING THE BACKGROUND OF EMPLOYEES.**

21 (b) **THE PUBLIC ENTITY OR PUBLIC EMPLOYEE HAD A STATUTORY DUTY TO**
22 **REPORT AND FAILED TO DO SO.**

23 (c) **CLEAR AND CONVINCING EVIDENCE PROVES THAT THE PUBLIC ENTITY**
24 **FAILED TO REASONABLY INVESTIGATE OR TAKE REASONABLE ACTION ON AN ALLEGED**
25 **VIOLATION OF A WRITTEN POLICY OF THE PUBLIC ENTITY RELATING TO THE SAFETY**
26 **OR WELL-BEING OF A MINOR OR A CHILD WITH A DISABILITY AS DEFINED IN**
27 **SECTION 15-761 AND THE ALLEGED VIOLATION OF THE WRITTEN POLICY WAS**
28 **SUBSTANTIALLY RELATED TO THE HARM THAT OCCURRED.**

29 C. A public entity is not liable for damages as a result of an
30 injury caused by any act or omission by a public officer who renders
31 emergency care gratuitously and in good faith in a public building, at a
32 public gathering on the grounds of a public building or at the scene of an
33 emergency occurrence or as the result of any act or failure to act to
34 provide or arrange for further medical treatment or care for the injured
35 person, unless the public officer, while rendering the emergency care, is
36 guilty of gross negligence.

37 Sec. 2. Section 12-820.05, Arizona Revised Statutes, as amended by
38 section 1 of this act, is amended to read:

39 12-820.05. Other immunities

40 A. Except as specifically provided in this article, this article
41 does not affect, alter or otherwise modify any other rules of tort
42 immunity regarding public entities and public officers as developed at
43 common law and as established under the statutes and the constitution of
44 this state.

1 B. A public entity is not liable for losses that arise out of and
2 are directly attributable to an act or omission determined by a court to
3 be a criminal felony by a public employee unless the public entity knew of
4 the public employee's propensity for that action. This subsection does
5 not apply to acts or omissions arising out of ~~either of the following:~~

6 ~~1. the operation or use of a motor vehicle.~~

7 ~~2. A sexual offense if the victim is a minor or a child with a~~
8 ~~disability as defined in section 15-761 and one or more of the following~~
9 ~~conditions exist:~~

10 ~~(a) The public entity was in violation of a statutory duty relating~~
11 ~~to obtaining information regarding the background of employees.~~

12 ~~(b) The public entity or public employee had a statutory duty to~~
13 ~~report and failed to do so.~~

14 ~~(c) Clear and convincing evidence proves that the public entity~~
15 ~~failed to reasonably investigate or take reasonable action on an alleged~~
16 ~~violation of a written policy of the public entity relating to the safety~~
17 ~~or well-being of a minor or a child with a disability as defined in~~
18 ~~section 15-761 and the alleged violation of the written policy was~~
19 ~~substantially related to the harm that occurred.~~

20 C. A public entity is not liable for damages as a result of an
21 injury caused by any act or omission by a public officer who renders
22 emergency care gratuitously and in good faith in a public building, at a
23 public gathering on the grounds of a public building or at the scene of an
24 emergency occurrence or as the result of any act or failure to act to
25 provide or arrange for further medical treatment or care for the injured
26 person, unless the public officer, while rendering the emergency care, is
27 guilty of gross negligence.

28 Sec. 3. Applicability

29 Section 12-820.05, Arizona Revised Statutes, as amended by section 1
30 of this act, applies only to acts or omissions involving sexual offenses
31 that are committed on or after the effective date of this act.

32 Sec. 4. Effective date

33 Section 12-820.05, Arizona Revised Statutes, as amended by section 2
34 of this act, is effective from and after December 31, 2026.