

REFERENCE TITLE: national defense laws; prohibited actions

State of Arizona
Senate
Fifty-first Legislature
Second Regular Session
2014

SB 1291

Introduced by
Senators Burges, Crandell, Farnsworth D, Murphy; Representatives Borrelli,
Mitchell, Seel, Thorpe, Townsend; Senators Melvin, Shooter, Ward;
Representatives Barton, Gowan, Livingston, Lovas, Petersen

AN ACT

AMENDING TITLE 41, ARIZONA REVISED STATUTES, BY ADDING CHAPTER 51; RELATING
TO NATIONAL DEFENSE LAWS.

(TEXT OF BILL BEGINS ON NEXT PAGE)

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

2 Section 1. Title 41, Arizona Revised Statutes, is amended by adding
3 chapter 51, to read:

4 CHAPTER 51

5 PROHIBITED ACTIONS UNDER NATIONAL DEFENSE LAWS

6 ARTICLE 1. GENERAL PROVISIONS

7 41-5101. National defense laws; unlawful acts; report;
8 violation; definitions

9 A. NOTWITHSTANDING ANY TREATY, FEDERAL, STATE OR LOCAL LAW OR
10 AUTHORITY ENACTED OR CLAIMED TO BE AN AUTHORIZATION FOR USE OF MILITARY
11 FORCE, INCLUDING SECTIONS 1021 AND 1022 OF THE NATIONAL DEFENSE AUTHORIZATION
12 ACT FOR FISCAL YEAR 2012 (P.L. 112-81; 125 STAT. 1298), ANY NATIONAL DEFENSE
13 AUTHORIZATION ACT OR ANY SIMILAR LAW OR AUTHORITY ENACTED OR CLAIMED BY
14 CONGRESS OR THE PRESIDENT OF THE UNITED STATES, IT IS UNCONSTITUTIONAL AND
15 UNLAWFUL FOR ANY PERSON TO:

16 1. ARREST OR CAPTURE ANY PERSON IN THIS STATE OR ANY RESIDENT OF THIS
17 STATE WITHIN THE UNITED STATES WITH THE INTENT OF DETENTION UNDER THE LAW OF
18 WAR.

19 2. ACTUALLY SUBJECT A PERSON IN THIS STATE TO DISPOSITION UNDER THE
20 LAW OF WAR.

21 3. EXECUTE ANY PERSON IN THIS STATE OR ANY RESIDENT OF THIS STATE
22 WITHIN THE UNITED STATES WITHOUT JUDICIAL SENTENCING AFTER TRIAL AND
23 CONVICTION IN A COURT ORDAINED AND ESTABLISHED UNDER ARTICLE III OF THE
24 UNITED STATES CONSTITUTION OR UNDER THE CONSTITUTION OF ARIZONA.

25 B. SUBSECTION A OF THIS SECTION DOES NOT APPLY TO CASES ARISING IN THE
26 LAND OR NAVAL FORCES, OR IN THE MILITIA, WHEN IN ACTUAL SERVICE DURING A TIME
27 OF WAR OR PUBLIC DANGER.

28 C. THE DIRECTOR OF THE DEPARTMENT OF PUBLIC SAFETY OR THE SHERIFF OF A
29 COUNTY SHALL REPORT TO THE GOVERNOR AND THE LEGISLATURE ANY ATTEMPT BY AN
30 AGENCY OR AGENT OF THE FEDERAL GOVERNMENT TO SECURE THE IMPLEMENTATION OF ANY
31 TREATY, FEDERAL, STATE OR LOCAL LAW OR AUTHORITY ENACTED OR CLAIMED TO BE AN
32 AUTHORIZATION FOR USE OF MILITARY FORCE, INCLUDING SECTIONS 1021 AND 1022 OF
33 THE NATIONAL DEFENSE AUTHORIZATION ACT FOR FISCAL YEAR 2012, ANY NATIONAL
34 DEFENSE AUTHORIZATION ACT OR ANY SIMILAR LAW OR AUTHORITY ENACTED OR CLAIMED
35 BY CONGRESS OR THE PRESIDENT OF THE UNITED STATES THROUGH THE OPERATIONS OF
36 THAT OR ANY OTHER STATE DEPARTMENT.

37 D. ANY PERSON WHO VIOLATES THIS SECTION IS SUBJECT TO PROSECUTION
38 PURSUANT TO TITLE 13 OR ANY OTHER APPLICABLE LAW.

39 E. FOR THE PURPOSES OF THIS SECTION, "ARREST", "CAPTURE", "DETENTION
40 UNDER THE LAW OF WAR", "DISPOSITION UNDER THE LAW OF WAR", AND "LAW OF WAR"
41 HAVE THE SAME SENSE AND MEANINGS PRESCRIBED IN SECTION 1021, SUBSECTION C OF
42 THE NATIONAL DEFENSE AUTHORIZATION ACT FOR FISCAL YEAR 2012.

1 Sec. 2. Findings

2 A. The legislature finds that this state is not a battlefield subject
3 to the laws of war, and that neither Congress nor the President of the United
4 States can constitutionally authorize the detention or disposition of any
5 person in this state or a resident of this state within the United States
6 under the law of war who is not serving in the land or naval forces, or in
7 the militia, when in actual service during a time of war or public danger.

8 B. The legislature further finds that the actions described in section
9 41-5101, Arizona Revised Statutes, as added by this act, violate the
10 following rights enshrined in the Constitution of the United States:

11 1. Article I, section 9, clause 2 relating to the right to seek a writ
12 of habeas corpus.

13 2. The First Amendment right to petition the government for a redress
14 of grievances.

15 3. The Fourth Amendment right to be free from unreasonable searches
16 and seizures.

17 4. The Fifth Amendment right to be free from charge for an infamous or
18 capital crime until presentment or indictment by a grand jury.

19 5. The Fifth Amendment right to be free from deprivation of life,
20 liberty or property without due process of law.

21 6. The Sixth Amendment right in criminal prosecutions to enjoy a
22 speedy trial by an impartial jury in the state and district where the crime
23 was allegedly committed.

24 7. The Sixth Amendment right to be informed of the nature and cause of
25 the accusation.

26 8. The Sixth Amendment right to confront witnesses.

27 9. The Sixth Amendment right to counsel.

28 10. The Eighth Amendment right to be free from excessive bail and
29 fines, and cruel and unusual punishment.

30 11. The Fourteenth Amendment right to be free from deprivation of life,
31 liberty or property without due process of law.

32 Sec. 3. Short title

33 This act may be cited as the "Liberty Preservation Act".