

REFERENCE TITLE: employment; law enforcement; attorney general

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

SB 1658

Introduced by
Senator Gowan

AN ACT

AMENDING SECTION 38-532, ARIZONA REVISED STATUTES; AMENDING TITLE 38, CHAPTER 3, ARTICLE 9, ARIZONA REVISED STATUTES, BY ADDING SECTION 38-535; RELATING TO DISCLOSURE OF INFORMATION BY PUBLIC EMPLOYEES.

(TEXT OF BILL BEGINS ON NEXT PAGE)

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

2 Section 1. Section 38-532, Arizona Revised Statutes, is amended to
3 read:

4 38-532. Prohibited personnel practice; violation;
5 reinstatement; exceptions; civil penalty

6 A. It is a prohibited personnel practice for an employee who has
7 control over personnel actions to take reprisal against an employee for a
8 disclosure of information of a matter of public concern by the employee to
9 a public body that the employee reasonably believes evidences:

- 10 1. A violation of any law.
11 2. Mismanagement, a gross waste of monies or an abuse of authority.

12 B. The disclosure by an employee to a public body alleging a
13 violation of law, mismanagement, gross waste of monies or abuse of
14 authority shall be in writing and shall contain the following information:

- 15 1. The date of the disclosure.
16 2. The name of the employee making the disclosure.
17 3. The nature of the alleged violation of law, mismanagement, gross
18 waste of monies or abuse of authority.

19 4. If possible, the date or range of dates on which the alleged
20 violation of law, mismanagement, gross waste of monies or abuse of
21 authority occurred.

22 C. An employee who knowingly commits a prohibited personnel
23 practice shall be ordered by the state personnel board, a community
24 college district governing board, a school district governing board, a
25 city or town personnel board, ~~THE ATTORNEY GENERAL'S OFFICE IF THE~~
26 ~~EMPLOYEE IS A LAW ENFORCEMENT OFFICER~~ or any other appropriate independent
27 personnel board established or authorized pursuant to section 38-534 to
28 pay a civil penalty of up to \$5,000 to the state general fund, a county
29 general fund, a community college district unrestricted general fund, a
30 school district maintenance and operation fund or a city or town general
31 fund, whichever is appropriate. The employee who committed the prohibited
32 personnel practice, not the governmental entity, shall pay the civil
33 penalty. On a finding that an employee committed a prohibited personnel
34 practice, the employer shall take appropriate disciplinary action,
35 including dismissal, except that on a finding that an employee committed a
36 prohibited personnel practice against an employee who disclosed
37 information that the employee reasonably believed evidenced a violation of
38 any law, the employee who knowingly committed the prohibited personnel
39 practice is subject to a civil penalty of up to \$10,000, the employer
40 shall dismiss the employee and the employee is barred from any future
41 employment by the ~~government~~ ~~GOVERNMENTAL~~ entity.

42 D. An employee or former employee against whom a prohibited
43 personnel practice is committed may recover attorney fees, costs, back
44 pay, general and special damages and full reinstatement for any reprisal

1 resulting from the prohibited personnel practice as determined by the
2 court.

3 E. An employee does not commit a prohibited personnel practice if
4 he takes reprisal against an employee if that employee discloses
5 information in a manner prohibited by law or the materials or information
6 are prescribed as confidential by law.

7 F. This section may not be used as a defense in a disciplinary
8 action where the employee is being disciplined for cause pursuant to
9 section 41-773, except in a hearing on a complaint brought pursuant to
10 this section by an employee or former employee who believes ~~he~~ THE
11 EMPLOYEE OR FORMER EMPLOYEE has been the subject of a prohibited personnel
12 practice as prescribed in this section as the result of a disclosure of
13 information.

14 G. On request or at any time an employee alleges reprisal, an
15 employer shall provide an employee who is subject to disciplinary or
16 corrective action, suspension, demotion or dismissal with a copy of this
17 section.

18 H. If an employee or former employee believes that a personnel
19 action taken against ~~him~~ THE EMPLOYEE OR FORMER EMPLOYEE is the result of
20 ~~his~~ THE EMPLOYEE'S OR FORMER EMPLOYEE'S disclosure of information under
21 this section, ~~he~~ THE EMPLOYEE OR FORMER EMPLOYEE may make a complaint to
22 an appropriate independent personnel board, if one is established or
23 authorized pursuant to section 38-534, TO THE ATTORNEY GENERAL'S OFFICE IF
24 THE EMPLOYEE IS A LAW ENFORCEMENT OFFICER or to a community college
25 district governing board, school district governing board or city or town
26 council. If an independent personnel board has not been established or
27 authorized, or if a school district governing board, a community college
28 district governing board or a city or town council does not hear and
29 decide personnel matters brought pursuant to this section, the employee or
30 former employee may make a complaint to the state personnel board. A
31 complaint made pursuant to this subsection shall be made within ten
32 working days after the effective date of the action taken against ~~him~~ THE
33 EMPLOYEE OR FORMER EMPLOYEE. The state personnel board, a school district
34 governing board, a community college district governing board, THE
35 ATTORNEY GENERAL'S OFFICE, a city or town council or any other appropriate
36 independent personnel board ~~shall~~, pursuant to the rules governing appeals
37 under section 41-783, SHALL make a determination concerning:

38 1. The validity of the complaint.

39 2. Whether a prohibited personnel practice was committed against
40 the employee or former employee as a result of disclosure of information
41 by the employee or former employee.

42 I. If the state personnel board, a community college district
43 governing board, a school district governing board, THE ATTORNEY GENERAL'S
44 OFFICE IF THE EMPLOYEE IS A LAW ENFORCEMENT OFFICER, a city or town
45 council or any other appropriate independent personnel board established

1 or authorized pursuant to section 38-534 determines that a prohibited
2 personnel practice was committed as a result of disclosure of information
3 by the employee or former employee, it shall rescind the personnel action
4 and order that all lost pay and benefits be returned to the employee or
5 former employee. The employee, former employee, employee alleged to have
6 committed a prohibited personnel practice pursuant to subsection A of this
7 section or employer may appeal the decision of the state personnel board,
8 a community college district governing board, a school district governing
9 board, a city or town council or any other appropriate independent
10 personnel board established or authorized pursuant to section 38-534 to
11 the superior court as provided in title 12, chapter 7, article 6.

12 J. For purposes of a hearing by the state personnel board, a school
13 district governing board, a community college district governing board,
14 THE ATTORNEY GENERAL'S OFFICE IF THE EMPLOYEE IS A LAW ENFORCEMENT
15 OFFICER, a city or town council or any other appropriate independent
16 personnel board conducted under this section, the employee, former
17 employee, employee alleged to have committed the prohibited personnel
18 practice pursuant to subsection A of this section and employer may be
19 represented by counsel. In addition, representation by counsel in such
20 hearings shall meet any other requirements stipulated by the state
21 personnel board, a school district governing board, a community college
22 district governing board, a city or town council or any other appropriate
23 independent personnel board or as required by law.

24 K. An employee or former employee may also seek injunctive relief
25 as is otherwise available in civil actions. A court may award reasonable
26 attorney fees to an employee or former employee who prevails in an action
27 pursuant to this section, but the award of attorney fees shall not exceed
28 \$10,000.

29 L. This section ~~shall~~ DOES not ~~be construed to~~ limit or extend the
30 civil or criminal liability of an employee or former employee for any
31 disclosure of information or ~~to~~ limit an employee's right to a separate
32 pretermination hearing with the employee's employer, as provided by law.

33 M. An employee who knowingly makes a false accusation that a public
34 officer or employee who has control over personnel actions has engaged in
35 a violation of any law, mismanagement, a gross waste of monies or an abuse
36 of authority is personally subject to a civil penalty of up to \$25,000 and
37 dismissal from employment by the employer.

38 Sec. 2. Title 38, chapter 3, article 9, Arizona Revised Statutes,
39 is amended by adding section 38-535, to read:

40 38-535. Law enforcement officers; attorney general
41 investigations

42 NOTWITHSTANDING ANY OTHER LAW, THE ATTORNEY GENERAL SHALL
43 INVESTIGATE ALLEGED VIOLATIONS OF THIS ARTICLE RELATED TO LAW ENFORCEMENT
44 OFFICERS.