

REFERENCE TITLE: employer protections; labor relations

State of Arizona
Senate
Fiftieth Legislature
First Regular Session
2011

SB 1363

Introduced by
Senator Antenori; Representatives Gowan, Harper, Montenegro, Stevens;
Senators Crandall, Driggs, Klein, Reagan, Shooter, Smith; Representatives
Dial, McLain, Vogt

AN ACT

AMENDING SECTIONS 12-1809, 12-1810, 23-352, 23-1321, 23-1322, 23-1323 AND
23-1324, ARIZONA REVISED STATUTES; AMENDING TITLE 23, CHAPTER 8, ARTICLE 2,
ARIZONA REVISED STATUTES, BY ADDING SECTIONS 23-1325, 23-1326, 23-1327,
23-1328 AND 23-1329; RELATING TO LABOR RELATIONS.

(TEXT OF BILL BEGINS ON NEXT PAGE)

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

2 Section 1. Section 12-1809, Arizona Revised Statutes, is amended to
3 read:

4 12-1809. Injunction against harassment: petition: venue: fees:
5 notices: enforcement: definition

6 A. A person may file a verified petition with a magistrate, justice of
7 the peace or superior court judge for an injunction prohibiting harassment.
8 If the person is a minor, the parent, legal guardian or person who has legal
9 custody of the minor shall file the petition unless the court determines
10 otherwise. The petition shall name the parent, guardian or custodian as the
11 plaintiff, and the minor is a specifically designated person for the purposes
12 of subsection F of this section. If a person is either temporarily or
13 permanently unable to request an injunction, a third party may request an
14 injunction on behalf of the plaintiff. After the request, the judicial
15 officer shall determine if the third party is an appropriate requesting party
16 for the plaintiff. Notwithstanding the location of the plaintiff or
17 defendant, any court in this state may issue or enforce an injunction against
18 harassment.

19 B. An injunction against harassment shall not be granted:

20 1. Unless the party who requests the injunction files a written
21 verified petition for injunction.

22 2. Against a person who is less than twelve years of age unless the
23 injunction is granted by the juvenile division of the superior court.

24 3. Against more than one defendant.

25 C. The petition shall state all of the following:

26 1. The name of the plaintiff. The plaintiff's address shall be
27 disclosed to the court for purposes of service. If the address of the
28 plaintiff is unknown to the defendant, the plaintiff may request that the
29 address be protected. On the plaintiff's request, the address shall not be
30 listed on the petition. Whether the court issues an injunction against
31 harassment, the protected address shall be maintained in a separate document
32 or automated database and is not subject to release or disclosure by the
33 court or any form of public access except as ordered by the court.

34 2. The name and address, if known, of the defendant.

35 3. A specific statement showing events and dates of the acts
36 constituting the alleged harassment.

37 4. The name of the court in which there was or is any prior or pending
38 proceeding or order concerning the conduct that is sought to be restrained.

39 5. The relief requested.

40 D. A fee shall not be charged for filing a petition under this
41 section. Fees for service of process may be deferred or waived under any
42 rule or law applicable to civil actions, except that fees for service of
43 process shall not be charged if the petition arises out of a dating
44 relationship. The court shall advise a plaintiff that the plaintiff may be
45 eligible for the deferral or waiver of these fees at the time the plaintiff

1 files a petition. The court shall not require the petitioner to perform
2 community restitution as a condition of the waiver or deferral of fees for
3 service of process. A law enforcement agency or constable shall not require
4 the advance payment of fees for service of process of injunctions against
5 harassment. If the court does not waive the fees, the serving agency may
6 assess the actual fees against the plaintiff. On request of the plaintiff,
7 an injunction against harassment that is issued by a municipal court may be
8 served by the police agency for that city if the defendant can be served
9 within the city. If the defendant cannot be served within the city, the
10 police agency in the city in which the defendant can be served may serve the
11 injunction. On request of the plaintiff, each injunction against harassment
12 that is issued by a justice of the peace shall be served by the constable for
13 that jurisdiction if the defendant can be served within the jurisdiction. If
14 the defendant cannot be served within that jurisdiction, the constable in the
15 jurisdiction in which the defendant can be served shall serve the injunction.
16 On request of the plaintiff, an injunction against harassment that is issued
17 by a superior court judge or commissioner may be served by the sheriff of the
18 county. If the defendant cannot be served within that jurisdiction, the
19 sheriff in the jurisdiction in which the defendant can be served may serve
20 the order. The court shall provide, without charge, forms for purposes of
21 this section for assisting parties without counsel.

22 E. The court shall review the petition, any other pleadings on file
23 and any evidence offered by the plaintiff, including any evidence of
24 harassment by electronic contact or communication, to determine whether the
25 injunction requested should issue without a further hearing. Rules 65(a)(1)
26 and 65(e) of the Arizona rules of civil procedure do not apply to injunctions
27 that are requested pursuant to this section. If the court finds reasonable
28 evidence of harassment of the plaintiff by the defendant during the year
29 preceding the filing of the petition or that good cause exists to believe
30 that great or irreparable harm would result to the plaintiff if the
31 injunction is not granted before the defendant or the defendant's attorney
32 can be heard in opposition and the court finds specific facts attesting to
33 the plaintiff's efforts to give notice to the defendant or reasons supporting
34 the plaintiff's claim that notice should not be given, the court shall issue
35 an injunction as provided for in subsection F of this section. If the court
36 denies the requested relief, it may schedule a further hearing within ten
37 days with reasonable notice to the defendant. For the purposes of
38 determining the one year period, any time that the defendant has been
39 incarcerated or out of this state shall not be counted.

40 F. If the court issues an injunction, the court may do any of the
41 following:

42 1. Enjoin the defendant from committing a violation of one or more
43 acts of harassment.

1 affidavit or certificate of service of process or acceptance of service. On
2 receiving these copies, the sheriff shall register the injunction.
3 Registration of an injunction means that a copy of the injunction and a copy
4 of the affidavit or certificate of service of process or acceptance of
5 service have been received by the sheriff's office. The sheriff shall
6 maintain a central repository for injunctions so that the existence and
7 validity of the injunctions can be easily verified. The effectiveness of an
8 injunction does not depend on its registration, and for enforcement purposes
9 pursuant to section 13-2810, a copy of an injunction, whether or not
10 registered, is presumed to be a valid existing order of the court for a
11 period of one year from the date of service of the injunction on the
12 defendant.

13 L. A peace officer, with or without a warrant, may arrest a person if
14 the peace officer has probable cause to believe that the person has violated
15 section 13-2810 by disobeying or resisting an injunction that is issued
16 pursuant to this section, whether or not the violation occurred in the
17 presence of the officer. The provisions for release under section 13-3903 do
18 not apply to an arrest made pursuant to this subsection. A person who is
19 arrested pursuant to this subsection may be released from custody in
20 accordance with the Arizona rules of criminal procedure or any other
21 applicable statute. An order for release, with or without an appearance
22 bond, shall include pretrial release conditions that are necessary to provide
23 for the protection of the alleged victim and other specifically designated
24 persons and may provide for additional conditions that the court deems
25 appropriate, including participation in any counseling programs available to
26 the defendant.

27 M. If a peace officer responds to a call alleging that harassment has
28 been or may be committed, the officer shall inform in writing any alleged or
29 potential victim of the procedures and resources available for the protection
30 of the victim including:

- 31 1. An injunction pursuant to this section.
- 32 2. The emergency telephone number for the local police agency.
- 33 3. Telephone numbers for emergency services in the local community.

34 N. The remedies provided in this section for enforcement of the orders
35 of the court are in addition to any other civil and criminal remedies
36 available. The municipal court and the justice court may hear and decide all
37 matters arising pursuant to this section. After a hearing with notice to the
38 affected party, the court may enter an order requiring any party to pay the
39 costs of the action, including reasonable attorney fees, if any. An order
40 that is entered by a justice court or municipal court after a hearing
41 pursuant to this section may be appealed to the superior court as provided in
42 title 22, chapter 2, article 4, section 22-425, subsection B and the superior
43 court rules of civil appellate procedure without regard to an amount in
44 controversy. No fee may be charged to either party for filing an appeal.

1 O. A peace officer who makes an arrest pursuant to this section is not
2 civilly or criminally liable for the arrest if the officer acts on probable
3 cause and without malice. A peace officer is not civilly liable for
4 noncompliance with subsection M of this section.

5 P. This section does not apply to preliminary injunctions issued
6 pursuant to an action for dissolution of marriage or legal separation or for
7 protective orders against domestic violence.

8 Q. In addition to the persons who are authorized to serve process
9 pursuant to rule 4(d), Arizona rules of civil procedure, a peace officer or a
10 correctional officer as defined in section 41-1661 who is acting in the
11 officer's official capacity may serve an injunction against harassment that
12 is issued pursuant to this section.

13 R. For the purposes of this section, "harassment" means a series of
14 acts over any period of time that is directed at a specific person and that
15 would cause a reasonable person to be seriously alarmed, annoyed or harassed
16 and the conduct in fact seriously alarms, annoys or harasses the person and
17 serves no legitimate purpose. **HARASSMENT INCLUDES UNLAWFUL PICKETING,
18 TRESPASSORY ASSEMBLY, UNLAWFUL MASS ASSEMBLY, CONCERTED INTERFERENCE WITH
19 LAWFUL EXERCISE OF BUSINESS ACTIVITY AND ENGAGING IN A SECONDARY BOYCOTT AS
20 DEFINED IN SECTION 23-1321 AND DEFAMATION IN VIOLATION OF SECTION 23-1325.**

21 Sec. 2. Section 12-1810, Arizona Revised Statutes, is amended to read:
22 **12-1810. Injunction against workplace harassment; definitions**

23 A. An employer or an authorized agent of an employer may file a
24 written verified petition with a magistrate, justice of the peace or superior
25 court judge for an injunction prohibiting workplace harassment.

26 B. The court shall not grant an injunction against workplace
27 harassment against either:

28 1. A person who is under twelve years of age unless the injunction is
29 granted by the juvenile division of the superior court.

30 2. More than one defendant.

31 C. The petition shall state all of the following:

32 1. The name of the employer.

33 2. The name and address, if known, of the defendant.

34 3. A specific statement showing the events and dates of the acts that
35 constitute harassment toward the employer or any person who enters the
36 employer's property or who is performing official work duties.

37 D. The filing fee for a petition that is filed pursuant to this
38 section is established pursuant to sections 12-284, 22-281 and 22-404.

39 E. The court shall review the petition and any evidence offered by the
40 employer to determine whether to issue the injunction without further
41 hearing. Rules 65(a)(1) and 65(e) of the Arizona rules of civil procedure do
42 not apply to injunctions requested pursuant to this section. If the court
43 finds reasonable evidence of workplace harassment by the defendant or that
44 good cause exists to believe that great or irreparable harm would result to
45 the employer or **ANY** other person who enters the employer's property or who is

1 performing official work duties or if the injunction is not granted before
2 the defendant or the defendant's attorney can be heard in opposition and the
3 court finds specific facts that attest to the employer's efforts to give
4 notice to the defendant or reasons supporting the employer's claim that
5 notice should not be given, the court shall issue an injunction pursuant to
6 subsection F of this section. If the court denies the requested relief, the
7 court may schedule a further hearing within ten days with reasonable notice
8 to the defendant.

9 F. If the court grants an injunction against workplace harassment, the
10 court may do any of the following:

11 1. Restrain the defendant from coming near the employer's property or
12 place of business and restrain the defendant from contacting the employer,
13 or other person while that person is on or at the employer's property or
14 place of business or is performing official work duties.

15 2. Grant any other relief necessary for the protection of the
16 employer, the workplace, the employer's employees or any other person who is
17 on or at the employer's property or place of business or who is performing
18 official work duties.

19 G. If the court issues an ex parte injunction pursuant to this
20 section, the injunction shall state on its face that the defendant is
21 entitled to a hearing on written request and shall include the name and
22 address of the judicial office in which the request may be filed. At any
23 time during the period that the injunction is in effect, the defendant may
24 request a hearing. The court shall hold the hearing within ten days after
25 the date of the written request unless the court finds compelling reasons to
26 continue the hearing. The hearing shall be held at the earliest possible
27 time. After the hearing, the court may modify, quash or continue the
28 injunction.

29 H. An injunction against workplace harassment that is issued pursuant
30 to this section shall include the following statement:

31 Warning

32 This is an official court order. If you disobey this order, you
33 may be arrested and prosecuted for the crime of interfering with
34 judicial proceedings and any other crime you may have committed
35 in disobeying this order.

36 I. A copy of the petition and the injunction shall be served on the
37 defendant within one year from the date the injunction is signed. An
38 injunction that is not served on the defendant within one year expires. The
39 injunction is effective on the defendant on service of a copy of the
40 injunction and petition and expires one year after service on the defendant.
41 A modified injunction is effective on service and expires one year after
42 service of the initial injunction and petition.

43 J. Each affidavit, acceptance or return of service shall be filed
44 promptly with the clerk of the issuing court. The filing shall be completed
45 in person, made by fax or postmarked, if sent by mail, no later than the end

1 of the seventh court business day after the date of service. If the filing
2 is made by fax, the original affidavit, acceptance or return of service shall
3 be filed promptly with the court. Within twenty-four hours after the
4 affidavit, acceptance or return of service has been filed, excluding weekends
5 and holidays, the court that issued the injunction shall register a copy of
6 the injunction and a copy of the affidavit of service of process or
7 acceptance of service with the sheriff's office of the county in which the
8 employer is located. A copy of an injunction is presumed to be a valid
9 existing order of the court for one year after the date on which the
10 defendant was served. Any changes or modifications to the injunction are
11 effective on entry by the court and shall be registered with the sheriff
12 within twenty-four hours after the entry, excluding weekends and holidays.

13 K. This section does not:

14 1. Expand, diminish, alter or modify the duty of an employer to
15 provide a safe workplace for its employees and other persons.

16 2. Permit a court to issue a temporary restraining order or injunction
17 that prohibits speech or other activities that are constitutionally protected
18 or otherwise protected by law, including actions involving organized labor
19 disputes **THAT DO NOT INVOLVE UNLAWFUL PICKETING, TRESPASSORY ASSEMBLY,**
20 **UNLAWFUL MASS ASSEMBLY, CONCERTED INTERFERENCE WITH LAWFUL EXERCISE OF**
21 **BUSINESS ACTIVITY AND ENGAGING IN A SECONDARY BOYCOTT AS DEFINED IN SECTION**
22 **23-1321, DEFAMATION IN VIOLATION OF SECTION 23-1325 OR ANY ACTUAL OR**
23 **THREATENED MISREPRESENTATION, FRAUD, DURESS, VIOLENCE OR BREACH OF THE PEACE.**

24 3. Preclude either party from being represented by private counsel or
25 appearing on the party's own behalf.

26 L. When the employer has knowledge that a specific person or persons
27 ~~is~~ **ARE** the target of harassment as defined by this section, the employer
28 shall make a good faith effort to provide notice to the person or persons
29 that the employer intends to petition the court for an injunction against
30 workplace harassment.

31 M. Whether or not a violation occurs in the presence of a peace
32 officer, a peace officer, with or without a warrant, may arrest a person if
33 the peace officer has probable cause to believe that the person has violated
34 section 13-2810 by disobeying or resisting an injunction that was issued
35 pursuant to this section. The release provisions under section 13-3903 do
36 not apply to an arrest made pursuant to this subsection. A person who is
37 arrested pursuant to this subsection may be released from custody pursuant to
38 the Arizona rules of criminal procedure or any applicable statute. The court
39 shall include in an order for release any pretrial release conditions that
40 the court deems appropriate.

41 N. The remedies under this section for the enforcement of protection
42 orders are in addition to any other civil and criminal remedies that are
43 available. The municipal court and the justice court may hear and decide all
44 matters arising pursuant to this section. On notice to the affected party
45 and after a hearing, the court may enter an order that requires any party to

1 pay the costs of the action, including reasonable attorney fees. A party may
2 appeal an order entered by a justice court or municipal court pursuant to
3 section 22-261 or 22-425 and the superior court rules of civil appellate
4 procedure without regard to an amount in controversy.

5 O. A peace officer who makes an arrest pursuant to this section is
6 immune from civil or criminal liability if the officer acts on probable
7 cause.

8 P. An employer is immune from civil liability for seeking or failing
9 to seek an injunction under this section unless the employer is seeking an
10 injunction primarily to accomplish a purpose for which the injunction was not
11 designed. Any action or statement by an employer under this section shall
12 not be deemed an admission by the employer of any fact. An action or
13 statement by an employer under this section may be used for impeachment
14 purposes.

15 Q. In addition to the persons who are authorized to serve process
16 pursuant to rule 4(d), Arizona rules of civil procedure, a peace officer may
17 serve an injunction against workplace harassment pursuant to this section.

18 R. For the purposes of this section:

19 1. "Employer" means an individual, partnership, association or
20 corporation or a person or group of persons who act, directly or indirectly,
21 on behalf of or in the interest of an employer and with the consent of the
22 employer. Employer includes this state, a political subdivision of this
23 state and any school district or other special district.

24 2. "Harassment" means a single threat or act of physical harm or
25 damage or a series of acts over any period of time that would cause a
26 reasonable person to be seriously alarmed or annoyed AND INCLUDES UNLAWFUL
27 PICKETING, TRESPASSORY ASSEMBLY, UNLAWFUL MASS ASSEMBLY, CONCERTED
28 INTERFERENCE WITH LAWFUL EXERCISE OF BUSINESS ACTIVITY AND ENGAGING IN A
29 SECONDARY BOYCOTT AS DEFINED IN SECTION 23-1321 AND DEFAMATION IN VIOLATION
30 OF SECTION 23-1325.

31 Sec. 3. Section 23-352, Arizona Revised Statutes, is amended to read:

32 23-352. Withholding of wages

33 No employer may withhold or divert any portion of an employee's wages
34 unless one of the following applies:

35 1. The employer is required or empowered to do so by state or federal
36 law.

37 2. The employer has prior written authorization from the employee. AN
38 EMPLOYER SHALL NOT WITHHOLD WAGES UNDER A WRITTEN AUTHORIZATION FROM THE
39 EMPLOYEE PAST THE DATE SPECIFIED BY THE EMPLOYEE IN A WRITTEN REVOCATION OF
40 THE AUTHORIZATION, UNLESS THE WITHHOLDING IS TO RESOLVE A DEBT OR OBLIGATION
41 TO THE EMPLOYER OR A COURT ORDERS OTHERWISE.

42 3. There is a reasonable good faith dispute as to the amount of wages
43 due, including the amount of any counterclaim or any claim of debt,
44 reimbursement, recoupment or set-off asserted by the employer against the
45 employee.

1 Sec. 4. Section 23-1321, Arizona Revised Statutes, is amended to read:

2 23-1321. Definitions

3 In this article, unless the context otherwise requires:

4 1. "CONCERTED INTERFERENCE WITH LAWFUL EXERCISE OF BUSINESS ACTIVITY"
5 MEANS TO DO EITHER OF THE FOLLOWING BY THE USE OF FORCE, INTIMIDATION,
6 VIOLENCE, THREATS OF UNLAWFUL ACTIVITY, DESTRUCTION OF THE EMPLOYER'S REAL OR
7 INTANGIBLE PROPERTY, UNLAWFUL ASSEMBLY OR DEFAMATORY STATEMENTS:

8 (a) PREVENT OR ATTEMPT TO PREVENT AN EMPLOYER FROM:

9 (i) LAWFULLY ENGAGING IN ANY PROPER AND LAWFUL BUSINESS ACTIVITY.

10 (ii) PROPERLY, LAWFULLY OR PEACEFULLY USING OR ENJOYING THE EMPLOYER'S
11 PROPERTY THAT IS USED OR USEFUL IN THE CONDUCT OF THE EMPLOYER'S BUSINESS.

12 (iii) ACQUIRING MATERIALS OR SUPPLIES FOR THE PURPOSES OF THE
13 EMPLOYER'S BUSINESS.

14 (iv) DISPOSING OF THE GOODS, WARES OR PRODUCTS OF THE EMPLOYER'S
15 BUSINESS.

16 (b) CAUSE OR INDUCE A BREACH OR TERMINATION OF A KNOWN CONTRACTUAL
17 RELATIONSHIP OR KNOWN BUSINESS EXPECTANCY FOR AN IMPROPER PURPOSE WHICH
18 RESULTS IN DAMAGE TO THE EMPLOYER.

19 ~~1-~~ 2. "Labor organization" means an organization of any kind, or an
20 agency or employee representation committee or plan in which employees
21 participate and which exists for the purpose, in whole or in part, of dealing
22 with employers concerning grievances, labor disputes, wages, rates of pay,
23 hours of employment or other conditions of employment. For the purpose of
24 this article the word "employee" or "employees" does not include persons
25 having supervisory authority, professional or confidential employees, guards
26 or persons employed in personnel departments.

27 ~~2-~~ 3. "Person" includes a natural person, a corporation, association,
28 company, firm or labor organization.

29 ~~3-~~ 4. "Secondary boycott" means:

30 (a) A combination or conspiracy by two or more persons, by a strike,
31 threat to strike, picketing, threat to picket, violence, threat of violence,
32 or by concerted refusal or threat of concerted refusal, to process, install,
33 service, handle, transport or otherwise deal with specified articles,
34 materials or services, to force or require a person to cease or partially to
35 cease processing, installing, servicing, selling, handling or transporting
36 the products of or selling to or otherwise dealing with any other person for
37 the purpose of forcing or requiring such other person to recognize, bargain
38 with or comply with the demands of a labor organization, or for the reason
39 that such other person has in his employ persons who are not members of a
40 labor organization or is not himself a member of a labor organization, or for
41 the reason that such other person uses goods, materials or services
42 considered objectionable by a labor organization.

43 (b) An act, combination or agreement which directly or indirectly
44 causes, induces or compels another to strike, threaten to strike, picket,
45 threaten to picket, commit violence, threaten to commit violence, refuse to

1 or threaten to refuse to process, install, service, handle, transport or
2 otherwise deal with specified articles, materials or services, to force or
3 require a person to cease or partially to cease processing, installing,
4 servicing, selling, handling or transporting the products of, or selling to
5 or otherwise dealing with any other person for the purpose of forcing or
6 requiring such other person to recognize, bargain with or comply with the
7 demands of a labor organization, or for the reason that such other person has
8 in his employ persons who are not members of a labor organization, or is not
9 himself a member of a labor organization, or for the reason that such other
10 person uses goods, materials or services considered objectionable by a labor
11 organization.

12 5. "TRESPASSORY ASSEMBLY" MEANS KNOWINGLY ENTERING OR UNLAWFULLY
13 REMAINING ON ANY PROPERTY IN VIOLATION OF SECTION 13-1502, 13-1503 OR
14 13-1504.

15 6. "UNLAWFUL MASS ASSEMBLY" MEANS A VIOLATION OF SECTION 23-1327.

16 7. "UNLAWFUL PICKETING" MEANS A VIOLATION OF SECTION 23-1322.

17 Sec. 5. Section 23-1322, Arizona Revised Statutes, is amended to read:
18 23-1322. Unlawful picketing

19 A. It is unlawful for a labor organization to picket any establishment
20 unless there exists between the employer and the majority of employees of
21 such establishment a bona fide dispute regarding wages or working conditions.

22 B. IT IS UNLAWFUL FOR A LABOR ORGANIZATION TO ENGAGE IN PICKETING OR
23 TO INDUCE OTHERS TO ENGAGE IN PICKETING IF THE PURPOSE OF THE PICKETING IS TO
24 COERCE OR INDUCE AN EMPLOYER OR SELF-EMPLOYED PERSON TO JOIN OR CONTRIBUTE TO
25 A LABOR ORGANIZATION.

26 Sec. 6. Section 23-1323, Arizona Revised Statutes, is amended to read:
27 23-1323. Injunctive relief; damages

28 A. ~~The picketing of an establishment when a bona fide dispute does not~~
29 ~~exist between the employer and the majority of employees, UNLAWFUL PICKETING,~~
30 ~~TRESPASSORY ASSEMBLY, UNLAWFUL MASS ASSEMBLY, CONCERTED INTERFERENCE WITH~~
31 ~~LAWFUL EXERCISE OF BUSINESS ACTIVITY and engaging in a secondary boycott,~~
32 ~~are illegal and a person against whom such picketing or secondary boycott ANY~~
33 ~~OF THESE ACTIVITIES is directed or who is injured thereby BY THESE ACTIVITIES~~
34 ~~is entitled to injunctive relief therefrom FROM THESE ACTIVITIES. Any person~~
35 ~~or persons calling or conducting illegal picketing or secondary boycott shall~~
36 ~~be ANY OF THESE ACTIVITIES IS liable in damages to any person injured thereby~~
37 ~~BY THESE ACTIVITIES FOR DAMAGES, PREJUDGMENT INTEREST, LITIGATION COSTS AND~~
38 ~~REASONABLE ATTORNEY FEES. THESE DAMAGES INCLUDE LOST SALES AND BUSINESS,~~
39 ~~LOST PROFITS AND LOSS IN VALUE OF THE BUSINESS. IF A PERSON CALLING OR~~
40 ~~CONDUCTING THESE ACTIVITIES ACTED IN BAD FAITH OR DISOBEYED A COURT ORDER,~~
41 ~~INCLUDING AN INJUNCTION ISSUED PURSUANT TO THIS SUBSECTION, THE PERSON IS~~
42 ~~LIABLE FOR PUNITIVE DAMAGES.~~

43 B. Nothing in this article shall be construed to imply the legality of
44 any act or conspiracy illegal under the laws of this state ~~prior to~~ BEFORE
45 November 24, 1952. Any labor organization, subdivision or local thereof

1 shall be bound by and liable for the acts of its agents, and may sue or be
2 sued in its common name.

3 Sec. 7. Section 23-1324, Arizona Revised Statutes, is amended to read:

4 23-1324. Violations; classification

5 A. EXCEPT AS PROVIDED IN SUBSECTION B OF THIS SECTION, any person who
6 violates any provision of this article is guilty of a class 2 misdemeanor AND
7 SHALL PAY A FINE OF NOT LESS THAN TWO HUNDRED DOLLARS.

8 B. A PERSON WHO VIOLATES SECTION 23-1322, 23-1327 OR 23-1328 AT A
9 PROPERTY LISTED ON THE NO TRESPASS PUBLIC NOTICE LIST IS GUILTY OF A CLASS 1
10 MISDEMEANOR AND SHALL PAY A FINE OF NOT LESS THAN TWO HUNDRED DOLLARS.

11 C. Any fine levied PURSUANT TO THIS SECTION shall be recovered by the
12 attorney general or under his direction in the name of the state.

13 Sec. 8. Title 23, chapter 8, article 2, Arizona Revised Statutes, is
14 amended by adding sections 23-1325, 23-1326, 23-1327, 23-1328 and 23-1329, to
15 read:

16 23-1325. Defamation; damages

17 A. A PERSON COMMITS DEFAMATION OF AN EMPLOYER BY DOING ALL OF THE
18 FOLLOWING:

19 1. MALICIOUSLY MAKING A FALSE STATEMENT ABOUT THE EMPLOYER TO A THIRD
20 PARTY WITHOUT PRIVILEGE.

21 2. KNOWINGLY, RECKLESSLY OR NEGLIGENTLY DISREGARDING THE FALSITY OF
22 THE STATEMENT.

23 3. CAUSING DAMAGE TO THE EMPLOYER BY THE FALSE STATEMENT.

24 B. AN EMPLOYER AGAINST WHOM DEFAMATION IS DIRECTED OR WHO IS INJURED
25 BY DEFAMATION MAY OBTAIN INJUNCTIVE RELIEF FROM THE DEFAMATION. A PERSON WHO
26 COMMITS THE DEFAMATION IS LIABLE TO ANY PERSON INJURED BY THE DEFAMATION FOR
27 DAMAGES, PREJUDGMENT INTEREST, ATTORNEY FEES, THE COSTS OF LITIGATION AND
28 PUNITIVE DAMAGES. THE DAMAGES MAY INCLUDE LOST SALES AND BUSINESS, LOST
29 PROFITS AND LOSS IN VALUE OF THE BUSINESS.

30 C. A LABOR UNION OR A SUBDIVISION OR LOCAL CHAPTER OF A LABOR
31 ORGANIZATION IS BOUND BY AND LIABLE FOR THE ACTS OF ITS AGENTS AND MAY SUE OR
32 BE SUED IN ITS COMMON NAME.

33 23-1326. No trespass public notice list; presumption

34 A. THE COUNTY RECORDER SHALL ESTABLISH A NO TRESPASS PUBLIC NOTICE
35 LIST IDENTIFYING EMPLOYERS IN THE COUNTY WHO HAVE ESTABLISHED PRIVATE
36 PROPERTY RIGHTS TO THEIR ESTABLISHMENT AND ANY RELATED REAL PROPERTY IN THE
37 COUNTY.

38 B. TO BE INCLUDED ON THE LIST, AN EMPLOYER SHALL PROVIDE TO THE COUNTY
39 RECORDER COPIES OF APPROPRIATE DOCUMENTS THAT ESTABLISH THE EMPLOYER'S
40 PRIVATE PROPERTY RIGHTS, INCLUDING THE ADDRESS AND LEGAL DESCRIPTION OF THE
41 PROPERTY TO WHICH IT HAS LEGAL CONTROL. AN EMPLOYER THAT RECORDS ITS PRIVATE
42 PROPERTY RIGHTS SHALL PAY A RECORDING FEE DETERMINED BY THE COUNTY RECORDER.

1 C. IF AN EMPLOYER PROVIDES THE DOCUMENTS PRESCRIBED IN SUBSECTION B
2 AND PAYS THE FEE, THE COUNTY RECORDER SHALL LIST THE EMPLOYER AND ITS ADDRESS
3 ON THE NO TRESPASS PUBLIC NOTICE LIST AND SHALL MAINTAIN A COPY OF THE
4 DOCUMENTS FOR PUBLIC INSPECTION.

5 D. BEGINNING JANUARY 15, 2012 AND EVERY JANUARY 15 AND JULY 15
6 THEREAFTER, THE COUNTY RECORDER SHALL:

7 1. PUBLISH THE NO TRESPASS PUBLIC NOTICE LIST AT LEAST ONE DAY A WEEK
8 FOR FOUR CONSECUTIVE WEEKS IN A NEWSPAPER OF GENERAL CIRCULATION IN THE
9 COUNTY. IF THERE IS NO NEWSPAPER OF GENERAL CIRCULATION IN THE COUNTY, THE
10 LIST SHALL BE PUBLISHED IN A NEWSPAPER OF GENERAL CIRCULATION IN AN ADJOINING
11 COUNTY. THE COUNTY RECORDER SHALL MAKE THE LIST ACCESSIBLE TO THE PUBLIC IN
12 THE COUNTY RECORDER'S OFFICE AND SHALL PUBLISH THE LIST ON THE COUNTY
13 RECORDER'S WEBSITE.

14 2. PROVIDE A COPY OF THE NO TRESPASS PUBLIC NOTICE LIST TO EVERY LAW
15 ENFORCEMENT AGENCY IN THE COUNTY.

16 E. PUBLICATION OF THE NO TRESPASS PUBLIC NOTICE LIST AS PRESCRIBED IN
17 SUBSECTION D ESTABLISHES A PRESUMPTION THAT ALL MEMBERS OF THE PUBLIC HAVE
18 NOTICE OF ALL EMPLOYERS AND PROPERTIES SHOWN ON THE LIST.

19 F. EACH LAW ENFORCEMENT AGENCY SHALL MAINTAIN THE MOST RECENT NO
20 TRESPASS PUBLIC NOTICE LIST RECEIVED FROM THE COUNTY RECORDER FOR ITS USE IN
21 RESPONDING TO COMPLAINTS OF UNLAWFUL PICKETING, TRESPASSORY ASSEMBLY OR
22 UNLAWFUL MASS ASSEMBLY. IF A PROPERTY IS IDENTIFIED ON THE LIST, THE
23 RESPONDING PEACE OFFICER MAY NOT REQUIRE THE EMPLOYER TO PROVIDE ANY FURTHER
24 DOCUMENTATION TO ESTABLISH THE EMPLOYER'S PROPERTY RIGHTS BEFORE REQUIRING
25 ANY LABOR ORGANIZATION OR INDIVIDUAL OR GROUPS OF INDIVIDUALS ACTING ON
26 EMPLOYEES' BEHALF THAT ARE ENGAGED IN UNLAWFUL PICKETING, TRESPASSORY
27 ASSEMBLY OR MASS PICKETING TO LEAVE THE EMPLOYER'S PROPERTY OR CEASE FROM
28 BLOCKING INGRESS TO OR EGRESS FROM THE EMPLOYER'S PROPERTY.

29 G. THIS SECTION DOES NOT AFFECT OR LIMIT ANY EXISTING PROPERTY RIGHTS
30 IF A PROPERTY IS NOT INCLUDED ON ANY NO TRESPASS PUBLIC NOTICE LIST.

31 23-1327. Unlawful mass assembly

32 A. A PERSON SHALL NOT DO ANY OF THE FOLLOWING:

33 1. HINDER OR PREVENT THE PURSUIT OF ANY LAWFUL WORK OR EMPLOYMENT BY
34 MASS ASSEMBLY, UNLAWFUL THREATS OR FORCE.

35 2. OBSTRUCT OR INTERFERE WITH ENTRANCE TO OR EGRESS FROM ANY PLACE OF
36 EMPLOYMENT, INCLUDING BY INTENTIONALLY OPERATING A MOTOR VEHICLE SO AS TO
37 DELAY, IMPEDE OR INTERFERE WITH THE ABILITY OF PERSONS OR VEHICLES TO ENTER
38 OR LEAVE ANY PROPERTY.

39 3. OBSTRUCT OR INTERFERE WITH THE FREE AND UNINTERRUPTED USE OF PUBLIC
40 ROADS, STREETS, HIGHWAYS, RAILWAYS, AIRPORTS OR OTHER MEANS OF TRAVEL OR
41 CONVEYANCE.

42 4. USE LANGUAGE OR WORDS THREATENING TO DO HARM TO A PERSON OR THE
43 PERSON'S REAL OR INTANGIBLE PROPERTY OR DESIGNED TO INCITE FEAR IN ANY PERSON
44 ATTEMPTING TO ENTER OR LEAVE ANY PROPERTY.

45 5. ASSEMBLE OTHER THAN IN A REASONABLE AND PEACEFUL MANNER.

1 B. THIS SECTION DOES NOT PROHIBIT ASSEMBLY TO THE EXTENT THAT ASSEMBLY
2 IS AUTHORIZED UNDER THE ARIZONA OR FEDERAL CONSTITUTION OR FEDERAL LAW.
3 23-1328. Trespassory assembly
4 A LABOR ORGANIZATION OR INDIVIDUAL OR GROUP THAT ACTS ON BEHALF OF
5 EMPLOYEES SHALL NOT ENGAGE IN TRESPASSORY ASSEMBLY.
6 23-1329. Publicizing enjoined picketing or assembly:
7 prohibition
8 A PERSON SHALL NOT DECLARE OR PUBLICIZE THE CONTINUED EXISTENCE OF
9 ACTUAL OR CONSTRUCTIVE PICKETING OR ASSEMBLY AT A POINT OR DIRECTED AGAINST A
10 PREMISES, IF A COURT OF COMPETENT JURISDICTION HAS ENJOINED THE CONTINUATION
11 OF THE PICKETING OR ASSEMBLY AT THAT POINT OR PREMISES.