

REFERENCE TITLE: special actions; public participation; postconviction

State of Arizona  
House of Representatives  
Fifty-seventh Legislature  
First Regular Session  
2025

## **HB 2633**

Introduced by  
Representatives Kolodin: Keshel, Kupper

AN ACT

AMENDING SECTION 12-751, ARIZONA REVISED STATUTES; AMENDING TITLE 13, CHAPTER 38, ARTICLE 29, ARIZONA REVISED STATUTES, BY ADDING SECTION 13-4242; RELATING TO REMEDIES.

(TEXT OF BILL BEGINS ON NEXT PAGE)

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

2 Section 1. Section 12-751, Arizona Revised Statutes, is amended to  
3 read:

4 12-751. Strategic actions against public participation;  
5 motion to dismiss or quash or for summary judgment;  
6 definitions

7 A. In any legal action that involves a person's lawful exercise of  
8 the right of petition, the right of speech, the freedom of the press, the  
9 right to freely associate, **THE RIGHT TO RELIGIOUS LIBERTY** or the right to  
10 peaceably assemble pursuant to the United States Constitution or Arizona  
11 Constitution, **OR WHICH OTHERWISE IMPLICATES A PERSON'S FREEDOM TO HOLD OR**  
12 **EXPRESS POLITICAL OR RELIGIOUS VIEWS OR ENGAGE IN POLITICALLY RELATED**  
13 **ADVOCACY WITHOUT FEAR OF RETALIATION**, the person other than a state actor  
14 or an intervenor may file a motion to dismiss, ~~or~~ quash **OR OBTAIN SUMMARY**  
15 **JUDGMENT IN** the action under this section, **EXCEPT THAT REMEDIES FOR A**  
16 **VIOLATION OF THIS SECTION WITH RESPECT TO LEGAL ACTIONS SET FORTH IN**  
17 **SUBSECTION L, PARAGRAPH 1, SUBDIVISION (a), ITEM (ii) OF THIS SECTION**  
18 **SHALL BE AS SET FORTH IN SECTION 13-4242.**

19 B. A person who files a motion pursuant to subsection A of this  
20 section, **OR WHO FILES A PETITION FOR POSTCONVICTION RELIEF AS SET FORTH IN**  
21 **SECTION 13-4242**, has the burden of establishing prima facie proof that **A**  
22 **SUBSTANTIAL MOTIVATION FOR** the legal action was ~~substantially motivated by~~  
23 a desire to deter, retaliate against or prevent ~~the lawful exercise of a~~  
24 ~~constitutional right~~ **ANY PERSON FROM HOLDING OR EXPRESSING POLITICAL OR**  
25 **RELIGIOUS VIEWS, FROM FREE POLITICAL ASSOCIATION OR FROM ENGAGING IN**  
26 **POLITICALLY RELATED ADVOCACY WITHOUT FEAR OF RETALIATION OR FROM THE**  
27 **LAWFUL EXERCISE OF ANY CONSTITUTIONAL RIGHT.** The moving person may submit  
28 evidence based on the record, a sworn affidavit or other evidence that is  
29 submitted with the motion ~~to dismiss or quash~~ **OR PETITION FOR**  
30 **POSTCONVICTION RELIEF.** A party is not required to file a response to a  
31 motion filed pursuant to subsection A of this section unless and until the  
32 court finds that the moving party has established the prima facie proof  
33 and orders the party to file a response. The court shall grant the motion  
34 unless one of the following applies:

35 1. If the responding party is a state actor, the responding party  
36 shows that the legal action on which the motion **OR PETITION FOR**  
37 **POSTCONVICTION RELIEF** is based is justified by clearly established law and  
38 that the responding party did not act ~~in order~~ **WITH A SUBSTANTIAL MOTIVE**  
39 to deter, **RETALIATE AGAINST OR** prevent ~~or retaliate against the moving~~  
40 ~~party's exercise of constitutional rights~~ **ANY PERSON FROM HOLDING OR**  
41 **EXPRESSING POLITICAL OR RELIGIOUS VIEWS, FROM FREE POLITICAL ASSOCIATION**  
42 **OR FROM ENGAGING IN POLITICALLY RELATED ADVOCACY WITHOUT FEAR OF**  
43 **RETALIATION.** A state actor may satisfy the requirements of this paragraph  
44 by doing any of the following:

1 (a) Establishing that the person who initiated and conducted an  
2 investigation that resulted in the legal action and ~~that~~ WHO made the  
3 decision to pursue the legal action was unaware of the movant's lawful  
4 exercise of the constitutional right OR POLITICAL BELIEFS OR ADVOCACY.

5 ~~(b) Establishing that the state actor has a consistent practice of~~  
6 ~~pursuing similar legal actions against similarly situated persons who did~~  
7 ~~not lawfully exercise constitutional rights.~~

8 ~~(c)~~ (b) Producing any other evidence that the court finds  
9 sufficient TO ESTABLISH THAT THE STATE ACTOR DID NOT ACT WITH A  
10 SUBSTANTIAL MOTIVE TO DETER, RETALIATE AGAINST OR PREVENT ANY PERSON FROM  
11 HOLDING OR EXPRESSING POLITICAL OR RELIGIOUS VIEWS, FROM FREE POLITICAL  
12 EXPRESSION OR FROM ENGAGING IN POLITICALLY RELATED ADVOCACY WITHOUT FEAR  
13 OF RETALIATION.

14 2. If the responding party is not a state actor, the responding  
15 party shows that the legal action on which the motion is based is  
16 justified by existing law or supported by a reasonable argument for  
17 extending or modifying existing law.

18 C. In making its determination, the court shall conduct an  
19 evidentiary hearing or consider the pleadings and supporting and opposing  
20 affidavits stating facts on which the liability, defense or action is  
21 based.

22 D. The motion ~~to dismiss or quash~~ may be filed within sixty days  
23 after the service of the complaint or other document on which the motion  
24 is based, AT ANY LATER TIME WITHIN SIXTY DAYS AFTER ACTUAL NOTICE OF A  
25 PARTY'S MISCONDUCT or, in the court's discretion, at any later time on  
26 terms that the court deems proper, ~~including a later time after there is~~  
27 ~~actual notice of a party's misconduct.~~ If the court finds that prima  
28 facie proof has been established as prescribed in subsection B of this  
29 section, the court, if possible, shall conduct an expedited hearing on the  
30 motion.

31 E. Unless a court rule specifically provides otherwise, all  
32 discovery proceedings in the action shall be stayed on a finding of prima  
33 facie proof as prescribed in subsection B of this section. The stay of  
34 discovery shall remain in effect until notice of entry of the order ruling  
35 on the motion. Notwithstanding this subsection, the court, on noticed  
36 motion and for good cause shown, may order that specified discovery be  
37 conducted.

38 F. If the court grants the motion ~~to dismiss or quash~~, the court  
39 may award the moving party costs and reasonable attorney fees, including  
40 those incurred for the motion, AND SHALL AWARD COSTS AND REASONABLE  
41 ATTORNEY FEES IF THE NONMOVING PARTY IS A STATE ACTOR. If the court finds  
42 that a motion ~~to dismiss or quash~~ FILED PURSUANT TO THIS SECTION is  
43 frivolous or solely intended to delay, the court shall award costs and  
44 reasonable attorney fees to the prevailing party on the motion UNLESS THE  
45 PREVAILING PARTY IS A STATE ACTOR. For the purposes of this subsection,

1 "costs" means all costs that are reasonably incurred and includes filing  
2 fees, record preparation and document copying fees, documented time away  
3 from employment to confer with counsel or attend case related proceedings,  
4 expert witness fees, travel expenses and any other costs that the court  
5 deems appropriate.

6 G. If the court denies the motion ~~to dismiss or quash~~, the denial  
7 and the court's findings in support of the denial are not admissible in  
8 evidence at any later stage of the case, or in any subsequent action, and  
9 the burden of proof or degree of proof that is otherwise applicable is not  
10 affected by the findings in any later stage of the case or in any  
11 subsequent proceeding.

12 H. If the court determines that the moving party has established  
13 prima facie proof as prescribed in subsection B of this section, an order  
14 granting or denying a motion filed pursuant to this section is appealable  
15 pursuant to section 12-2101.

16 I. A STATE ACTOR IS LIABLE FOR INTENTIONALLY BRINGING OR  
17 MAINTAINING, CONSPIRING TO BRING OR MAINTAIN OR AIDING AND ABETTING THE  
18 PURSUIT OR MAINTENANCE OF A LEGAL ACTION WHEN A SUBSTANTIAL MOTIVATION FOR  
19 THE STATE ACTOR IS A DESIRE TO DETER, RETALIATE AGAINST OR PREVENT ANY  
20 PERSON FROM HOLDING OR EXPRESSING POLITICAL OR RELIGIOUS VIEWS, FROM FREE  
21 POLITICAL ASSOCIATION OR FROM ENGAGING IN POLITICALLY RELATED ADVOCACY.  
22 IN AN ACTION BROUGHT PURSUANT TO THIS SUBSECTION:

23 1. THE ACTION SHALL BE COMMENCED WITHIN FOUR YEARS AFTER THE  
24 CONCLUSION OF THE UNDERLYING ACTION.

25 2. EACH PARTY HAS THE RIGHT TO A TRIAL BY JURY, IF DEMANDED.

26 3. IT IS NOT A DEFENSE TO THE ACTION THAT EITHER:

27 (a) THE UNDERLYING LEGAL ACTION RESULTED IN AN ADVERSE JUDGMENT,  
28 DECISION, OPINION, VERDICT, RULING OR OTHER ADVERSE ACTION AGAINST THE  
29 PERSON WHOSE RIGHTS WERE VIOLATED.

30 (b) A MOTION FILED PURSUANT TO SUBSECTION A OF THIS SECTION WAS NOT  
31 BROUGHT IN THE UNDERLYING LEGAL ACTION. IF A MOTION FILED PURSUANT TO  
32 SUBSECTION A OF THIS SECTION WAS MADE IN THE UNDERLYING LEGAL ACTION AND  
33 WAS UNSUCCESSFUL, THE COURT, IN ITS DISCRETION, MAY ALLOW A JURY TO  
34 CONSIDER THIS FACT BUT THE DISPOSITION OF THE MOTION IS NOT BINDING ON THE  
35 JURY.

36 4. A PREVAILING PARTY IS ENTITLED TO DECLARATORY RELIEF, NOMINAL  
37 DAMAGES, COMPENSATORY DAMAGES, ATTORNEY FEES AND COSTS AND VACATUR AND THE  
38 SEALING OF ANY ADVERSE JUDGMENTS, DECISIONS, OPINIONS, VERDICTS, RULINGS  
39 OR OTHER DISPOSITIONS IN THE UNDERLYING ACTION.

40 5. IF AN INDIVIDUAL IS FOUND LIABLE, THE INDIVIDUAL MAY NOT BE  
41 INDEMNIFIED BY THIS STATE OR A POLITICAL SUBDIVISION OF THIS STATE OR THE  
42 STATE'S OR POLITICAL SUBDIVISION'S INSURER.

43 6. A PEACE OFFICER IS IMMUNE FROM LIABILITY UNDER THIS SECTION.

44 7. NOTWITHSTANDING ANY OTHER PROVISION OF THIS SUBSECTION, THE  
45 EXCLUSIVE MEANS OF REDRESS FOR A VIOLATION OF THIS SECTION WITH RESPECT TO

1 LEGAL ACTIONS SET FORTH IN SUBSECTION L, PARAGRAPH 1, SUBDIVISION (a),  
2 ITEM (ii) OF THIS SECTION SHALL BE AS SET FORTH IN SECTION 13-4242.

3 ~~J.~~ J. EXCEPT AS OTHERWISE PROVIDED IN THIS SECTION, this article  
4 does not:

5 1. Affect, limit or preclude the right of the moving party to any  
6 remedy otherwise authorized by law.

7 2. Create any privileges or immunities or otherwise affect, limit  
8 or preclude any privileges or immunities authorized by law.

9 3. Limit or preclude a legislative or executive body or a public  
10 agency from enforcing the rules of procedure and rules of order of the  
11 body or agency.

12 K. THIS SECTION IS INTENDED TO PREVENT THE GOVERNMENT FROM BEING  
13 USED AS A TOOL TO CHILL THE ADOPTION OR EXPRESSION OF, OR ADVOCACY FOR,  
14 UNPOPULAR POLITICAL OR RELIGIOUS BELIEFS OR POSITIONS AND SHALL BE  
15 LIBERALLY CONSTRUED TO EFFECTUATE THIS PURPOSE.

16 ~~L.~~ L. For the purposes of this section:

17 1. "Legal action":

18 (a) Means any of the following:

19 (i) Any civil action, claim, cross-claim or counterclaim for  
20 damages other than nominal damages.

21 (ii) Any criminal prosecution, except for a drug trafficking  
22 offense included in title 13, chapter 34 or 34.1, ~~a riot~~ or a serious  
23 offense or violent or aggravated felony as defined in section 13-706.

24 (iii) Any written investigative demand pursuant to section  
25 38-431.06 or other compulsory legal process or any regulatory or  
26 administrative action by a state actor.

27 (b) Does not include a motion filed pursuant to subsection A of  
28 this section.

29 2. "State actor" means any of the following:

30 (a) This state and any county, city, town or political subdivision  
31 of this state AND THE UNITED STATES, TO THE MAXIMUM EXTENT PERMITTED UNDER  
32 THE UNITED STATES CONSTITUTION AND THE ARIZONA CONSTITUTION.

33 (b) Any branch, department, board, bureau, commission, council,  
34 PROFESSIONAL OR OCCUPATIONAL LICENSING OR REGULATORY ORGANIZATION IN WHICH  
35 MEMBERSHIP IS MANDATORY FOR INDUSTRY PARTICIPANTS or committee of an  
36 entity included in subdivision (a) of this paragraph.

37 (c) Any officer, employee or other agent of an entity included in  
38 subdivision (a) of this paragraph who is acting in the officer's,  
39 employee's or agent's official capacity.

40 Sec. 2. Title 13, chapter 38, article 29, Arizona Revised Statutes,  
41 is amended by adding section 13-4242, to read:

42 13-4242. Postconviction relief for criminal political  
43 prosecution; definitions

44 A. NOTWITHSTANDING ANY OTHER LAW, A DEFENDANT WHO HAS BEEN  
45 CONVICTED OF A CRIMINAL OFFENSE IN A LEGAL ACTION COMMENCED OR MAINTAINED

1 IN VIOLATION OF SECTION 12-751 AND WHO IS AN ELIGIBLE PETITIONER MAY FILE  
2 A PETITION FOR POSTCONVICTION RELIEF PURSUANT TO THIS SECTION AND SECTION  
3 13-4231, PARAGRAPH 2, EXCEPT THAT RELIEF MAY NOT BE PRECLUDED FOR THE  
4 FAILURE TO TIMELY RAISE THE ISSUE OR ON THE GROUNDS THAT THE ACCUSED  
5 CONSENTED TO JURISDICTION OF THE COURT.

6 B. A DEFENDANT WHO OBTAINS RELIEF PURSUANT TO SECTION 12-751 AND  
7 THIS SECTION SHALL HAVE THE CONVICTION SET ASIDE AND SHALL BE AWARDED  
8 REASONABLE ATTORNEY FEES AND COSTS INCURRED IN DEFENDING AGAINST THE LEGAL  
9 ACTION AND BRINGING AND MAINTAINING THE PETITION FOR POSTCONVICTION  
10 RELIEF, INCLUDING ANY FEES AND COSTS INCURRED ON APPEAL.

11 C. TO BE ELIGIBLE FOR RELIEF UNDER THIS SECTION, A DEFENDANT SHALL  
12 FILE A NOTICE WITH THE COURT WITHIN THIRTY DAYS AFTER THE DATE OF  
13 SENTENCING INDICATING AN INTENT TO REQUEST POSTCONVICTION RELIEF BY REASON  
14 THAT THE DEFENDANT WAS CONVICTED IN AN ACTION BROUGHT OR MAINTAINED IN  
15 VIOLATION OF SECTION 12-751.

16 D. WITHIN SIXTY DAYS AFTER THE FILING OF THE NOTICE UNDER  
17 SUBSECTION C OF THIS SECTION, THE COURT SHALL HOLD A HEARING TO DETERMINE  
18 WHETHER THE DEFENDANT QUALIFIES AS AN ELIGIBLE PETITIONER. IF THE COURT  
19 FINDS THAT THE DEFENDANT IS AN ELIGIBLE PETITIONER, THE DEFENDANT SHALL BE  
20 ALLOWED TO PROCEED WITH THE PETITION FOR POSTCONVICTION RELIEF.

21 E. THIS SECTION SHALL BE LIBERALLY CONSTRUED TO EFFECTUATE ITS  
22 PURPOSES, WHICH INCLUDE THE PROTECTION OF INDIVIDUALS WHO HAVE BEEN  
23 SUBJECTED TO POLITICAL PROSECUTIONS AND THE PRESERVATION OF THE INTEGRITY  
24 OF THE CRIMINAL JUSTICE SYSTEM.

25 F. FOR THE PURPOSES OF THIS SECTION:

26 1. "ELIGIBLE PETITIONER" MEANS AN INDIVIDUAL WHO WAS, AT THE TIME  
27 OF ARREST, ONE OR MORE OF THE FOLLOWING:

28 (a) A CURRENT OR FORMER PUBLIC OFFICIAL, INCLUDING A PRECINCT  
29 COMMITTEEMAN.

30 (b) A CURRENT OR FORMER CANDIDATE FOR PUBLIC OFFICE, INCLUDING A  
31 PRECINCT COMMITTEEMAN.

32 (c) A CURRENT OR FORMER OFFICER OF A NONPROFIT ORGANIZATION,  
33 POLITICAL ACTION COMMITTEE OR RECOGNIZED POLITICAL PARTY.

34 (d) A CURRENT OR FORMER PUBLIC FIGURE AS THAT TERM IS DEFINED AT  
35 COMMON LAW.

36 (e) A CURRENT OR FORMER POLICE OFFICER.

37 (f) A CURRENT OR FORMER PARTICIPANT IN A PROTEST WHERE THE  
38 INDIVIDUAL'S ARREST WAS RELATED TO THE INDIVIDUAL'S INVOLVEMENT IN THE  
39 PROTEST.

40 (g) AN AGENT, EMPLOYEE OR ATTORNEY OF ANY PERSON SET FORTH ABOVE OF  
41 A NONPROFIT ORGANIZATION, POLITICAL ACTION COMMITTEE OR RECOGNIZED  
42 POLITICAL PARTY.

43 2. "LEGAL ACTION" HAS THE SAME MEANING PRESCRIBED IN SECTION  
44 12-751.

1           Sec. 3. Legislative intent

2           The legislature intends that the change made to the definition of  
3 state actor in section 12-751, subsection L, paragraph 2, Arizona Revised  
4 Statutes, is to clarify the definition and is not intended to be a  
5 substantive change.

6           Sec. 4. Legislative findings

7           The legislature finds that:

8           1. Systemic issues with current law render our current system of  
9 justice unworthy of the fairness that we demand as Arizonans.

10           2. State and federal statutes, rules, laws and regulations are so  
11 numerous, broad and expansive that they allow for virtually any person to  
12 be targeted by the government for their violation. Once targeted,  
13 sentencing rules do not allow for the appropriate degree of judicial  
14 discretion. Legal ambiguity in sentencing orders threatens to further  
15 compound this problem.

16           3. Our judicial system requires additional adjustments to ensure  
17 procedural fairness.

18           Sec. 5. Severability

19           If a provision of this act or its application to any person or  
20 circumstance is held invalid, the invalidity does not affect other  
21 provisions or applications of the act that can be given effect without the  
22 invalid provision or application, and to this end the provisions of this  
23 act are severable.

24           Sec. 6. Short title

25           This act may be cited as the "Justice For All Act".