

REFERENCE TITLE: police functions; revocation; officer misconduct

State of Arizona  
House of Representatives  
Fifty-first Legislature  
First Regular Session  
2013

## **HB 2648**

Introduced by  
Representative Ugenti

AN ACT

AMENDING TITLE 9, CHAPTER 4, ARTICLE 8, ARIZONA REVISED STATUTES, BY ADDING SECTION 9-500.32; AMENDING SECTIONS 41-1821, 41-1822 AND 41-1828.01, 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. Title 9, chapter 4, article 8, Arizona Revised Statutes, is  
3 amended by adding section 9-500.32, to read:

4 9-500.32. Revocation of peace officer certification; loss of  
5 authority to establish and regulate police; law  
6 enforcement regulation by county; reimbursement;  
7 reinstatement

8 A. A CITY OR TOWN DOES NOT HAVE THE AUTHORITY PRESCRIBED BY THIS TITLE  
9 TO ESTABLISH, REGULATE, APPOINT OR REMOVE THE POLICE OF THE CITY OR TOWN AND  
10 TO PRESCRIBE THEIR POWERS AND DUTIES IF FIFTY PER CENT OR MORE OF THE CITY'S  
11 OR TOWN'S POLICE OFFICERS HAVE HAD THEIR PEACE OFFICER CERTIFICATIONS REVOKED  
12 BY THE ARIZONA PEACE OFFICER STANDARDS AND TRAINING BOARD, WHICH IS  
13 DETERMINED WHERE THE NUMBER OF POLICE OFFICERS WHOSE CERTIFICATIONS HAVE BEEN  
14 REVOKED OVER ANY CONSECUTIVE FIVE-YEAR PERIOD IS THE NUMERATOR AND THE  
15 AVERAGE NUMBER OF CERTIFIED POLICE OFFICERS EMPLOYED BY THE CITY OR TOWN AS  
16 DETERMINED BY THE CITY OR TOWN POLICE DEPARTMENT'S PEACE OFFICER STANDARDS  
17 TRAINING CERTIFICATION RECORDS OVER THE SAME PERIOD OF TIME IS THE  
18 DENOMINATOR.

19 B. THE ARIZONA PEACE OFFICER STANDARDS AND TRAINING BOARD SHALL  
20 DETERMINE IF FIFTY PER CENT OR MORE OF A CITY'S OR TOWN'S POLICE OFFICERS  
21 CERTIFICATIONS HAVE BEEN REVOKED PURSUANT TO SUBSECTION A OF THIS SECTION AND  
22 NOTIFY THE STATE ATTORNEY GENERAL. THE ATTORNEY GENERAL SHALL CONFIRM THAT  
23 THE PROVISIONS OF SUBSECTION A OF THIS SECTION HAVE BEEN MET. IF THE  
24 PROVISIONS OF SUBSECTION A OF THIS SECTION HAVE BEEN MET, THE ATTORNEY  
25 GENERAL SHALL NOTIFY THE COUNTY BOARD OF SUPERVISORS OF THE COUNTY IN WHICH  
26 THE CITY OR TOWN IS LOCATED. ON AGREEMENT BY THE BOARD OF SUPERVISORS, THE  
27 BOARD, BY MAJORITY VOTE, SHALL NOTIFY THE CITY OR TOWN AND THE CITY OR TOWN  
28 SHALL FORFEIT CONTROL OF THE LAW ENFORCEMENT AUTHORITY OF THE CITY OR TOWN.  
29 THE BOARD OF SUPERVISORS SHALL NOTIFY THE COUNTY SHERIFF OF THE DETERMINATION  
30 AND THE COUNTY SHERIFF SHALL IMMEDIATELY ASSUME THE LAW ENFORCEMENT FUNCTIONS  
31 WITHIN THE CITY OR TOWN.

32 C. WITHIN SIXTY DAYS OF THE BOARD OF SUPERVISOR'S NOTIFICATION TO THE  
33 COUNTY SHERIFF, THE CITY OR TOWN SHALL REIMBURSE THE COUNTY SHERIFF FOR ALL  
34 REASONABLE COSTS FOR PROVIDING SUCH LAW ENFORCEMENT FUNCTIONS WITHIN THE CITY  
35 OR TOWN. THE BOARD OF SUPERVISORS SHALL DETERMINE REASONABLE COSTS BY USING  
36 THE AVERAGE OF THE MONIES BUDGETED FOR LAW ENFORCEMENT FUNCTIONS OVER THE  
37 THREE PREVIOUS FISCAL YEARS. IN ANY YEAR IN WHICH THE COUNTY SHERIFF ASSUMES  
38 THE LAW ENFORCEMENT FUNCTIONS OF THE CITY OR TOWN, THE COUNTY SHERIFF'S COST  
39 SHALL NOT EXCEED THE AVERAGE OF THE MONIES BUDGETED FOR LAW ENFORCEMENT  
40 FUNCTIONS OVER THE THREE PREVIOUS FISCAL YEARS. IF A CITY OR TOWN FAILS TO  
41 REIMBURSE THE COUNTY FOR THE COST OF PROVIDING THE LAW ENFORCEMENT FUNCTIONS,  
42 ON NOTIFICATION BY THE COUNTY, THE STATE TREASURER SHALL WITHHOLD FROM THE  
43 MONIES THAT WOULD OTHERWISE BE DISTRIBUTED TO THE CITY OR TOWN PURSUANT TO  
44 SECTION 42-5029 THE AMOUNT COMPUTED BY THE COUNTY TO PROVIDE THE LAW  
45 ENFORCEMENT FUNCTIONS AND TRANSMIT THESE MONIES TO THE COUNTY.

1 D. WITHIN SIX MONTHS AFTER THE COUNTY SHERIFF HAS ASSUMED THE LAW  
2 ENFORCEMENT FUNCTIONS WITHIN THE CITY OR TOWN, THE SHERIFF, IN CONSULTATION  
3 WITH THE COUNTY BOARD OF SUPERVISORS AND THE CITY OR TOWN, SHALL BEGIN TO  
4 PREPARE A WRITTEN REPORT THAT SHALL INCLUDE AT LEAST:

5 1. THE CAUSES OF THE REVOCATIONS OF PEACE OFFICER CERTIFICATIONS.  
6 2. A COST ANALYSIS FOR THE ASSUMPTION OF THE LAW ENFORCEMENT FUNCTIONS  
7 BY THE CITY OR TOWN.

8 3. A LIST OF TRAINING REQUIREMENTS, POLICIES AND PROCEDURES INTENDED  
9 TO REMEDY THE REASONS FOR REVOCATIONS DETERMINED PURSUANT TO SUBSECTION B OF  
10 THIS SECTION.

11 E. THE COUNTY SHERIFF SHALL FORWARD A COPY OF THE REPORT TO THE  
12 ATTORNEY GENERAL.

13 F. AFTER FIVE YEARS FROM FORFEITING CONTROL OF THE LAW ENFORCEMENT  
14 FUNCTIONS, THE CITY OR TOWN MAY MAKE A REQUEST TO THE BOARD OF SUPERVISORS TO  
15 REINSTATE CONTROL OF THE LAW ENFORCEMENT FUNCTIONS TO THE CITY OR TOWN.  
16 WITHIN SIXTY DAYS AFTER RECEIVING A REQUEST, THE BOARD OF SUPERVISORS SHALL  
17 ACT ON THE MATTER AND IF A MAJORITY VOTE OF THE BOARD AGREES, THE BOARD SHALL  
18 REINSTATE CONTROL OF THE LAW ENFORCEMENT FUNCTIONS BACK TO THE CITY OR TOWN.

19 G. THIS SECTION DOES NOT GIVE A CITY OR TOWN OR A LAW ENFORCEMENT  
20 AGENCY ANY LEGAL INTEREST OR STANDING IN AN ARIZONA PEACE OFFICER STANDARDS  
21 AND TRAINING BOARD PROCEEDING INVOLVING THE CERTIFICATION OF ANY OF THE LAW  
22 ENFORCEMENT AGENCY'S POLICE OFFICERS.

23 Sec. 2. Section 41-1821, Arizona Revised Statutes, is amended to read:  
24 41-1821. Arizona peace officer standards and training board;  
25 membership; appointment; term; vacancies; meetings;  
26 compensation; acceptance of grants

27 A. An Arizona peace officer standards and training board is  
28 established that consists of thirteen members appointed by the governor. The  
29 membership shall include:

30 1. Two sheriffs, one appointed from a county having a population of  
31 ~~two~~ THREE hundred thousand or more persons and the remaining sheriff  
32 appointed from a county having a population of less than ~~two~~ THREE hundred  
33 thousand persons.

34 2. Two chiefs of city police, one appointed from a city having a  
35 population of ~~sixty~~ ONE HUNDRED SEVENTY-FIVE thousand or more persons and the  
36 remaining chief appointed from a city having a population of less than ~~sixty~~  
37 ONE HUNDRED SEVENTY-FIVE thousand persons, as reflected by the most recent  
38 United States decennial census.

39 3. A college faculty member in public administration or a related  
40 field.

41 4. The attorney general.

42 5. The director of the department of public safety.

43 6. The director of the state department of corrections.

1           7. One member who is employed in administering county or municipal  
2       correctional facilities.

3           8. Two certified law enforcement officers with a rank of patrolman or  
4       sergeant, with one appointed from a county sheriff's office and the other  
5       from a city police department.

6           9. Two public members.

7           B. The governor shall appoint a chairman from among the members at its  
8       first meeting and every year thereafter, except that an ex officio member  
9       shall not be appointed chairman. The governor shall not appoint more than  
10      one member from the same law enforcement agency. No board member who was  
11      qualified when appointed becomes disqualified unless the member ceases to  
12      hold the office that qualified the member for appointment.

13          C. Meetings shall be held at least quarterly or ~~upon~~ ON the call of  
14      the chairman or by the written request of five members of the board or by the  
15      governor. A vacancy on the board shall occur when a member except an ex  
16      officio member is absent without the permission of the chairman from three  
17      consecutive meetings. The governor may remove a member except an ex officio  
18      member for cause.

19          D. The term of each regular member ~~shall be~~ IS three years unless a  
20      member vacates the public office ~~which~~ THAT qualified the member for this  
21      appointment.

22          E. The board members are not eligible to receive per diem but are  
23      eligible to receive reimbursement for travel expenses pursuant to title 38,  
24      chapter 4, article 2.

25          F. On behalf of the board, the executive director may seek and accept  
26      contributions, grants, gifts, donations, services or other financial  
27      assistance from any individual, association, corporation or other  
28      organization having an interest in police training, and from the United  
29      States of America and any of its agencies or instrumentalities, corporate or  
30      otherwise. Only the executive director of the board may seek monies pursuant  
31      to this subsection. Such monies shall be deposited in the fund created by  
32      section 41-1825.

33          G. Membership on the board shall not constitute the holding of an  
34      office, and members of the board shall not be required to take and file oaths  
35      of office before serving on the board. No member of the board shall be  
36      disqualified from holding any public office or employment nor shall such  
37      member forfeit any such office or employment by reason of such member's  
38      appointment, notwithstanding the provisions of any general, special or local  
39      law, ordinance or city charter.

40          Sec. 3. Section 41-1822, Arizona Revised Statutes, is amended to read:  
41      41-1822. Powers and duties of board; definition

42          A. With respect to peace officer training and certification, the board  
43      shall:

1           1. Establish rules for the government and conduct of the board,  
2 including meeting times and places and matters to be placed on the agenda of  
3 each meeting.

4           2. Make recommendations, consistent with this article, to the  
5 governor, the speaker of the house of representatives and the president of  
6 the senate on all matters relating to law enforcement and public safety.

7           3. Prescribe reasonable minimum qualifications for officers to be  
8 appointed to enforce the laws of this state and the political subdivisions of  
9 this state and certify officers in compliance with these qualifications.  
10 Notwithstanding any other law, the qualifications shall require United States  
11 citizenship, shall relate to physical, mental and moral fitness and shall  
12 govern the recruitment, appointment and retention of all agents, peace  
13 officers and police officers of every political subdivision of this state.  
14 The board shall constantly review the qualifications established by this  
15 section and may amend the qualifications at any time, subject to the  
16 requirements of section 41-1823.

17           4. Prescribe minimum courses of training and minimum standards for  
18 training facilities for law enforcement officers. Only this state and  
19 political subdivisions of this state may conduct basic peace officer  
20 training. Basic peace officer academies may admit individuals who are not  
21 peace officer cadets only if a cadet meets the minimum qualifications  
22 established by paragraph 3 of this subsection. Training shall include:

23           (a) Courses in responding to and reporting all criminal offenses that  
24 are motivated by race, color, religion, national origin, sexual orientation,  
25 gender or disability.

26           (b) Training certified by the director of the department of health  
27 services with assistance from a representative of the board on the nature of  
28 unexplained infant death and the handling of cases involving the unexplained  
29 death of an infant.

30           (c) Medical information on unexplained infant death for first  
31 responders, including awareness and sensitivity in dealing with families and  
32 child care providers, and the importance of forensically competent death  
33 scene investigations.

34           (d) Information on the protocol of investigation in cases of an  
35 unexplained infant death, including the importance of a consistent policy of  
36 thorough death scene investigation.

37           (e) The use of the infant death investigation checklist pursuant to  
38 section 36-3506.

39           (f) If an unexplained infant death occurs, the value of timely  
40 communication between the medical examiner's office, the department of health  
41 services and appropriate social service agencies that address the issue of  
42 infant death and bereavement, to achieve a better understanding of these  
43 deaths and to connect families to various community and public health support  
44 systems to enhance recovery from grief.

1           5. Recommend curricula for advanced courses and seminars in law  
2 enforcement and intelligence training in universities, colleges and community  
3 colleges, in conjunction with the governing body of the educational  
4 institution.

5           6. Make inquiries to determine whether this state or political  
6 subdivisions of this state are adhering to the standards for recruitment,  
7 appointment, retention and training established pursuant to this article.  
8 The failure of this state or any political subdivision to adhere to the  
9 standards shall be reported at the next regularly scheduled meeting of the  
10 board for action deemed appropriate by that body.

11           7. Employ an executive director and other staff as are necessary to  
12 fulfill the powers and duties of the board in accordance with the  
13 requirements of the law enforcement merit system council.

14           B. With respect to state department of corrections correctional  
15 officers, the board shall:

16           1. Approve a basic training curriculum of at least two hundred forty  
17 hours.

18           2. Establish uniform minimum standards. These standards shall include  
19 high school graduation or the equivalent and a physical examination as  
20 prescribed by the director of the state department of corrections.

21           3. Establish uniform standards for background investigations,  
22 including criminal histories under section 41-1750, of all applicants before  
23 enrolling in the academy. The board may adopt special procedures for  
24 extended screening and investigations in extraordinary cases to ensure  
25 suitability and adaptability to a career as a correctional officer.

26           4. Issue a certificate of completion to any state department of  
27 corrections correctional officer who satisfactorily complies with the minimum  
28 standards and completes the basic training program. The board may issue a  
29 certificate of completion to a state department of corrections correctional  
30 officer who has received comparable training in another state if the board  
31 determines that the training was at least equivalent to that provided by the  
32 academy and if the person complies with the minimum standards.

33           5. Establish continuing training requirements and approve curricula.

34           C. With respect to peace officer misconduct, the board may:

35           1. Receive complaints of peace officer misconduct from any person,  
36 request law enforcement agencies to conduct investigations and conduct  
37 independent investigations into whether an officer is in compliance with the  
38 qualifications established pursuant to subsection A, paragraph 3 of this  
39 section.

40           2. Receive a complaint of peace officer misconduct from the president  
41 or chief executive officer of a board recognized law enforcement association  
42 that represents the interests of certified law enforcement officers if the  
43 association believes that a law enforcement agency refused to investigate or  
44 made findings that are contradictory to prima facie evidence of a violation  
45 of the qualifications established pursuant to subsection A, paragraph 3 of

1 this section. If the board finds that the law enforcement agency refused to  
2 investigate or made findings that contradicted prima facie evidence of a  
3 violation of the qualifications established pursuant to subsection A,  
4 paragraph 3 of this section, the board shall conduct an independent  
5 investigation to determine whether the officer is in compliance with the  
6 qualifications established pursuant to subsection A, paragraph 3 of this  
7 section and provide a letter of the findings based on the investigation  
8 conducted by the board to the president or chief executive officer of the  
9 board recognized law enforcement association who made the complaint.

10 3. RECEIVE A COMPLAINT OF PEACE OFFICER MISCONDUCT FROM A COUNTY  
11 SHERIFF IF THE SHERIFF OF THE COUNTY IN WHICH THE CITY OR TOWN IS LOCATED  
12 BELIEVES THAT THE CITY OR TOWN LAW ENFORCEMENT AGENCY REFUSED TO INVESTIGATE  
13 OR MADE FINDINGS THAT ARE CONTRADICTORY TO PRIMA FACIE EVIDENCE OF A  
14 VIOLATION OF THE QUALIFICATIONS ESTABLISHED PURSUANT TO SUBSECTION A,  
15 PARAGRAPH 3 OF THIS SECTION. IF THE BOARD FINDS THAT THE CITY OR TOWN LAW  
16 ENFORCEMENT AGENCY REFUSED TO INVESTIGATE OR MADE FINDINGS THAT CONTRADICTED  
17 PRIMA FACIE EVIDENCE OF A VIOLATION OF THE QUALIFICATIONS ESTABLISHED  
18 PURSUANT TO SUBSECTION A, PARAGRAPH 3 OF THIS SECTION, THE BOARD SHALL  
19 CONDUCT AN INDEPENDENT INVESTIGATION TO DETERMINE WHETHER THE OFFICER IS IN  
20 COMPLIANCE WITH THE QUALIFICATIONS ESTABLISHED PURSUANT TO SUBSECTION A,  
21 PARAGRAPH 3 OF THIS SECTION AND PROVIDE A LETTER OF THE FINDINGS BASED ON THE  
22 INVESTIGATION CONDUCTED BY THE BOARD TO THE COUNTY SHERIFF WHO MADE THE  
23 COMPLAINT.

24 D. The board may:

25 1. Deny, suspend, revoke or cancel the certification of an officer who  
26 is not in compliance with the qualifications established pursuant to  
27 subsection A, paragraph 3 of this section.

28 2. Provide training and related services to assist state, tribal and  
29 local law enforcement agencies to better serve the public.

30 3. Enter into contracts to carry out its powers and duties.

31 E. This section does not create a cause of action or a right to bring  
32 an action, including an action based on discrimination due to sexual  
33 orientation.

34 F. For the purposes of this section, "sexual orientation" means  
35 consensual homosexuality or heterosexuality.

36 Sec. 4. Section 41-1828.01, Arizona Revised Statutes, is amended to  
37 read:

38 41-1828.01. Required law enforcement agency reporting

39 A. A law enforcement agency ~~may~~ SHALL report to the board any peace  
40 officer misconduct in violation of the rules for retention established  
41 pursuant to section 41-1822, subsection A, paragraph 3 at ~~any time and shall~~  
42 ~~report this misconduct on the peace officer's termination, resignation or~~  
43 ~~separation from the agency~~ THE TIME OF DISCIPLINE.

1           B. On request of a law enforcement agency conducting a background  
2 investigation of an applicant for the position of a peace officer, another  
3 law enforcement agency employing, previously employing or having conducted a  
4 complete or partial background investigation on the applicant shall advise  
5 the requesting agency of any known misconduct in violation of the rules for  
6 retention established pursuant to section 41-1822, subsection A, paragraph 3.  
7           C. Civil liability may not be imposed on either a law enforcement  
8 agency or the board for providing information specified in subsections A and  
9 B of this section if there exists a good faith belief that the information is  
10 accurate.