

Senate Engrossed

FILED

**KEN BENNETT
SECRETARY OF STATE**

State of Arizona
Senate
Fiftieth Legislature
First Regular Session
2011

CHAPTER 244

SENATE BILL 1057

AN ACT

AMENDING SECTION 38-1104, ARIZONA REVISED STATUTES; RELATING TO LAW
ENFORCEMENT OFFICERS.

(TEXT OF BILL BEGINS ON NEXT PAGE)

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

2 Section 1. Section 38-1104, Arizona Revised Statutes, is amended to
3 read:

4 38-1104. Discipline of law enforcement officers; definitions

5 A. A law enforcement officer shall not be subject to disciplinary
6 action except for just cause.

7 B. Subsection A of this section does not apply to any law enforcement
8 officer who has not completed an initial probationary period if a
9 probationary period is required by the employer or to a dismissal that is for
10 administrative purposes, including a reduction in force.

11 C. This section does not preempt agreements that supplant, revise or
12 otherwise alter the provisions of this section, including preexisting
13 agreements, between the employer and the law enforcement officer's lawful
14 representative association.

15 D. IF A LAW ENFORCEMENT OFFICER IS TERMINATED AS THE RESULT OF A CHIEF
16 OF THE LAW ENFORCEMENT AGENCY OR THE CHIEF EXECUTIVE OFFICER OF A CITY OR
17 TOWN REVERSING THE DECISION OR RECOMMENDATION OF A CIVIL SERVICE BOARD OR
18 MERIT COMMISSION, THE LAW ENFORCEMENT OFFICER WHO BELIEVES THE TERMINATION
19 WAS WITHOUT JUST CAUSE MAY BRING AN ACTION IN SUPERIOR COURT FOR A NEW
20 HEARING ON THE TERMINATION.

21 E. IF A LAW ENFORCEMENT OFFICER IS TERMINATED BY THE CHIEF OF THE LAW
22 ENFORCEMENT AGENCY OR CHIEF EXECUTIVE OFFICER OF A CITY OR TOWN WHERE THERE
23 IS NOT A CIVIL SERVICE BOARD OR MERIT COMMISSION TO REVIEW THE TERMINATION,
24 THE LAW ENFORCEMENT OFFICER MAY BRING AN ACTION IN SUPERIOR COURT TO REVIEW
25 THE AGENCY'S FILE. IF THE COURT FINDS FROM A REVIEW OF THE FILE THAT JUST
26 CAUSE FOR THE TERMINATION DID NOT EXIST, THE OFFICER IS ENTITLED TO A HEARING
27 ON THE TERMINATION.

28 F. IF THE SUPERIOR COURT FINDS THAT JUST CAUSE FOR THE TERMINATION DID
29 NOT EXIST, THE COURT SHALL ORDER THE OFFICER REINSTATED TO THE OFFICER'S
30 PREVIOUS POSITION WITH THE LAW ENFORCEMENT AGENCY AND MAY AWARD TO THE LAW
31 ENFORCEMENT OFFICER MONETARY DAMAGES THAT SHALL NOT EXCEED THE OFFICER'S
32 COMBINED TOTAL OF WAGES AND BENEFITS LOST AS A RESULT OF THE TERMINATION.

33 G. IN AN ACTION PURSUANT TO SUBSECTION D OR E OF THIS SECTION THE
34 COURT MAY AWARD THE SUCCESSFUL PARTY REASONABLE ATTORNEY FEES AS SET FORTH IN
35 SECTION 12-341.01, SUBSECTION B AND SHALL AWARD THE SUCCESSFUL PARTY ALL
36 COSTS PURSUANT TO SECTION 12-341.

37 ~~D.~~ H. For the purposes of this section:

38 1. "Disciplinary action" has the same meaning prescribed in section
39 38-1101.

40 2. "Just cause" means:

41 (a) The employer informed the officer of the possible disciplinary
42 action resulting from the officer's conduct through agency manuals, employee
43 handbooks, the employer's rules and regulations or other communications to
44 the officer or the conduct was such that the officer should have reasonably
45 known disciplinary action could occur.

1 (b) The disciplinary action is reasonably related to the standards of
2 conduct for a professional law enforcement officer, the mission of the
3 agency, the orderly, efficient or safe operation of the agency or the
4 officer's fitness for duty.

5 (c) The discipline is supported by a preponderance of evidence that
6 the conduct occurred.

7 (d) The discipline is not excessive and is reasonably related to the
8 seriousness of the offense and the officer's service record.

9 3. "Law enforcement officer" means:

10 (a) An individual who is certified by the Arizona peace officer
11 standards and training board, other than a person employed by a multi-county
12 water conservation district, a reserve police officer, a volunteer or a
13 person who is otherwise exempted by an existing merit system.

14 (b) A correction officer or detention officer, excluding a juvenile
15 detention officer, who is employed by this state or a political subdivision
16 of this state.

17 (c) A regularly appointed and paid deputy sheriff of a county.

18 (d) A regularly employed police officer in a city or town.

APPROVED BY THE GOVERNOR APRIL 26, 2011.

FILED IN THE OFFICE OF THE SECRETARY OF STATE APRIL 26, 2011.

Passed the House April 19, 2011,

Passed the Senate March 9, 2011,

by the following vote: 59 Ayes,

by the following vote: 29 Ayes,

0 Nays, 1 Not Voting

0 Nays, 1 Not Voting

[Signature]
Speaker of the House

[Signature]
President of the Senate

[Signature]
Chief Clerk of the House

[Signature]
Secretary of the Senate

EXECUTIVE DEPARTMENT OF ARIZONA
OFFICE OF GOVERNOR

This Bill was received by the Governor this
19 day of April, 2011,

at 4:20 o'clock P. M.

[Signature]
Secretary to the Governor

Approved this 26th day of

April, 2011,

at 10:56 o'clock A. M.

[Signature]
Governor of Arizona

EXECUTIVE DEPARTMENT OF ARIZONA
OFFICE OF SECRETARY OF STATE

This Bill was received by the Secretary of State
this 26th day of April, 2011,

at 2:55 o'clock P. M.

[Signature]
Secretary of State

S.B. 1057