

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

# HOUSE BILL 2389

AN ACT

AMENDING SECTIONS 11-483, 11-484, 16-153 AND 28-454, ARIZONA REVISED STATUTES; AMENDING TITLE 33, CHAPTER 10, ARTICLE 1, ARIZONA REVISED STATUTES, BY ADDING SECTION 33-1318.01; AMENDING SECTIONS 38-1103, 39-123, 39-124 AND 41-1830.16, 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 11-483, Arizona Revised Statutes, is amended to  
3 read:

4 11-483. Records maintained by county recorder; confidentiality;  
5 definitions

6 A. Notwithstanding any other provision of this article, in any county  
7 an eligible person may request that the general public be prohibited from  
8 accessing the unique identifier and the recording date contained in indexes  
9 of recorded instruments maintained by the county recorder and may request the  
10 county recorder to prohibit access to that person's residential address and  
11 telephone number contained in instruments or writings recorded by the county  
12 recorder.

13 B. An eligible person may request this action by filing an affidavit  
14 that states all of the following on an application form developed by the  
15 administrative office of the courts in agreement with an association of  
16 counties, an organization of peace officers and the motor vehicle division of  
17 the department of transportation:

18 1. The person's full legal name and residential address.

19 2. The full legal description and parcel number of the person's  
20 property.

21 3. UNLESS THE PERSON IS THE SPOUSE OR MINOR CHILD OF A DECEASED PEACE  
22 OFFICER OR THE PERSON IS A FORMER PUBLIC OFFICIAL, the position the person  
23 currently holds and a description of the person's duties, except that an  
24 eligible person who is protected under an order of protection or injunction  
25 against harassment shall instead attach a copy of the order of protection or  
26 injunction against harassment.

27 4. The reasons the person reasonably believes that the person's life  
28 or safety or that of another person is in danger and that restricting access  
29 pursuant to this section will serve to reduce the danger.

30 5. The document locator number and recording date of each instrument  
31 for which the person requests access restriction pursuant to this section.

32 6. A copy of pages from each instrument that includes the document  
33 locator number and the person's full legal name and residential address or  
34 full legal name and telephone number.

35 C. If an eligible person is also requesting pursuant to section 11-484  
36 that the general public be prohibited from accessing records maintained by  
37 the county assessor and county treasurer, the eligible person may combine the  
38 request pursuant to subsection B of this section with the request pursuant to  
39 section 11-484 by filing one affidavit. The affidavit and subsequent action  
40 by the appropriate authorities shall meet all of the requirements of this  
41 section and section 11-484.

42 D. The affidavit shall be filed with the presiding judge of the  
43 superior court in the county in which the affiant resides. To prevent ~~a~~  
44 ~~multiplicity of~~ MULTIPLE filings, an eligible person who is a peace officer,  
45 SPOUSE OR MINOR CHILD OF A DECEASED PEACE OFFICER, public defender,

1 prosecutor, code enforcement officer, corrections or detention officer,  
2 corrections support staff member or law enforcement support staff member  
3 shall deliver the affidavit to the peace officer's commanding officer, or to  
4 the head of the prosecuting, public defender, code enforcement, law  
5 enforcement, corrections or detention agency, as applicable, or that person's  
6 designee, who shall file the affidavits at one time. In the absence of an  
7 affidavit that contains a request for immediate action and that is supported  
8 by facts justifying an earlier presentation, the commanding officer, or the  
9 head of the prosecuting, public defender, code enforcement, law enforcement,  
10 corrections or detention agency, as applicable, or that person's designee,  
11 shall not file affidavits more often than quarterly.

12 E. On receipt of an affidavit or affidavits, the presiding judge of  
13 the superior court shall file with the clerk of the superior court a petition  
14 on behalf of all requesting affiants. Each affidavit presented shall be  
15 attached to the petition. In the absence of an affidavit that contains a  
16 request for immediate action and that is supported by facts justifying an  
17 earlier consideration, the presiding judge may accumulate affidavits and file  
18 a petition at the end of each quarter.

19 F. The presiding judge of the superior court shall review the petition  
20 and each attached affidavit to determine whether the action requested by each  
21 affiant should be granted. If the presiding judge of the superior court  
22 concludes that the action requested by the affiant will reduce a danger to  
23 the life or safety of the affiant or another person, the presiding judge of  
24 the superior court shall order that the county recorder prohibit access for  
25 five years to the affiant's residential address and telephone number  
26 contained in instruments or writings recorded by the county recorder and made  
27 available on the internet. If the presiding judge of the superior court  
28 concludes that the affiant or another person is in actual danger of physical  
29 harm from a person or persons with whom the affiant has had official dealings  
30 and that action pursuant to this section will reduce a danger to the life or  
31 safety of the affiant or another person, the presiding judge of the superior  
32 court shall order that the general public be prohibited for five years from  
33 accessing the unique identifier and the recording date contained in indexes  
34 of recorded instruments maintained by the county recorder and identified  
35 pursuant to subsection B of this section.

36 G. On motion to the court, if the presiding judge of the superior  
37 court concludes that an instrument or writing recorded by the county recorder  
38 has been redacted or sealed in error, that the original affiant no longer  
39 lives at the address listed in the original affidavit, that the cause for the  
40 original affidavit no longer exists or that temporary access to the  
41 instrument or writing is needed, the presiding judge may temporarily stay or  
42 permanently vacate all or part of the court order prohibiting public access  
43 to the recorded instrument or writing.

44 H. On entry of the court order, the clerk of the superior court shall  
45 file the court order and a copy of the affidavit required by subsection B of

1 this section with the county recorder. No more than ten days after the date  
2 on which the county recorder receives the court order, the county recorder  
3 shall restrict access to the information as required by subsection F of this  
4 section.

5 I. If the court denies an affiant's request pursuant to this section,  
6 the affiant may request a court hearing. The hearing shall be conducted by  
7 the court in the county where the petition was filed.

8 J. The county recorder shall remove the restrictions on all records  
9 restricted pursuant to this section by January 5 in the year after the court  
10 order expires. The county recorder shall send by mail one **notification**  
11 **NOTICE** to either the **FORMER PUBLIC OFFICIAL**, peace officer, **SPOUSE OR MINOR**  
12 **CHILD OF A DECEASED PEACE OFFICER**, public defender, prosecutor, code  
13 enforcement officer, corrections or detention officer, corrections support  
14 staff member or law enforcement support staff member or the employing agency  
15 of a peace officer, public defender, prosecutor, code enforcement officer,  
16 corrections or detention officer, corrections support staff member or law  
17 enforcement support staff member who was granted an order pursuant to this  
18 section of the order's expiration date at least six months before the  
19 expiration date. If the notice is sent to the employing agency, the  
20 employing agency shall immediately notify the person who was granted the  
21 order of the upcoming expiration date. The county recorder may coordinate  
22 with the county assessor and county treasurer to prevent multiple notices  
23 from being sent to the same person.

24 K. To include subsequent recordings in the court order, the eligible  
25 person shall present to the county recorder at the time of recordation a  
26 certified copy of the court order or shall provide to the county recorder the  
27 recording number of the court order. The county recorder shall ensure that  
28 public access shall be restricted pursuant to subsection A of this section.

29 L. This section shall not be interpreted to restrict access to public  
30 records for the purposes of perfecting a lien pursuant to title 12, chapter  
31 9, article 2.

32 M. This section does not prohibit access to the records of the county  
33 recorder by parties to the instrument, a law enforcement officer performing  
34 the officer's official duties pursuant to subsection N of this section, a  
35 title insurer, a title insurance agent or an escrow agent licensed by the  
36 department of insurance or the department of financial institutions.

37 N. A law enforcement officer is deemed to be performing the officer's  
38 official duties if the officer provides a subpoena, court order or search  
39 warrant for the records.

40 O. For the purposes of this section:

41 1. "Code enforcement officer" means a person who is employed by a  
42 state or local government and whose duties include performing field  
43 inspections of buildings, structures or property to ensure compliance with  
44 and enforce national, state and local laws, ordinances and codes.

45 2. "Commissioner" means a commissioner of the superior court.

1           3. "Corrections support staff member" means an adult or juvenile  
2 corrections employee who has direct contact with inmates.

3           4. "Eligible person" means a **FORMER PUBLIC OFFICIAL**, peace officer,  
4 **SPOUSE OR MINOR CHILD OF A DECEASED PEACE OFFICER**, justice, judge,  
5 commissioner, public defender, prosecutor, code enforcement officer, adult or  
6 juvenile corrections officer, corrections support staff member, probation  
7 officer, member of the board of executive clemency, law enforcement support  
8 staff member, national guard member who is acting in support of a law  
9 enforcement agency, person who is protected under an order of protection or  
10 injunction against harassment or firefighter who is assigned to the Arizona  
11 counterterrorism center in the department of public safety.

12           5. **"FORMER PUBLIC OFFICIAL" MEANS A PERSON WHO WAS DULY ELECTED OR**  
13 **APPOINTED TO CONGRESS, THE LEGISLATURE OR A STATEWIDE OFFICE, WHO CEASED**  
14 **SERVING IN THAT CAPACITY AND WHO WAS THE VICTIM OF A DANGEROUS OFFENSE AS**  
15 **DEFINED IN SECTION 13-105 WHILE IN OFFICE.**

16           ~~5-~~ 6. "Indexes" means only those indexes that are maintained by and  
17 located in the office of the county recorder, that are accessed  
18 electronically and that contain information beginning from and after January  
19 1, 1987.

20           ~~6-~~ 7. "Judge" means a judge of the United States district court, the  
21 United States court of appeals, the United States magistrate court, the  
22 United States bankruptcy court, the Arizona court of appeals, the superior  
23 court or a municipal court.

24           ~~7-~~ 8. "Justice" means a justice of the United States or Arizona  
25 supreme court or a justice of the peace.

26           ~~8-~~ 9. "Law enforcement support staff member" means a person who  
27 serves in the role of an investigator or prosecutorial assistant in an agency  
28 that investigates or prosecutes crimes, who is integral to the investigation  
29 or prosecution of crimes and whose name or identity will be revealed in the  
30 course of public proceedings.

31           ~~9-~~ 10. "Peace officer" means any person vested by law, or formerly  
32 vested by law, with a duty to maintain public order and make arrests.

33           ~~10-~~ 11. "Prosecutor" means a county attorney, a municipal prosecutor,  
34 the attorney general or a United States attorney and includes an assistant or  
35 deputy United States attorney, county attorney, municipal prosecutor or  
36 attorney general.

37           ~~11-~~ 12. "Public defender" means a federal public defender, county  
38 public defender, county legal defender or county contract indigent defense  
39 counsel and includes an assistant or deputy federal public defender, county  
40 public defender or county legal defender.

41           Sec. 2. Section 11-484, Arizona Revised Statutes, is amended to read:

42           11-484. Records maintained by county assessor and county  
43 treasurer; redaction; definitions

44           A. Notwithstanding any other provision of this article, in any county  
45 an eligible person may request that the general public be prohibited from

1 accessing that person's residential address and telephone number that are  
2 contained in instruments, writings and information maintained by the county  
3 assessor and the county treasurer.

4 B. An eligible person may request this action by filing an affidavit  
5 that states all of the following on an application form developed by the  
6 administrative office of the courts in agreement with an association of  
7 counties, an organization of peace officers and the motor vehicle division of  
8 the department of transportation:

9 1. The person's full legal name and residential address.

10 2. The full legal description and parcel number of the person's  
11 property.

12 3. ~~UNLESS THE PERSON IS THE SPOUSE OR MINOR CHILD OF A DECEASED PEACE~~  
13 ~~OFFICER OR THE PERSON IS A FORMER PUBLIC OFFICIAL~~, the position the person  
14 currently holds and a description of the person's duties, except that an  
15 eligible person who is protected under an order of protection or injunction  
16 against harassment shall attach a copy of the order of protection or  
17 injunction against harassment.

18 4. The reasons the person reasonably believes that the person's life  
19 or safety or that of another person is in danger and that redacting the  
20 residential address and telephone number will serve to reduce the danger.

21 C. If an eligible person is also requesting pursuant to section 11-483  
22 that the general public be prohibited from accessing records maintained by  
23 the county recorder, the eligible person may combine the request pursuant to  
24 subsection B of this section with the request pursuant to section 11-483 by  
25 filing one affidavit. The affidavit and subsequent action by the appropriate  
26 authorities shall meet all of the requirements of this section and section  
27 11-483.

28 D. The affidavit shall be filed with the presiding judge of the  
29 superior court in the county in which the affiant resides. To prevent a  
30 ~~multiplicity of~~ MULTIPLE filings, an eligible person who is a peace officer,  
31 SPOUSE OR MINOR CHILD OF A DECEASED PEACE OFFICER, public defender,  
32 prosecutor, code enforcement officer, corrections or detention officer,  
33 corrections support staff member or law enforcement support staff member  
34 shall deliver the affidavit to the peace officer's commanding officer, or to  
35 the head of the prosecuting, public defender, code enforcement, law  
36 enforcement, corrections or detention agency, as applicable, or that person's  
37 designee, who shall file the affidavits at one time. In the absence of an  
38 affidavit that contains a request for immediate action and that is supported  
39 by facts justifying an earlier presentation, the commanding officer, or the  
40 head of the prosecuting, public defender, code enforcement, law enforcement,  
41 corrections or detention agency, as applicable, or that person's designee,  
42 shall not file affidavits more often than quarterly.

43 E. On receipt of an affidavit or affidavits, the presiding judge of  
44 the superior court shall file with the clerk of the superior court a petition  
45 on behalf of all requesting affiants. Each affidavit presented shall be

1 attached to the petition. In the absence of an affidavit that contains a  
2 request for immediate action and that is supported by facts justifying an  
3 earlier consideration, the presiding judge may accumulate affidavits and file  
4 a petition at the end of each quarter.

5 F. The presiding judge of the superior court shall review the petition  
6 and each attached affidavit to determine whether the action requested by each  
7 affiant should be granted. If the presiding judge of the superior court  
8 concludes that the action requested by the affiant will reduce a danger to  
9 the life or safety of the affiant or another person, the presiding judge of  
10 the superior court shall order the redaction of the affiant's residential  
11 address and telephone number that are contained in instruments, writings and  
12 information maintained by the county assessor and the county treasurer. The  
13 redaction shall be in effect for five years.

14 G. On motion to the court, if the presiding judge of the superior  
15 court concludes that an instrument or writing maintained by the county  
16 assessor or the county treasurer has been redacted or sealed in error, that  
17 the original affiant no longer lives at the address listed in the original  
18 affidavit, that the cause for the original affidavit no longer exists or that  
19 temporary access to the instrument or writing is needed, the presiding judge  
20 may temporarily stay or permanently vacate all or part of the court order  
21 prohibiting public access to the instrument or writing.

22 H. On entry of the court order, the clerk of the superior court shall  
23 file the court order and a copy of the affidavit required by subsection B of  
24 this section with the county assessor and the county treasurer. No more than  
25 ten days after the date on which the county assessor and the county treasurer  
26 receive the court order, the county assessor and the county treasurer shall  
27 restrict access to the information as required by subsection F of this  
28 section.

29 I. If the court denies an affiant's request pursuant to this section,  
30 the affiant may request a court hearing. The hearing shall be conducted by  
31 the court in the county where the petition was filed.

32 J. The county assessor and the county treasurer shall remove the  
33 restrictions on all records that are redacted pursuant to this section by  
34 January 5 in the year after the court order expires. The county assessor or  
35 the county treasurer shall send by mail one ~~notification~~ NOTICE to either the  
36 FORMER PUBLIC OFFICIAL, peace officer, SPOUSE OR MINOR CHILD OF A DECEASED  
37 PEACE OFFICER, public defender, prosecutor, code enforcement officer,  
38 corrections or detention officer, corrections support staff member or law  
39 enforcement support staff member or the employing agency of a peace officer,  
40 public defender, prosecutor, code enforcement officer, corrections or  
41 detention officer, corrections support staff member or law enforcement  
42 support staff member who was granted an order pursuant to this section of the  
43 order's expiration date at least six months before the expiration date. If  
44 the notice is sent to the employing agency, the employing agency shall  
45 immediately notify the person who was granted the order of the upcoming

1 expiration date. The county assessor or county treasurer may coordinate with  
2 the county recorder to prevent multiple notices from being sent to the same  
3 person.

4 K. For the purposes of this section:

5 1. "Code enforcement officer" means a person who is employed by a  
6 state or local government and whose duties include performing field  
7 inspections of buildings, structures or property to ensure compliance with  
8 and enforce national, state and local laws, ordinances and codes.

9 2. "Commissioner" means a commissioner of the superior court.

10 3. "Corrections support staff member" means an adult or juvenile  
11 corrections employee who has direct contact with inmates.

12 4. "Eligible person" means a **FORMER PUBLIC OFFICIAL**, peace officer,  
13 **SPOUSE OR MINOR CHILD OF A DECEASED PEACE OFFICER**, justice, judge,  
14 commissioner, public defender, prosecutor, code enforcement officer, adult or  
15 juvenile corrections officer, corrections support staff member, probation  
16 officer, member of the board of executive clemency, law enforcement support  
17 staff member, national guard member who is acting in support of a law  
18 enforcement agency, person who is protected under an order of protection or  
19 injunction against harassment or firefighter who is assigned to the Arizona  
20 counterterrorism center in the department of public safety.

21 5. **"FORMER PUBLIC OFFICIAL" MEANS A PERSON WHO WAS DULY ELECTED OR**  
22 **APPOINTED TO CONGRESS, THE LEGISLATURE OR A STATEWIDE OFFICE, WHO CEASED**  
23 **SERVING IN THAT CAPACITY AND WHO WAS THE VICTIM OF A DANGEROUS OFFENSE AS**  
24 **DEFINED IN SECTION 13-105 WHILE IN OFFICE.**

25 ~~5-~~ 6. "Judge" means a judge of the United States district court, the  
26 United States court of appeals, the United States magistrate court, the  
27 United States bankruptcy court, the Arizona court of appeals, the superior  
28 court or a municipal court.

29 ~~6-~~ 7. "Justice" means a justice of the United States or Arizona  
30 supreme court or a justice of the peace.

31 ~~7-~~ 8. "Law enforcement support staff member" means a person who  
32 serves in the role of an investigator or prosecutorial assistant in an agency  
33 that investigates or prosecutes crimes, who is integral to the investigation  
34 or prosecution of crimes and whose name or identity will be revealed in the  
35 course of public proceedings.

36 ~~8-~~ 9. "Peace officer" means any person vested by law, or formerly  
37 vested by law, with a duty to maintain public order and make arrests.

38 ~~9-~~ 10. "Prosecutor" means a county attorney, a municipal prosecutor,  
39 the attorney general or a United States attorney and includes an assistant or  
40 deputy United States attorney, county attorney, municipal prosecutor or  
41 attorney general.

42 ~~10-~~ 11. "Public defender" means a federal public defender, county  
43 public defender, county legal defender or county contract indigent defense  
44 counsel and includes an assistant or deputy federal public defender, county  
45 public defender or county legal defender.



1           Sec. 3. Section 16-153, Arizona Revised Statutes, is amended to read:  
2           16-153. Voter registration; confidentiality; definitions

3           A. Eligible persons, and any other registered voter who resides at the  
4 same residence address as the eligible person, may request that the general  
5 public be prohibited from accessing the residential address, telephone number  
6 and voting precinct number contained in their voter registration record.

7           B. Eligible persons may request this action by filing an affidavit  
8 that states all of the following on an application form developed by the  
9 administrative office of the courts in agreement with an association of  
10 counties and an organization of peace officers:

11           1. The person's full legal name, residential address and date of  
12 birth.

13           2. **UNLESS THE PERSON IS THE SPOUSE OR MINOR CHILD OF A DECEASED PEACE**  
14 **OFFICER OR THE PERSON IS A FORMER PUBLIC OFFICIAL**, the position the person  
15 currently holds and a description of the person's duties, except that an  
16 eligible person who is protected under an order of protection or injunction  
17 against harassment shall instead attach a copy of the order of protection or  
18 injunction against harassment.

19           3. The reasons for reasonably believing that the person's life or  
20 safety or that of another person is in danger and that sealing the  
21 residential address, telephone number and voting precinct number of the  
22 person's voting record will serve to reduce the danger.

23           C. The affidavit shall be filed with the presiding judge of the  
24 superior court in the county in which the affiant resides. To prevent ~~a~~  
25 ~~multiplicity of~~ **MULTIPLE** filings, an eligible person who is a peace officer,  
26 prosecutor, public defender, code enforcement officer, corrections or  
27 detention officer, corrections support staff member or law enforcement  
28 support staff member shall deliver the affidavit to the peace officer's  
29 commanding officer, or to the head of the prosecuting, public defender, code  
30 enforcement, law enforcement, corrections or detention agency, as applicable,  
31 or that person's designee, who shall file the affidavits at one time. In the  
32 absence of an affidavit that contains a request for immediate action and is  
33 supported by facts justifying an earlier presentation, the commanding  
34 officer, or the head of the prosecuting, public defender, code enforcement,  
35 law enforcement, corrections or detention agency, as applicable, or that  
36 person's designee, shall not file affidavits more often than quarterly.

37           D. ~~Upon~~ **ON** receipt of an affidavit or affidavits, the presiding judge  
38 of the superior court shall file with the clerk of the superior court a  
39 petition on behalf of all requesting affiants. The petition shall have  
40 attached each affidavit presented. In the absence of an affidavit that  
41 contains a request for immediate action and that is supported by facts  
42 justifying an earlier consideration, the presiding judge may accumulate  
43 affidavits and file a petition at the end of each quarter.

44           E. The presiding judge of the superior court shall review the petition  
45 and each attached affidavit to determine whether the action requested by each

1 affiant should be granted. The presiding judge of the superior court shall  
2 order the sealing for five years of the information contained in the voter  
3 record of the affiant and, on request, any other registered voter who resides  
4 at the same residence address if the presiding judge concludes that this  
5 action will reduce a danger to the life or safety of the affiant.

6 F. The recorder shall remove the restrictions on all voter records  
7 submitted pursuant to subsection E of this section by January 5 in the year  
8 after the court order expires. The county recorder shall send by mail one  
9 ~~notification~~ NOTICE to either the **FORMER PUBLIC OFFICIAL**, peace officer,  
10 **SPOUSE OR MINOR CHILD OF A DECEASED PEACE OFFICER**, public defender,  
11 prosecutor, code enforcement officer, corrections or detention officer,  
12 corrections support staff member or law enforcement support staff member or  
13 the employing agency of a peace officer, public defender, prosecutor, code  
14 enforcement officer, corrections or detention officer, corrections support  
15 staff member or law enforcement support staff member who was granted an order  
16 pursuant to this section of the order's expiration date at least six months  
17 before the expiration date. If the notice is sent to the employing agency,  
18 the employing agency shall immediately notify the person who was granted the  
19 order of the upcoming expiration date. The county recorder may coordinate  
20 with the county assessor and county treasurer to prevent multiple notices  
21 from being sent to the same person.

22 G. ~~Upon~~ ON entry of the court order, the clerk of the superior court  
23 shall file the court order with the county recorder. ~~Upon~~ ON receipt of the  
24 court order the county recorder shall seal the voter registration of the  
25 persons listed in the court order no later than one hundred twenty days from  
26 the date of receipt of the court order. To include a subsequent voter  
27 registration in the court order, a person listed in the court order shall  
28 present to the county recorder at the time of registration a certified copy  
29 of the court order or shall provide the county recorder the recording number  
30 of the court order. The information in the registration shall not be  
31 disclosed and is not a public record.

32 H. If the court denies an affiant's requested sealing of the voter  
33 registration record, the affiant may request a court hearing. The hearing  
34 shall be conducted by the court where the petition was filed.

35 I. On motion to the court, if the presiding judge of the superior  
36 court concludes that a voter registration record has been sealed in error or  
37 that the cause for the original affidavit no longer exists, the presiding  
38 judge may vacate the court order prohibiting public access to the voter  
39 registration record.

40 J. ~~Upon~~ ON request by a person who is protected under an order of  
41 protection or injunction against harassment and presentation of an order of  
42 protection issued pursuant to section 13-3602, an injunction against  
43 harassment issued pursuant to section 12-1809 or an order of protection or  
44 injunction against harassment issued by a court in another state, the county  
45 recorder shall seal the voter registration record of the person who is

1 protected and, on request, any other registered voter who resides at the  
2 residence address of the protected person. The record shall be sealed no  
3 later than one hundred twenty days from the date of receipt of the court  
4 order. The information in the registration shall not be disclosed and is not  
5 a public record.

6 K. For the purposes of this section:

7 1. "Code enforcement officer" means a person who is employed by a  
8 state or local government and whose duties include performing field  
9 inspections of buildings, structures or property to ensure compliance with  
10 and enforce national, state and local laws, ordinances and codes.

11 2. "Commissioner" means a commissioner of the superior court.

12 3. "Corrections support staff member" means an adult or juvenile  
13 corrections employee who has direct contact with inmates.

14 4. "Eligible person" means a **FORMER PUBLIC OFFICIAL**, peace officer,  
15 **SPOUSE OR MINOR CHILD OF A DECEASED PEACE OFFICER**, border patrol agent,  
16 justice, judge, commissioner, public defender, prosecutor, code enforcement  
17 officer, adult or juvenile corrections officer, corrections support staff  
18 member, probation officer, member of the board of executive clemency, law  
19 enforcement support staff member, national guard member who is acting in  
20 support of a law enforcement agency, person who is protected under an order  
21 of protection or injunction against harassment or firefighter who is assigned  
22 to the Arizona counterterrorism center in the department of public safety.

23 5. **"FORMER PUBLIC OFFICIAL" MEANS A PERSON WHO WAS DULY ELECTED OR**  
24 **APPOINTED TO CONGRESS, THE LEGISLATURE OR A STATEWIDE OFFICE, WHO CEASED**  
25 **SERVING IN THAT CAPACITY AND WHO WAS THE VICTIM OF A DANGEROUS OFFENSE AS**  
26 **DEFINED IN SECTION 13-105 WHILE IN OFFICE.**

27 ~~5-~~ 6. "Judge" means a judge of the United States district court, the  
28 United States court of appeals, the United States magistrate court, the  
29 United States bankruptcy court, the Arizona court of appeals, the superior  
30 court or a municipal court.

31 ~~6-~~ 7. "Justice" means a justice of the United States or Arizona  
32 supreme court or a justice of the peace.

33 ~~7-~~ 8. "Law enforcement support staff member" means a person who  
34 serves in the role of an investigator or prosecutorial assistant in an agency  
35 that investigates or prosecutes crimes, who is integral to the investigation  
36 or prosecution of crimes and whose name or identity will be revealed in the  
37 course of public proceedings.

38 ~~8-~~ 9. "Prosecutor" means a United States attorney, a county attorney,  
39 a municipal prosecutor or the attorney general and includes an assistant or  
40 deputy United States attorney, county attorney, municipal prosecutor or  
41 attorney general.

42 ~~9-~~ 10. "Public defender" means a federal public defender, county  
43 public defender, county legal defender or county contract indigent defense  
44 counsel and includes an assistant or deputy federal public defender, county  
45 public defender or county legal defender.

1           Sec. 4. Section 28-454, Arizona Revised Statutes, is amended to read:  
2           28-454. Records maintained by department of transportation:  
3                                   redaction; definitions

4           A. Notwithstanding sections 28-447 and 28-455, an eligible person may  
5 request that persons be prohibited from accessing the ELIGIBLE person's  
6 residential address and telephone number contained in any record maintained  
7 by the department.

8           B. An eligible person may request this action by filing an affidavit  
9 that states all of the following on an application form developed by the  
10 administrative office of the courts in agreement with an association of  
11 counties, an organization of peace officers and the department:

12           1. The person's full legal name and residential address.

13           2. **UNLESS THE PERSON IS THE SPOUSE OR MINOR CHILD OF A DECEASED PEACE**  
14 **OFFICER OR THE PERSON IS A FORMER PUBLIC OFFICIAL**, the position the person  
15 currently holds and a description of the person's duties, except that an  
16 eligible person who is protected under an order of protection or injunction  
17 against harassment shall attach a copy of the order of protection or  
18 injunction against harassment.

19           3. The reasons the person reasonably believes that the person's life  
20 or safety or that of another person is in danger and that redacting the  
21 residential address and telephone number from the department's public records  
22 will serve to reduce the danger.

23           C. The affidavit shall be filed with the presiding judge of the  
24 superior court in the county in which the affiant resides. To prevent ~~a~~  
25 ~~multiplicity of~~ **MULTIPLE** filings, an eligible person who is a peace officer,  
26 **SPOUSE OR MINOR CHILD OF A DECEASED PEACE OFFICER**, prosecutor, code  
27 enforcement officer, corrections or detention officer, corrections support  
28 staff member or law enforcement support staff member shall deliver the  
29 affidavit to the peace officer's commanding officer, or to the head of the  
30 prosecuting, code enforcement, law enforcement, corrections or detention  
31 agency, as applicable, or that person's designee, who shall file the  
32 affidavits at one time. In the absence of an affidavit that contains a  
33 request for immediate action and that is supported by facts justifying an  
34 earlier presentation, the commanding officer, or the head of the prosecuting,  
35 code enforcement, law enforcement, corrections or detention agency, as  
36 applicable, or that person's designee, shall not file affidavits more often  
37 than quarterly.

38           D. On receipt of an affidavit or affidavits, the presiding judge of  
39 the superior court shall ~~cause to be filed~~ **FILE** with the clerk of the  
40 superior court a petition on behalf of all requesting affiants. Each  
41 affidavit presented shall be attached to the petition. In the absence of an  
42 affidavit that contains a request for immediate action and that is supported  
43 by facts justifying an earlier consideration, the presiding judge may  
44 accumulate affidavits and file a petition at the end of each quarter.

1 E. The presiding judge of the superior court shall review the petition  
2 and each attached affidavit to determine whether the action requested by each  
3 affiant should be granted. The presiding judge of the superior court shall  
4 order the redaction of the residence address and telephone number from the  
5 public records maintained by the department if the judge concludes that this  
6 action will reduce a danger to the life or safety of the affiant or another  
7 person.

8 F. On entry of the court order, the clerk of the superior court shall  
9 file the court order with the department. No more than one hundred fifty  
10 days after the date the department receives the court order, the department  
11 shall redact the residence addresses and telephone numbers of the affiants  
12 listed in the court order from the public records of the department. The  
13 residence addresses and telephone numbers shall not be disclosed and are not  
14 part of a public record.

15 G. If the court denies an affiant's request pursuant to this section,  
16 the affiant may request a court hearing. The hearing shall be conducted by  
17 the court in the county where the petition was filed.

18 H. On motion to the court, if the presiding judge of the superior  
19 court concludes that a residential address or telephone number has been  
20 sealed in error or that the cause for the original affidavit no longer  
21 exists, the presiding judge may vacate the court order prohibiting public  
22 access to the residential address or telephone number.

23 I. Notwithstanding sections 28-447 and 28-455, the department shall  
24 not release a photograph of a peace officer if the peace officer has made a  
25 request as prescribed in this section that persons be prohibited from  
26 accessing the peace officer's residential address and telephone number in any  
27 record maintained by the department.

28 J. This section does not prohibit the use of a peace officer's  
29 photograph that is either:

- 30 1. Used by a law enforcement agency to assist a person who has a  
31 complaint against an officer to identify the officer.
- 32 2. Obtained from a source other than the department.

33 K. For the purposes of this section:

34 1. "Code enforcement officer" means a person who is employed by a  
35 state or local government and whose duties include performing field  
36 inspections of buildings, structures or property to ensure compliance with  
37 and enforce national, state and local laws, ordinances and codes.

38 2. "Corrections support staff member" means an adult or juvenile  
39 corrections employee who has direct contact with inmates.

40 3. "Eligible person" means a **FORMER PUBLIC OFFICIAL**, peace officer,  
41 **SPOUSE OR MINOR CHILD OF A DECEASED PUBLIC OFFICER**, justice, judge,  
42 commissioner, public defender, prosecutor, code enforcement officer, adult or  
43 juvenile corrections officer, corrections support staff member, probation  
44 officer, member of the board of executive clemency, law enforcement support  
45 staff member, national guard member who is acting in support of a law

1 enforcement agency, person who is protected under an order of protection or  
2 injunction against harassment or firefighter who is assigned to the Arizona  
3 counterterrorism center in the department of public safety.

4 4. "FORMER PUBLIC OFFICIAL" MEANS A PERSON WHO WAS DULY ELECTED OR  
5 APPOINTED TO CONGRESS, THE LEGISLATURE OR A STATEWIDE OFFICE, WHO CEASED  
6 SERVING IN THAT CAPACITY AND WHO WAS THE VICTIM OF A DANGEROUS OFFENSE AS  
7 DEFINED IN SECTION 13-105 WHILE IN OFFICE.

8 ~~4.~~ 5. "Law enforcement support staff member" means a person who  
9 serves in the role of an investigator or prosecutorial assistant in an agency  
10 that investigates or prosecutes crimes, who is integral to the investigation  
11 or prosecution of crimes and whose name or identity will be revealed in the  
12 course of public proceedings.

13 ~~5.~~ 6. "Prosecutor" means a county attorney, a municipal prosecutor or  
14 the attorney general and includes an assistant or deputy county attorney,  
15 municipal prosecutor or attorney general.

16 Sec. 5. Title 33, chapter 10, article 1, Arizona Revised Statutes, is  
17 amended by adding section 33-1318.01, to read:

18 33-1318.01. Early release termination for law enforcement  
19 officers; definition

20 A. A LAW ENFORCEMENT OFFICER MAY TERMINATE A RENTAL AGREEMENT IN THE  
21 SAME MANNER ESTABLISHED IN SECTION 33-1318 IF THE LAW ENFORCEMENT OFFICER  
22 PROVIDES TO THE LANDLORD A WRITTEN NOTICE THAT THE LAW ENFORCEMENT OFFICER IS  
23 PROTECTED UNDER AN INJUNCTION AGAINST HARASSMENT ISSUED PURSUANT TO SECTION  
24 12-1809 AND THE INJUNCTION AGAINST HARASSMENT WAS ISSUED WITHIN THE  
25 THIRTY-DAY PERIOD IMMEDIATELY PRECEDING LAWFUL NOTICE TO THE LANDLORD, UNLESS  
26 WAIVED BY THE LANDLORD.

27 B. IF THE LAW ENFORCEMENT OFFICER RECEIVED ANY LEASE CONCESSION OR  
28 BENEFIT, THE CONCESSION OR BENEFIT ACTUALLY RECEIVED OR USED SHALL BE REPAID  
29 TO THE LANDLORD BEFORE VACATING THE DWELLING.

30 C. ALL OTHER RIGHTS, REMEDIES AND OBLIGATIONS PROVIDED IN SECTION  
31 33-1318 APPLY TO THE LANDLORD AND THE LAW ENFORCEMENT OFFICER.

32 D. FOR THE PURPOSES OF THIS SECTION, "LAW ENFORCEMENT OFFICER" HAS THE  
33 SAME MEANING PRESCRIBED IN SECTION 38-1101.

34 Sec. 6. Section 38-1103, Arizona Revised Statutes, is amended to read:

35 38-1103. Health insurance payments for spouse or dependents of  
36 law enforcement officer killed in the line of duty;  
37 applicability; definitions

38 A. Notwithstanding any other law, the surviving spouse or a surviving  
39 dependent of a deceased law enforcement officer is entitled to receive  
40 payments for health insurance premiums from public monies of the employer of  
41 the law enforcement officer if the law enforcement officer was killed in the  
42 line of duty or died from injuries suffered in the line of duty.

43 B. The employer shall make payments if the surviving spouse or  
44 surviving dependent is enrolled OR WAS ENROLLED AT THE TIME THE LAW

1 ENFORCEMENT OFFICER WAS KILLED IN THE LINE OF DUTY OR DIED FROM INJURIES  
2 SUFFERED IN THE LINE OF DUTY in either:

- 3 1. The health insurance program of the employer.
- 4 2. The health insurance program that is offered by the state  
5 retirement system or plan from which the surviving spouse or surviving  
6 dependent is receiving benefits.

7 C. IF A SURVIVING SPOUSE OR SURVIVING DEPENDENT WAS ENROLLED IN EITHER  
8 HEALTH INSURANCE PROGRAM DESCRIBED IN SUBSECTION B OF THIS SECTION AT THE  
9 TIME THE LAW ENFORCEMENT OFFICER WAS KILLED IN THE LINE OF DUTY OR DIED FROM  
10 INJURIES SUFFERED IN THE LINE OF DUTY AND IS ELIGIBLE PURSUANT TO SUBSECTION  
11 D OF THIS SECTION TO RECEIVE HEALTH INSURANCE PREMIUM PAYMENTS UNDER THIS  
12 SECTION BUT IS NO LONGER ENROLLED IN EITHER HEALTH INSURANCE PROGRAM  
13 DESCRIBED IN SUBSECTION B OF THIS SECTION, THE EMPLOYER SHALL ALLOW THE  
14 SURVIVING SPOUSE AND ANY SURVIVING DEPENDENT TO ENROLL IN THE EMPLOYER'S  
15 HEALTH INSURANCE PROGRAM TO RECEIVE HEALTH INSURANCE PREMIUM PAYMENTS  
16 PURSUANT TO THIS SECTION.

17 ~~C.~~ D. The health insurance premium amount payable by the employer of  
18 the deceased law enforcement officer is the amount the employer of the  
19 deceased law enforcement officer would pay for an active law enforcement  
20 officer for a family coverage premium or single coverage premium, whichever  
21 is applicable. Payments shall be discontinued pursuant to this section if:

- 22 1. The surviving spouse remarries.
- 23 2. The surviving spouse becomes medicare eligible.
- 24 3. The surviving spouse dies.
- 25 4. For dependent coverage, the person is no longer considered a  
26 dependent.

27 ~~D.~~ E. If the employer currently pays a greater portion of the health  
28 insurance premium for a surviving spouse or a surviving dependent than the  
29 required amount prescribed in subsection ~~C~~ D of this section, the surviving  
30 spouse or surviving dependent shall receive the greater amount as payment  
31 toward the surviving spouse's or surviving dependent's health insurance  
32 premium.

33 F. THIS SECTION APPLIES:

34 1. TO A SURVIVING SPOUSE OR A SURVIVING DEPENDENT OF A DECEASED LAW  
35 ENFORCEMENT OFFICER, AS DEFINED IN SUBSECTION G, PARAGRAPH 2, SUBDIVISION  
36 (a), (b), (c) OR (d) OF THIS SECTION, WHO WAS KILLED IN THE LINE OF DUTY OR  
37 WHO DIED FROM INJURIES SUFFERED IN THE LINE OF DUTY ON OR AFTER APRIL 5,  
38 1933.

39 2. TO A SURVIVING SPOUSE OR A SURVIVING DEPENDENT OF A DECEASED LAW  
40 ENFORCEMENT OFFICER, AS DEFINED IN SUBSECTION G, PARAGRAPH 2, SUBDIVISION (e)  
41 OF THIS SECTION, WHO WAS KILLED IN THE LINE OF DUTY OR WHO DIED FROM INJURIES  
42 SUFFERED IN THE LINE OF DUTY ON OR AFTER APRIL 5, 2013.

43 3. FOR THE SURVIVING SPOUSE OR THE SURVIVING DEPENDENT WHO QUALIFIES  
44 PURSUANT TO PARAGRAPH 1 OF THIS SUBSECTION, ONLY TO HEALTH INSURANCE PREMIUMS  
45 PAID ON OR AFTER THE EFFECTIVE DATE OF THIS AMENDMENT TO THIS SECTION.

1 ~~E.~~ G. For the purposes of this section:

2 1. "Dependent" means an unmarried child of a deceased law enforcement  
3 officer who meets one of the following qualifications:

4 (a) Is under eighteen years of age.

5 (b) Is at least eighteen years of age and under twenty-three years of  
6 age only during any period that the child is a full-time student.

7 (c) Is under a disability that began before the child attained  
8 twenty-three years of age and remains a dependent of the surviving spouse or  
9 A guardian.

10 2. "Law enforcement officer" means:

11 (a) A peace officer who is certified by the Arizona peace officer  
12 standards and training board.

13 (b) A detention officer or corrections officer who is employed by this  
14 state or a political subdivision of this state.

15 (c) A probation officer or surveillance officer who is employed by  
16 this state or a political subdivision of this state.

17 (d) A firefighter who is employed by this state or a political  
18 subdivision of this state.

19 (e) A corrections officer or firefighter who works on behalf of this  
20 state or a political subdivision of this state through a contract with a  
21 private company.

22 Sec. 7. Section 39-123, Arizona Revised Statutes, is amended to read:

23 39-123. Information identifying eligible persons;  
24 confidentiality; definitions

25 A. Nothing in this chapter requires disclosure from a personnel file  
26 by a law enforcement agency or employing state or local governmental entity  
27 of the home address or home telephone number of eligible persons.

28 B. The agency or governmental entity may release the information in  
29 subsection A of this section only if either:

30 1. The person consents in writing to the release.

31 2. The custodian of records of the agency or governmental entity  
32 determines that release of the information does not create a reasonable risk  
33 of physical injury to the person or the person's immediate family or damage  
34 to the property of the person or the person's immediate family.

35 C. A law enforcement agency may release a photograph of a peace  
36 officer if either:

37 1. The peace officer has been arrested or has been formally charged by  
38 complaint, information or indictment for a misdemeanor or a felony offense.

39 2. The photograph is requested by a representative of a newspaper for  
40 a specific newsworthy event unless:

41 (a) The peace officer is serving in an undercover capacity or is  
42 scheduled to be serving in an undercover capacity within sixty days.

43 (b) The release of the photograph is not in the best interest of this  
44 state after taking into consideration the privacy, confidentiality and safety  
45 of the peace officer.



1 (c) An order pursuant to section 28-454 is in effect.

2 D. This section does not prohibit the use of a peace officer's  
3 photograph that is either:

4 1. Used by a law enforcement agency to assist a person who has a  
5 complaint against an officer to identify the officer.

6 2. Obtained from a source other than the law enforcement agency.

7 E. This section does not apply to a certified peace officer or code  
8 enforcement officer who is no longer employed as a peace officer or code  
9 enforcement officer by a state or local government entity.

10 F. For the purposes of this section:

11 1. "Code enforcement officer" means a person who is employed by a  
12 state or local government and whose duties include performing field  
13 inspections of buildings, structures or property to ensure compliance with  
14 and enforce national, state and local laws, ordinances and codes.

15 2. "Commissioner" means a commissioner of the superior court.

16 3. "Corrections support staff member" means an adult or juvenile  
17 corrections employee who has direct contact with inmates.

18 4. "Eligible person" means a **FORMER PUBLIC OFFICIAL**, peace officer,  
19 **SPOUSE OR MINOR CHILD OF A DECEASED PEACE OFFICER**, border patrol agent,  
20 justice, judge, commissioner, public defender, prosecutor, code enforcement  
21 officer, adult or juvenile corrections officer, corrections support staff  
22 member, probation officer, member of the board of executive clemency, law  
23 enforcement support staff member, national guard member who is acting in  
24 support of a law enforcement agency, person who is protected under an order  
25 of protection or injunction against harassment, firefighter who is assigned  
26 to the Arizona counterterrorism center in the department of public safety or  
27 victim of domestic violence or stalking who is protected under an order of  
28 protection or injunction against harassment.

29 5. **"FORMER PUBLIC OFFICIAL" MEANS A PERSON WHO WAS DULY ELECTED OR**  
30 **APPOINTED TO CONGRESS, THE LEGISLATURE OR A STATEWIDE OFFICE, WHO CEASED**  
31 **SERVING IN THAT CAPACITY AND WHO WAS THE VICTIM OF A DANGEROUS OFFENSE AS**  
32 **DEFINED IN SECTION 13-105 WHILE IN OFFICE.**

33 ~~5-~~ 6. "Judge" means a judge of the United States district court, the  
34 United States court of appeals, the United States magistrate court, the  
35 United States bankruptcy court, the Arizona court of appeals, the superior  
36 court or a municipal court.

37 ~~6-~~ 7. "Justice" means a justice of the United States or Arizona  
38 supreme court or a justice of the peace.

39 ~~7-~~ 8. "Law enforcement support staff member" means a person who  
40 serves in the role of an investigator or prosecutorial assistant in an agency  
41 that investigates or prosecutes crimes, who is integral to the investigation  
42 or prosecution of crimes and whose name or identity will be revealed in the  
43 course of public proceedings.

44 ~~8-~~ 9. "Peace officer" has the same meaning prescribed in section  
45 13-105.

1           ~~9.~~ 10. "Prosecutor" means a county attorney, a municipal prosecutor,  
2 the attorney general or a United States attorney and includes an assistant or  
3 deputy United States attorney, county attorney, municipal prosecutor or  
4 attorney general.

5           ~~10.~~ 11. "Public defender" means a federal public defender, county  
6 public defender, county legal defender or county contract indigent defense  
7 counsel and includes an assistant or deputy federal public defender, county  
8 public defender or county legal defender.

9           Sec. 8. Section 39-124, Arizona Revised Statutes, is amended to read:

10          39-124. Releasing information identifying an eligible person;  
11   violations; classification; definitions

12           A. Any person who is employed by a state or local government entity  
13 and who, in violation of section 39-123, knowingly releases the home address  
14 or home telephone number of an eligible person with the intent to hinder an  
15 investigation, cause physical injury to an eligible person or the eligible  
16 person's immediate family or cause damage to the property of an eligible  
17 person or the eligible person's immediate family is guilty of a class 6  
18 felony.

19           B. Any person who is employed by a state or local government entity  
20 and who, in violation of section 39-123, knowingly releases a photograph of a  
21 peace officer with the intent to hinder an investigation, cause physical  
22 injury to a peace officer or the peace officer's immediate family or cause  
23 damage to the property of a peace officer or the peace officer's immediate  
24 family is guilty of a class 6 felony.

25           C. For the purposes of this section:

26           1. "Code enforcement officer" means a person who is employed by a  
27 state or local government and whose duties include performing field  
28 inspections of buildings, structures or property to ensure compliance with  
29 and enforce national, state and local laws, ordinances and codes.

30           2. "Commissioner" means a commissioner of the superior court.

31           3. "Corrections support staff member" means an adult or juvenile  
32 corrections employee who has direct contact with inmates.

33           4. "Eligible person" means a **FORMER PUBLIC OFFICIAL**, peace officer,  
34 **SPOUSE OR MINOR CHILD OF A DECEASED PEACE OFFICER**, border patrol agent,  
35 justice, judge, commissioner, public defender, prosecutor, code enforcement  
36 officer, adult or juvenile corrections officer, corrections support staff  
37 member, probation officer, member of the board of executive clemency, law  
38 enforcement support staff member, national guard member who is acting in  
39 support of a law enforcement agency, person who is protected under an order  
40 of protection or injunction against harassment, firefighter who is assigned  
41 to the Arizona counterterrorism center in the department of public safety or  
42 victim of domestic violence or stalking who is protected under an order of  
43 protection or injunction against harassment.

1           5. "FORMER PUBLIC OFFICIAL" MEANS A PERSON WHO WAS DULY ELECTED OR  
2 APPOINTED TO CONGRESS, THE LEGISLATURE OR A STATEWIDE OFFICE, WHO CEASED  
3 SERVING IN THAT CAPACITY AND WHO WAS THE VICTIM OF A DANGEROUS OFFENSE AS  
4 DEFINED IN SECTION 13-105 WHILE IN OFFICE.

5           ~~5-~~ 6. "Judge" means a judge of the United States district court, the  
6 United States court of appeals, the United States magistrate court, the  
7 United States bankruptcy court, the Arizona court of appeals, the superior  
8 court or a municipal court.

9           ~~6-~~ 7. "Justice" means a justice of the United States or Arizona  
10 supreme court or a justice of the peace.

11           ~~7-~~ 8. "Law enforcement support staff member" means a person who  
12 serves in the role of an investigator or prosecutorial assistant in an agency  
13 that investigates or prosecutes crimes, who is integral to the investigation  
14 or prosecution of crimes and whose name or identity will be revealed in the  
15 course of public proceedings.

16           ~~8-~~ 9. "Peace officer" has the same meaning prescribed in section 13-  
17 105.

18           ~~9-~~ 10. "Prosecutor" means a county attorney, a municipal prosecutor,  
19 the attorney general or a United States attorney and includes an assistant or  
20 deputy United States attorney, county attorney, municipal prosecutor or  
21 attorney general.

22           ~~10-~~ 11. "Public defender" means a federal public defender, county  
23 public defender, county legal defender or county contract indigent defense  
24 counsel and includes an assistant or deputy federal public defender, county  
25 public defender or county legal defender.

26           Sec. 9. Section 41-1830.16, Arizona Revised Statutes, is amended to  
27 read:

28           41-1830.16. Law enforcement merit system council duties;  
29 authority; appeals of covered full authority  
30 peace officers employed by agencies in the state  
31 personnel system; definitions

32           A. The law enforcement merit system council shall adopt rules the  
33 council deems necessary for the administration of hearings and the review of  
34 appeals as prescribed in this section.

35           B. A covered employee in the state personnel system who is a full  
36 authority peace officer as certified by the Arizona peace officer standards  
37 and training board, is appointed to a position that requires such a  
38 certification in the covered service and who has completed the employee's  
39 original probationary period of service as provided by the personnel rules  
40 may appeal to the law enforcement merit system council the covered employee's  
41 dismissal from covered service, suspension for more than forty working hours  
42 or involuntary demotion resulting from disciplinary action. The covered  
43 employee shall file the appeal no later than ten working days after the  
44 effective date of the action. The covered employee shall be furnished with  
45 specified charges in writing when the action is taken. The appeal shall be

1 in writing and must state specific facts relating directly to the charges on  
2 which the appeal is based. **NOTWITHSTANDING SECTION 41-1092.05, SUBSECTION D,**  
3 the law enforcement merit system council shall hear the appeal within thirty  
4 days after the council's receipt. The law enforcement merit system council  
5 shall provide the employing agency with a copy of the appeal not less than  
6 twenty days in advance of the hearing.

7 C. In hearing and reviewing an appeal, the council:

8 1. Shall determine whether the employing agency has proven by a  
9 preponderance of the evidence the material facts on which the discipline was  
10 based. On such a finding the council shall affirm the decision of the state  
11 agency head unless the disciplinary decision was arbitrary and capricious.

12 2. May recommend modification of a disciplinary action if the state  
13 agency head has not proven by a preponderance of the evidence the material  
14 facts on which the discipline was based or if a disciplinary decision is  
15 found to be arbitrary and capricious.

16 3. Shall reverse the decision of the state agency head if the council  
17 finds that cause did not exist for any discipline to be imposed and, in the  
18 case of dismissal or demotion, return the employee to the same position the  
19 employee held before the dismissal or demotion with or without back pay.

20 D. On a finding that the state agency head has not proven by a  
21 preponderance of the evidence the material facts on which the discipline was  
22 based, the council shall identify the material facts that the council found  
23 were not supported by a preponderance of the evidence and may recommend a  
24 proposed disciplinary action in light of the facts proven. On a finding that  
25 the disciplinary decision was arbitrary and capricious, the council shall  
26 include the council's reasons for the council's finding and may recommend a  
27 proposed disciplinary action in light of the facts proven.

28 E. Within forty-five days after the conclusion of the hearing, the  
29 council shall enter its decision or recommendation and shall at the same time  
30 send a copy of the decision or recommendation by certified mail to the  
31 employing agency and to the employee at the employee's address as given at  
32 the hearing or to a representative designated by the employee to receive a  
33 copy of the decision or recommendation. The state agency head or the agency  
34 head's designee shall accept, modify or reverse the council's decision or  
35 accept, modify or reject the council's recommendation within fourteen days of  
36 receipt of the findings or recommendation from the law enforcement merit  
37 system council. **THE STATE AGENCY HEAD OR THE AGENCY HEAD'S DESIGNEE SHALL**  
38 **ACCEPT THE COUNCIL'S RECOMMENDATION UNLESS THE RECOMMENDATION IS ARBITRARY OR**  
39 **WITHOUT REASONABLE JUSTIFICATION. IF THE STATE AGENCY HEAD OR THE AGENCY**  
40 **HEAD'S DESIGNEE DOES NOT ACCEPT THE COUNCIL'S RECOMMENDATION, THE STATE**  
41 **AGENCY HEAD OR THE AGENCY HEAD'S DESIGNEE SHALL STATE THE REASONS FOR**  
42 **REJECTING THE RECOMMENDATION.** The decision of the agency head or agency  
43 head's designee is final and binding. The agency head shall send a copy of  
44 the agency's final determination to the covered employee pursuant to this  
45 section.

- 1 F. Any party may appeal the decision of the law enforcement merit  
2 system council or the final decision of the agency pursuant to title 12,  
3 chapter 7, article 6 to the superior court in the covered employee's county  
4 of residence on one or more of the following grounds that the order was:
- 5 1. Founded on or contained error of law that shall specifically  
6 include error of construction or application of any pertinent rules.
  - 7 2. Unsupported by any evidence as disclosed by the entire record.
  - 8 3. Materially affected by unlawful procedure.
  - 9 4. Based on a violation of any constitutional provision.
  - 10 5. Arbitrary or capricious.
- 11 G. An appeal shall be available to the court of appeals from the order  
12 of the superior court pursuant to title 12, chapter 7, article 6 as in other  
13 civil cases.
- 14 H. For the purposes of this section:
- 15 1. "Covered employee" has the same meaning prescribed in section  
16 41-741.
  - 17 2. "Covered service" has the same meaning prescribed in section  
18 41-741.
  - 19 3. "Employing agency" means the agency in the state personnel system  
20 where the covered employee is or, in the case of dismissal, was employed.
  - 21 4. "Full authority peace officer" means a peace officer whose  
22 authority to enforce the laws of this state is not limited by the rules  
23 adopted by the Arizona peace officer standards and training board.
  - 24 5. "Original probationary period" has the same meaning prescribed in  
25 section 41-741.
  - 26 6. "Personnel rules" means the rules adopted by the department of  
27 administration, human resources division.
  - 28 7. "State agency head" means the chief executive officer of the  
29 employing agency.
  - 30 8. "State personnel system" has the same meaning prescribed in section  
31 41-741.