

REFERENCE TITLE: law enforcement officer rights

State of Arizona
Senate
Fifty-second Legislature
First Regular Session
2015

SB 1467

Introduced by
Senators Allen: Begay, Griffin, Smith

AN ACT

AMENDING SECTIONS 38-1003, 38-1004, 38-1101, 38-1102, 38-1103, 38-1104,
38-1105, 38-1106, 38-1108, 38-1109, 38-1110, 38-1111, 38-1112 AND 38-1114,
ARIZONA REVISED STATUTES; RELATING TO LAW ENFORCEMENT OFFICER RIGHTS.

(TEXT OF BILL BEGINS ON NEXT PAGE)

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

2 Section 1. Section 38-1003, Arizona Revised Statutes, is amended to
3 read:

4 38-1003. Powers and duties of council

5 The council, pursuant to recognized merit system principles of public
6 employment, shall from time to time:

7 1. Classify or reclassify all positions occupied by law enforcement
8 officers within the branch of government employing the officer and recommend
9 schedules of salary and other compensation payable for the officer
10 classification.

11 2. Fix and refix standards and qualifications of all positions so
12 classified.

13 3. Provide a plan for fair and impartial selection, appointment,
14 retention and separation or removal from service by resignation or dismissal
15 of all classified law enforcement officers. ~~The provisions of~~ Paragraph 4 OF
16 THIS SECTION shall apply to appointments.

17 4. Provide a plan for promotion of law enforcement officers ~~which~~ THAT
18 shall give appropriate consideration to qualifications, record of
19 performance, seniority and conduct within the field of law enforcement.
20 Vacancies within a department shall be filled whenever possible by promotion
21 within a department and shall be on the basis of competitive examination. If
22 a vacancy occurs within a department the council, ~~upon~~ ON request, shall
23 certify to the head of the department the names of five officers in the order
24 of their relative excellence in the competitive examination from which
25 certified list the appointment or promotion may be made.

26 5. Adopt rules necessary for the orderly administration of ~~the~~
27 ~~provisions of~~ this article.

28 6. Hear and review appeals from any order of the department head in
29 connection with suspension, demotion or dismissal of a classified law
30 enforcement officer. ANY APPEAL MUST COMPLY WITH THE REQUIREMENTS OF CHAPTER
31 8 OF THIS TITLE. If the order of the department head was for ~~a~~ ANY
32 suspension ~~greater than sixteen hours~~, demotion or dismissal and the council
33 exonerates the officer, the council may award, in whole or in part, the
34 reasonable costs and attorney fees that the law enforcement officer incurred
35 or were incurred on behalf of the law enforcement officer in connection with
36 the appeal. The award of attorney fees by the council shall not exceed ten
37 thousand dollars. An award of attorney fees does not apply if either of the
38 following applies:

39 (a) The order of the department head was not for disciplinary purposes
40 but was for administrative purposes such as a reduction in force.

41 (b) The disciplinary action related to off-duty activities unrelated
42 to the required duties of the law enforcement officer. The council's
43 determination shall be final except on appeal as provided in section 38-1004.
44 If the department head appeals the decision of the council, the council's
45 award of any costs or attorney fees to an officer shall be stayed pending the

1 conclusion of the appeal. If the department head's decision is upheld on
2 appeal, the award of costs or attorney fees in favor of the officer shall be
3 reversed.

4 Sec. 2. Section 38-1004, Arizona Revised Statutes, is amended to read:
5 38-1004. Appeals; hearings

6 A. A classified law enforcement officer who is suspended, demoted or
7 dismissed by the department head, after a hearing and review before the merit
8 system council, may have the determination of the council reviewed pursuant
9 to title 12, chapter 7, article 6 in the superior court of the county in
10 which the law enforcement officer resides. If the determination of the
11 council is overruled by the court, the law enforcement officer shall be
12 reinstated in the officer's position and the officer shall be reimbursed for
13 any compensation withheld pending determination by the council and court.

14 B. If the order of the department head was for ~~a~~ ANY suspension
15 ~~greater than sixteen hours~~, demotion or dismissal and the court exonerates
16 the officer, the court may award, in whole or in part, the reasonable costs
17 and attorney fees that the law enforcement officer incurred or were incurred
18 on behalf of the law enforcement officer in the court proceedings. The award
19 of attorney fees by the court shall not exceed fifteen thousand dollars. An
20 award of attorney fees does not apply if either of the following applies:

21 1. The order of the department head was not for disciplinary purposes
22 but was for administrative purposes such as a reduction in force.

23 2. The disciplinary action related to off-duty activities unrelated to
24 the required duties of the law enforcement officer. If the department head
25 appeals the decision of the court, the court's award of any costs or attorney
26 fees to an officer shall be stayed pending the conclusion of the appeal. If
27 the department head's decision is upheld on appeal, the award of costs or
28 attorney fees in favor of the officer shall be reversed.

29 C. If a law enforcement officer of a county, city or town described in
30 section 38-1007 appeals from a decision of a department head in connection
31 with the law enforcement officer's suspension ~~greater than sixteen hours~~,
32 demotion or dismissal and the county, city or town maintains a merit system
33 or civil service plan for its employees, and the merit system or civil
34 service plan appeals board exonerates the officer, the merit system or civil
35 service plan appeals board may award, in whole or in part, the reasonable
36 costs and attorney fees that the law enforcement officer incurred or were
37 incurred on behalf of the law enforcement officer in connection with the
38 appeal. The amount of the award by the merit system or civil service plan
39 appeals board shall not exceed ten thousand dollars. If the department head
40 appeals the decision of the merit system or civil service appeals board, the
41 award of attorney fees shall be stayed pending the conclusion of the appeal.
42 If the officer appeals to court the decision of the merit system or civil
43 service plan appeals board, or of the city or town council or board of
44 supervisors if the city, town or county has no such board, and the court
45 exonerates the officer, the court may award, in whole or in part, the

1 reasonable costs and attorney fees that the law enforcement officer incurred
2 or were incurred on behalf of the law enforcement officer in connection with
3 the appeal. The award of attorney fees by the governing body or court shall
4 not exceed fifteen thousand dollars. An award of attorney fees under this
5 subsection does not apply if either of the following applies:

6 1. The order of the department head was not for disciplinary purposes
7 but was for administrative purposes such as a reduction in force.

8 2. The disciplinary action related to off-duty activities unrelated to
9 the required duties of the law enforcement officer. If the department head
10 appeals the decision of the court, the court's award of any costs or attorney
11 fees to an officer shall be stayed pending the conclusion of the appeal. If
12 the department head's decision is upheld on appeal, the award of costs or
13 attorney fees in favor of the officer shall be reversed.

14 D. A department head shall have the right to have all council policies
15 and decisions reviewed pursuant to title 12, chapter 7, article 6 in the
16 superior court of the county in which the law enforcement officer resides and
17 legal counsel for the department head shall be provided by the county or city
18 attorney in whose jurisdiction the department lies.

19 Sec. 3. Section 38-1101, Arizona Revised Statutes, is amended to read:

20 38-1101. Definitions

21 In this article, unless the context otherwise requires:

22 1. "Appeal" means THE PROCESS BY WHICH A LAW ENFORCEMENT OFFICER
23 CONTESTS A DISCIPLINARY ACTION, INCLUDING a hearing before a state or local
24 merit board, a civil service board, an administrative law judge or a hearing
25 officer.

26 ~~2. "At will" means an employment relationship where either party to~~
27 ~~the relationship may sever the relationship at any time for any reason other~~
28 ~~than an unlawful reason.~~

29 ~~3. 2. "Disciplinary action" means the dismissal, the demotion or any~~
30 ~~suspension of a law enforcement officer that is authorized by statute,~~
31 ~~charter or ordinance and that is subject to a hearing or other procedure by a~~
32 ~~local merit board, a civil service board, an administrative law judge or a~~
33 ~~hearing officer.~~

34 ~~4. 3. "Excusable neglect" means neglect or inadvertence that might be~~
35 ~~the act of a reasonably prudent person under similar circumstances.~~

36 ~~5. 4. "Good faith" means honesty of purpose and absence of intent to~~
37 ~~defraud.~~

38 ~~6. 5. "Investigative file" means the law enforcement agency's~~
39 ~~complete report and any attachments detailing~~ DOCUMENTS THAT ARE IN THE
40 EMPLOYER'S POSSESSION OR CONTROL THAT CONTAIN THE ALLEGED FACTS, THAT ARE
41 RELEVANT TO THE ISSUES TO BE DETERMINED OR THAT DETAIL the incidents leading
42 to the disciplinary action, INCLUDING COMPLAINTS, AUDIO RECORDINGS, VIDEO
43 RECORDINGS, PHOTOGRAPHS, WITNESS STATEMENTS AND EXCULPATORY AND MITIGATING
44 EVIDENCE. INVESTIGATIVE FILE DOES NOT INCLUDE COPIES OF COMPLAINTS THAT ARE
45 FILED WITH THE EMPLOYER AND THAT INCLUDE ALLEGATIONS OF UNLAWFUL

1 DISCRIMINATION, HARASSMENT OR RETALIATION OR COMPLAINTS THAT INVOLVE MATTERS
2 UNDER THE JURISDICTION OF ANY EQUAL EMPLOYMENT OPPORTUNITY AGENCY.

3 ~~7-~~ 6. "Just cause" means:

4 (a) The employer informed the law enforcement officer of the possible
5 disciplinary action resulting from the officer's conduct through agency
6 manuals, employee handbooks, the employer's rules and regulations or other
7 communications to the officer or the conduct was such that the officer should
8 have reasonably known disciplinary action could occur.

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

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

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

17 ~~8-~~ 7. "Law enforcement officer" means:

18 (a) An individual, other than a probationary employee, who is
19 certified by the Arizona peace officer standards and training board, other
20 than a person employed by a multi-county water conservation district.

21 (b) A detention or corrections officer, other than a probationary
22 employee or juvenile detention officer, who is employed by this state or a
23 political subdivision of this state.

24 (c) A nonprobationary regularly appointed and paid deputy sheriff of a
25 county.

26 (d) A nonprobationary regularly employed police officer in a city or
27 town.

28 8. "SERVICE RECORD" MEANS THE LAW ENFORCEMENT OFFICER'S PERFORMANCE
29 RECORD FOR THE EMPLOYER THAT IS IMPOSING THE DISCIPLINE.

30 Sec. 4. Section 38-1102, Arizona Revised Statutes, is amended to read:

31 38-1102. Peace officers bill of rights; preemption; violation;
32 classification; civil penalty; attorney general;
33 jurisdiction

34 A. A peace officers bill of rights is established. This article does
35 not preempt agreements that supplant, revise or otherwise deviate from the
36 provisions of this article, including written agreements between the employer
37 and the law enforcement officer or the law enforcement officer's lawful
38 representative association.

39 B. UNLESS OTHERWISE PROVIDED BY LAW, IF A LAW ENFORCEMENT OFFICER'S
40 RIGHTS ARE DENIED BECAUSE A PERSON FAILS TO COMPLY WITH THE REQUIREMENTS OF
41 THIS CHAPTER, THE PERSON IS GUILTY OF A CLASS 3 MISDEMEANOR AND IS SUBJECT TO
42 ALL OF THE FOLLOWING:

- 43 1. A CIVIL PENALTY OF UP TO TWENTY-FIVE THOUSAND DOLLARS.
- 44 2. ATTORNEY FEES AND COSTS.
- 45 3. ANY OTHER DAMAGES.

1 C. THE ATTORNEY GENERAL HAS JURISDICTION TO ENFORCE THIS ARTICLE. THE
2 ATTORNEY GENERAL MAY SEEK RELIEF FOR ANY VIOLATION OF THIS SECTION THROUGH AN
3 APPROPRIATE CIVIL OR CRIMINAL ACTION IN SUPERIOR COURT, INCLUDING AN ACTION
4 TO ENJOIN A THREATENED OR PENDING VIOLATION OF THIS ARTICLE.

5 Sec. 5. Section 38-1103, Arizona Revised Statutes, is amended to read:
6 38-1103. Discipline of law enforcement officers; exception

7 A. A law enforcement officer is not subject to disciplinary action
8 except for just cause.

9 B. This section does not apply to~~:-~~

10 ~~1. a dismissal or demotion that is for administrative purposes,~~
11 ~~including a reduction in force.~~

12 ~~2. A law enforcement officer who is employed by an agency of this~~
13 ~~state as an at will employee.~~

14 Sec. 6. Section 38-1104, Arizona Revised Statutes, is amended to read:
15 38-1104. Internal investigations; employee representative;

16 violation; classification; civil penalty

17 A. If an employer interviews a law enforcement officer in the course
18 of an administrative investigation and the employer or law enforcement
19 officer reasonably believes that the interview could result in dismissal,
20 demotion or suspension:

21 1. The law enforcement officer may request to have a representative of
22 the officer present ~~at no cost to the employer~~ during the interview. The law
23 enforcement officer shall select a representative who is available on
24 reasonable notice so that the interview is not unreasonably delayed. The
25 representative shall participate in the interview only as an observer.
26 Unless agreed to by the employer, the representative shall not be an attorney
27 and shall be from the same agency, except that if a representative from the
28 same agency is not reasonably available, with the employer's permission, the
29 law enforcement officer's representative may be from the law enforcement
30 officer's professional membership organization. The law enforcement officer
31 shall be permitted reasonable breaks of limited duration during any interview
32 for telephonic or in person consultation with authorized persons, including
33 an attorney, who are immediately available. An employer shall not
34 discipline, retaliate against or threaten to retaliate against a law
35 enforcement officer for requesting that a representative be present or for
36 acting as the representative of a law enforcement officer pursuant to this
37 paragraph.

38 2. **NOT LESS THAN ONE DAY** before the commencement of any interview
39 described in this section, the employer shall provide the law enforcement
40 officer with a written notice informing the officer of the alleged facts that
41 are the basis of the investigation, the specific nature of the investigation,
42 the officer's status in the investigation, all known allegations of
43 misconduct that are the reason for the interview and the officer's right to
44 have a representative present at the interview. **THE LAW ENFORCEMENT OFFICER**
45 **MAY RETAIN THE WRITTEN NOTICE THAT IS PROVIDED PURSUANT TO THIS PARAGRAPH.**

1 3. The notice PROVIDED PURSUANT TO PARAGRAPH 2 OF THIS SUBSECTION
2 shall include copies of all complaints that ARE IN THE EMPLOYER'S POSSESSION
3 OR CONTROL AND THAT contain the alleged facts ~~that are reasonably available,~~
4 ~~except for copies of complaints that are filed with the employer and that~~
5 ~~include allegations of unlawful discrimination, harassment or retaliation or~~
6 ~~complaints that involve matters under the jurisdiction of the equal~~
7 ~~employment opportunity commission~~ OR THAT ARE RELEVANT TO THE ISSUES TO BE
8 DETERMINED, INCLUDING AUDIO RECORDINGS, VIDEO RECORDINGS AND PHOTOGRAPHS.
9 THE EMPLOYER'S DUTY TO DISCLOSE CONTINUES THROUGHOUT THE INVESTIGATION AND
10 ANY APPEAL.

11 4. THE LAW ENFORCEMENT OFFICER MAY AUDIO RECORD THE INTERVIEW.

12 ~~3-~~ 5. At the conclusion of the interview, the law enforcement officer
13 is entitled to a period of time to consult with the officer's representative
14 and may make a statement ~~not to exceed five minutes~~ addressing specific facts
15 or policies that are related to the interview.

16 B. Subsection A of this section does not require the employer to
17 either:

18 1. Stop an interview to issue another notice for allegations based on
19 information provided by the law enforcement officer during the interview.

20 2. Disclose any fact to the law enforcement officer or the law
21 enforcement officer's representative that would impede the investigation.

22 C. Subsection A, paragraphs 1, ~~and~~ 2 AND 3 of this section do not
23 apply to an interview of a law enforcement officer that is:

24 1. In the normal course of duty, counseling or instruction or an
25 informal verbal admonishment by, or other routine or unplanned contact with,
26 a supervisor or any other law enforcement officer.

27 ~~2. Preliminary questioning to determine the scope of the allegations~~
28 ~~or if an investigation is necessary.~~

29 ~~3-~~ 2. Conducted during the course of a criminal investigation.

30 ~~4. Conducted during the course of a polygraph examination.~~

31 ~~D. The employer may require the law enforcement officer to submit to a~~
32 ~~polygraph examination if the officer makes a statement to the employer during~~
33 ~~the investigation that differs from other information relating to the~~
34 ~~investigation that is known to the employer and reconciling that difference~~
35 ~~is necessary to complete the investigation. If a polygraph examination is~~
36 ~~administered pursuant to this paragraph, the employer or the person~~
37 ~~administering the polygraph examination shall make an audio recording of the~~
38 ~~complete polygraph procedure and provide a copy of the recording to the law~~
39 ~~enforcement officer. Section 38-1108 applies to a polygraph examination that~~
40 ~~is administered pursuant to this subsection.~~

41 D. DURING THE COURSE OF ANY ADMINISTRATIVE INVESTIGATION, THE
42 INVESTIGATOR:

43 1. MAY NOT INTENTIONALLY MISREPRESENT ANY MATERIAL FACT OR MATERIAL
44 ISSUE, INCLUDING ANY WILFUL ALTERATIONS OR REDACTIONS TO RELEVANT DOCUMENTS
45 THAT ARE SUBJECT TO DISCLOSURE PURSUANT TO THIS SECTION.

1 2. MUST ASK THE LAW ENFORCEMENT OFFICER NARROWLY TAILORED AND SPECIFIC
2 QUESTIONS.

3 E. If, after an employer completes an investigation of a law
4 enforcement officer, the employer ~~seeks~~ INTENDS TO SEEK disciplinary action,
5 ~~at the request of the law enforcement officer,~~ the employer shall:

6 1. Provide a basic summary of ~~any discipline ordered against any other~~
7 ~~law enforcement officer of generally similar rank and experience employed by~~
8 ~~the employer within the previous two years for the same or a similar~~
9 ~~violation. As an alternative, the employer may provide file copies of the~~
10 ~~relevant disciplinary cases. The employer shall~~ IDENTICAL OR SIMILAR
11 ALLEGATIONS AGAINST ANY LAW ENFORCEMENT OFFICER WITHIN THE PREVIOUS FIVE
12 YEARS REGARDLESS OF WHETHER THE ALLEGATIONS RESULTED IN DISCIPLINE.

13 2. PROVIDE THE LAW ENFORCEMENT OFFICER WITH A COMPLETE COPY OF THE
14 INVESTIGATIVE FILE.

15 3. ALLOW THE LAW ENFORCEMENT OFFICER FOURTEEN DAYS TO REVIEW THE
16 INVESTIGATIVE FILE AND TO SUBMIT A RESPONSE OR REBUTTAL TO THE INVESTIGATION
17 BEFORE ANY DISCIPLINE IS ORDERED. THE EMPLOYER MAY GRANT EXTENSIONS TO THE
18 FOURTEEN-DAY PERIOD. THE LAW ENFORCEMENT OFFICER SHALL RETURN THE
19 INVESTIGATIVE FILE TO THE EMPLOYER AT THE TIME THE REBUTTAL OR RESPONSE IS
20 DELIVERED TO THE EMPLOYER OR AT THE END OF THE ALLOTTED TIME PERIOD.

21 4. Not take final action ~~and the employer shall not schedule a hearing~~
22 ~~until the basic summary or file copies are provided to the law enforcement~~
23 ~~officer~~ ON ANY DISCIPLINE UNTIL THE LAW ENFORCEMENT OFFICER'S REBUTTAL OR
24 RESPONSE IS CONSIDERED.

25 ~~F. This section does not apply to a law enforcement officer who is~~
26 ~~employed by an agency of this state as an at will employee.~~

27 F. FOR THE PURPOSES OF SUBSECTION E OF THIS SECTION, THE INVESTIGATION
28 IS CONSIDERED COMPLETE ON THE DATE THAT THE EMPLOYEE IS SERVED WITH A NOTICE
29 OF FINDINGS.

30 G. THE EMPLOYER SHALL INCLUDE ALL EXCULPATORY EVIDENCE IN THE
31 INVESTIGATIVE FILE. A PERSON WHO VIOLATES THIS SUBSECTION IS GUILTY OF A
32 CLASS 3 MISDEMEANOR AND IS SUBJECT TO A CIVIL PENALTY OF NOT LESS THAN
33 FIFTEEN THOUSAND DOLLARS AND NOT MORE THAN TWENTY-FIVE THOUSAND DOLLARS. THE
34 LAW ENFORCEMENT OFFICER SHALL BE AWARDED ATTORNEY FEES AND ANY OTHER DAMAGES.
35 THE PROSECUTOR SHALL PROVIDE THE NAME OF ANY PERSON WHO IS CONVICTED OF A
36 VIOLATION OF THIS SECTION TO THE APPROPRIATE ENTITY SO THAT THE PERSON'S NAME
37 IS INCLUDED IN ANY BRADY V. MARYLAND LIST, ANY LAW ENFORCEMENT INTEGRITY
38 DATABASE LIST AND A RULE 15 LIST.

39 Sec. 7. Section 38-1105, Arizona Revised Statutes, is amended to read:

40 38-1105. Law enforcement officer as witness; right to
41 representation

42 A. If a law enforcement officer is designated as a witness by the law
43 enforcement officer's employer in an investigation that could lead to another
44 law enforcement officer's dismissal, demotion or suspension, the witness law
45 enforcement officer may request to have a representative present at no cost

1 to the employer during the witness interview. Unless agreed to by the
 2 employer, the representative shall be from the same agency and shall not be
 3 an attorney, except that if a representative from the same agency is not
 4 reasonably available, with the employer's permission, the witness law
 5 enforcement officer's representative may be from the witness law enforcement
 6 officer's professional membership organization.

7 B. The witness law enforcement officer ~~shall~~ **MUST** answer all questions
 8 asked by the law enforcement officer's department investigator, and
 9 information learned during a witness interview ~~is considered proprietary and~~
 10 **MUST REMAIN** confidential ~~by the employer and shall remain so until the~~
 11 ~~witness law enforcement officer is served with a notice of investigation by~~
 12 ~~the employer or the witness law enforcement officer is released from the~~
 13 ~~confidentiality requirements of this section~~ **UNTIL AN APPEAL IS REQUESTED.**

14 C. The witness law enforcement officer may discuss the law enforcement
 15 officer's witness interview with the witness law enforcement officer's
 16 representative or that representative's legal counsel. If the witness law
 17 enforcement officer or the witness law enforcement officer's representative
 18 releases information without authorization, the employer may subject the
 19 witness law enforcement officer or the witness law enforcement officer's
 20 representative to disciplinary action.

21 ~~D. This section does not apply to a law enforcement officer who is~~
 22 ~~employed by an agency of this state as an at will employee.~~

23 Sec. 8. Section 38-1106, Arizona Revised Statutes, is amended to read:
 24 **38-1106. Appeal of disciplinary actions; transcripts; change of**
 25 **hearing officer or administrative law judge; burden**
 26 **of proof; violation; classification; civil penalty**

27 **A. A LAW ENFORCEMENT OFFICER HAS THE RIGHT TO APPEAL ANY DISCIPLINARY**
 28 **ACTION.**

29 ~~A.~~ B. In any appeal of a disciplinary action by a law enforcement
 30 officer, the parties shall cooperate with each other, act in good faith and
 31 exchange copies of all relevant documents and a list of all witnesses
 32 pursuant to the following time periods and requirements:

33 1. Within fourteen calendar days after the employer's receipt of a
 34 written request from the law enforcement officer for ~~a copy of the~~
 35 ~~investigative file that is accompanied by a copy of the filed notice of AN~~
 36 appeal, the employer shall provide a complete copy of the investigative file
 37 as well as the names and contact information for all persons interviewed
 38 during the course of the investigation.

39 2. No later than fourteen calendar days before the appeal hearing,
 40 **EXCLUDING THE DATE OF THE HEARING AND BY THE END OF THE BUSINESS DAY,** the
 41 parties shall produce and serve on every party the following information:

42 (a) The name of each witness whom the disclosing party expects to call
 43 at the appeal hearing, with a designation of the subject matter on which each
 44 witness might be called to testify. ~~A witness may decline an interview. The~~
 45 ~~parties shall not interfere with any decision of a witness regarding whether~~

1 ~~to be interviewed. An employer shall not discipline, retaliate against or~~
2 ~~threaten to retaliate against any witness for agreeing to be interviewed or~~
3 ~~for testifying or providing evidence in the appeal.~~

4 (b) The name and contact information of each person who has given
5 statements, whether written or recorded or signed or unsigned, regarding
6 matters relevant to the notice of discipline and the custodian of the copies
7 of those statements.

8 (c) Copies of any documents that may be introduced at the hearing and
9 that have not previously been disclosed.

10 C. THE HEARING MAY NOT BE SCHEDULED UNTIL FOURTEEN DAYS AFTER THE
11 INVESTIGATIVE FILE IS FULLY DISCLOSED. ANY HEARING THAT IS SCHEDULED BEFORE
12 FULL DISCLOSURE IS AUTOMATICALLY CONTINUED UNTIL FULL DISCLOSURE IS COMPLETED
13 UNLESS WAIVED IN WRITING BY THE LAW ENFORCEMENT OFFICER.

14 D. A WITNESS MAY DECLINE AN INTERVIEW. THE PARTIES MAY NOT INTERFERE
15 WITH ANY DECISION OF A WITNESS REGARDING WHETHER TO BE INTERVIEWED. AN
16 EMPLOYER MAY NOT DISCIPLINE, RETALIATE AGAINST OR THREATEN TO RETALIATE
17 AGAINST ANY WITNESS FOR AGREEING OR DECLINING TO BE INTERVIEWED OR FOR
18 TESTIFYING OR PROVIDING EVIDENCE IN THE APPEAL.

19 ~~B.~~ E. It is unlawful for a person to disseminate information that is
20 disclosed pursuant to ~~subsection A of~~ this section to any person other than
21 the parties to the appeal and their lawful representatives for purposes of
22 the appeal of the disciplinary action. This subsection does not prohibit the
23 use of the information in the hearing or disclosure AFTER THE HEARING
24 pursuant to title 39, chapter 1, article 2.

25 F. EVIDENCE AND EXHIBITS THAT MAY BE INTRODUCED IN AN APPEAL HEARING
26 MAY NOT BE PROVIDED TO A HEARING OFFICER, ADMINISTRATIVE LAW JUDGE, BOARD OR
27 COMMISSION BEFORE THE DATE OF THE HEARING, UNLESS BOTH PARTIES AGREE TO THE
28 DISCLOSURE.

29 G. HEARING OFFICERS, ADMINISTRATIVE LAW JUDGES, BOARDS AND
30 COMMISSIONS, AS PUBLIC OFFICIALS, SHALL TAKE EVIDENCE, SUBPOENA WITNESSES AND
31 HAVE THE AUTHORITY PROVIDED BY SECTIONS 12-2211 AND 12-2212.

32 ~~G.~~ H. If a transcript is required in an administrative hearing, the
33 employer shall obtain the transcript and provide a copy to the law
34 enforcement officer within ten calendar days after the employer's receipt of
35 the transcript.

36 ~~D.~~ I. Failure to comply with the requirements of subsection ~~A or~~ B OR
37 C of this section shall result in the exclusion of the witness, evidence or
38 testimony, unless the failure to comply is because of excusable neglect.

39 ~~E.~~ J. The employer or the law enforcement officer may seek a
40 determination by the hearing officer, administrative law judge or appeals
41 board hearing the appeal regarding any evidence that the employer or the law
42 enforcement officer believes should not be disclosed pursuant to subsection
43 ~~A~~ B of this section because the risk of harm involved in disclosure
44 outweighs any usefulness of the disclosure in the hearing. In determining
45 whether evidence will be disclosed, the hearing officer, administrative law

1 judge or appeals board may perform an in camera review of the evidence and
 2 may disclose the material subject to any restriction on the disclosure,
 3 including the closing of the hearing or the sealing of the records, that the
 4 hearing officer, administrative law judge or appeals board finds necessary
 5 under the circumstances.

6 ~~F.~~ K. In any appeal of a disciplinary action by a law enforcement
 7 officer in which a single hearing officer or administrative law judge has
 8 been appointed to conduct the appeal hearing, the law enforcement officer or
 9 the employer, within ten calendar days after the appointment of the hearing
 10 officer or administrative law judge, may request a change of hearing officer
 11 or administrative law judge. In cases before the office of administrative
 12 hearings or if the employer is a county, city or town, on the first request
 13 of a party, the request shall be granted. A city or town with a population
 14 of less than sixty-five thousand persons or a county with a population of
 15 less than two hundred fifty thousand persons must provide, if necessary to
 16 comply with this subsection, for an alternate hearing officer by means of an
 17 interagency agreement with another city, town or county. If the law
 18 enforcement officer is the party who requested the alternate hearing officer,
 19 the law enforcement officer shall reimburse the city, town or county for
 20 one-half of any additional expenses incurred by the city, town or county in
 21 procuring the alternate hearing officer under the interagency agreement. If
 22 an alternate hearing officer is requested by means of an interagency
 23 agreement, the hearing officer shall provide to the law enforcement officer
 24 or employer the option of continuing the hearing for an additional ten
 25 calendar days. Any subsequent requests may be granted only on a showing that
 26 a fair and impartial hearing cannot be obtained due to the prejudice of the
 27 assigned hearing officer or administrative law judge. The supervisor or
 28 supervising body of the hearing officer or administrative law judge shall
 29 decide whether a showing of prejudice has been made.

30 ~~G.~~ L. The employer has the burden of proof in an appeal of a
 31 disciplinary action by a law enforcement officer.

32 M. IN AN APPEAL OF A DISCIPLINARY ACTION, THE STANDARD OF REVIEW IS A
 33 DE NOVO REVIEW AS TO WHETHER THE APPOINTING AUTHORITY HAS SATISFIED ITS
 34 BURDEN TO ESTABLISH THAT THERE WAS JUST CAUSE FOR THE DISCIPLINARY ACTION.

35 ~~H. N. Except where a statute, rule or ordinance makes the~~
 36 ~~administrative evidentiary hearing the final administrative determination and~~
 37 After a DE NOVO REVIEW hearing where the law enforcement officer and the
 38 employer have been equally allowed to call and examine witnesses,
 39 cross-examine witnesses, provide documentary evidence and otherwise fully
 40 participate in the ~~hearing, an employer or a person acting on behalf of an~~
 41 ~~employer may amend, modify, reject or reverse the portion of a decision made~~
 42 ~~by a hearing officer, administrative law judge or appeals board that was~~
 43 ~~arbitrary or without reasonable justification. The employer or person acting~~
 44 ~~on behalf of the employer shall state the reason for the amendment,~~
 45 ~~modification, rejection or reversal~~ APPEAL ANY PORTION OF A DECISION MADE BY

1 THE EMPLOYER THAT WAS WITHOUT JUST CAUSE MAY BE AMENDED, MODIFIED, REJECTED
2 OR REVERSED.

3 ~~I.~~ O. Notwithstanding chapter 3, article 3.1 of this title, all
4 hearings pursuant to this section shall be ~~open~~ CLOSED to the public UNLESS
5 THE LAW ENFORCEMENT OFFICER REQUESTS THAT THE HEARING BE OPEN TO THE PUBLIC.
6 Executive sessions permitted pursuant to section 38-431.03 shall be limited
7 to legal advice to a personnel appeals board or for deliberations.

8 ~~J.~~ P. A law enforcement officer who prevails in an appeal where a
9 termination has been reversed ~~may~~ SHALL be awarded retroactive compensation
10 from the date of the officer's separation to the date of reinstatement. The
11 hearing officer, administrative law judge or appeals board hearing the appeal
12 shall determine the amount of retroactive compensation awarded and any
13 reduction to that amount. ~~Retroactive compensation may be reduced:~~

14 ~~1. If there is undue delay in setting a hearing date caused by the law~~
15 ~~enforcement officer or the law enforcement officer's representative.~~

16 ~~2. If the law enforcement officer requests a continuance.~~

17 ~~3. If there exists a period between separation and reinstatement that~~
18 ~~the law enforcement officer would have been unable to perform the duties of a~~
19 ~~law enforcement officer.~~

20 ~~4. By any amount earned by the law enforcement officer in alternative~~
21 ~~employment.~~

22 ~~K.~~ Q. The hearing officer, administrative law judge or appeals board
23 shall state in every finding of disciplinary action whether or not just cause
24 existed for the disciplinary action AND IF THE DECISION IS AMENDED, MODIFIED,
25 REJECTED OR REVERSED, THE REASON FOR THE AMENDMENT, MODIFICATION, REJECTION
26 OR REVERSAL.

27 ~~L.~~ R. The hearing officer, administrative law judge or appeals board
28 shall document in the record those circumstances where the hearing officer,
29 administrative law judge or appeals board determines that a party has clearly
30 violated a party's obligation under this section.

31 ~~M. This section does not apply to a law enforcement officer who is~~
32 ~~employed by an agency of this state as an at will employee.~~

33 S. IF A LAW ENFORCEMENT OFFICER'S RIGHTS ARE DENIED BECAUSE A PERSON
34 FAILS TO COMPLY WITH THE REQUIREMENTS OF SUBSECTION D, E, F, G OR H OF THIS
35 SECTION, THE PERSON IS GUILTY OF A CLASS 3 MISDEMEANOR AND IS SUBJECT TO ALL
36 OF THE FOLLOWING:

37 1. A CIVIL PENALTY OF NOT LESS THAN TEN THOUSAND DOLLARS AND NOT MORE
38 THAN FIFTEEN THOUSAND DOLLARS.

39 2. ATTORNEY FEES AND COSTS.

40 3. ANY OTHER DAMAGES.

1 Sec. 9. Section 38-1108, Arizona Revised Statutes, is amended to read:
2 38-1108. Lie detector examination; prohibition; exception;
3 definition

4 ~~A. The results of a polygraph examination in an investigation may not~~
5 ~~be the basis for disciplinary action unless other corroborating evidence or~~
6 ~~information exists to support that disciplinary action.~~

7 A. A LAW ENFORCEMENT OFFICER MAY NOT BE COMPELLED TO SUBMIT TO A LIE
8 DETECTOR EXAMINATION FOR ANY REASON.

9 B. NO DISCIPLINARY ACTION OR OTHER RECRIMINATION MAY BE TAKEN AGAINST
10 A LAW ENFORCEMENT OFFICER WHO REFUSES TO SUBMIT TO A LIE DETECTOR
11 EXAMINATION. THE EMPLOYER MAY NOT PLACE ANY COMMENTS IN THE INVESTIGATOR'S
12 NOTES OR IN THE INVESTIGATION FILE THAT THE OFFICER REFUSED OR WAS REQUESTED
13 TO TAKE A LIE DETECTOR EXAMINATION. EVIDENCE THAT THE LAW ENFORCEMENT
14 OFFICER REFUSED TO TAKE OR WAS SUBJECTED TO A LIE DETECTOR EXAMINATION IS NOT
15 ADMISSIBLE IN ANY JUDICIAL OR ADMINISTRATIVE HEARING, TRIAL OR APPEAL.

16 ~~B.~~ C. Notwithstanding section 39-123, all data and reports from a
17 ~~polygraph~~ LIE DETECTOR examination of a law enforcement officer are
18 confidential and may be used only for ~~employment~~ PREEMPLOYMENT, certification
19 or reactivation of certification purposes ~~or for the administrative matter~~
20 ~~for which a polygraph was administered, including other ancillary matters.~~
21 All other uses are prohibited.

22 ~~C.~~ D. Except for a preemployment ~~polygraph~~ LIE DETECTOR EXAMINATION
23 after which an applicant was not hired or in the case of an active
24 investigation or an appeal, the data and reports from a ~~polygraph~~ LIE
25 DETECTOR examination of a law enforcement officer shall be destroyed as soon
26 as practicable three years after the date of appointment or employment but
27 not more than ninety calendar days after that date.

28 ~~D. This section does not apply to a law enforcement officer who is~~
29 ~~employed by an agency of this state as an at will employee.~~

30 E. FOR THE PURPOSES OF THIS SECTION, "LIE DETECTOR EXAMINATION" MEANS
31 A POLYGRAPH, DECEPTOGRAPH, VOICE STRESS ANALYZER, PSYCHOLOGICAL STRESS
32 EVALUATOR OR ANY OTHER SIMILAR DEVICE, WHETHER MECHANICAL OR ELECTRICAL, THAT
33 IS USED, OR THE RESULTS OF WHICH ARE USED, TO RENDER A DIAGNOSTIC OPINION
34 REGARDING THE HONESTY OR DISHONESTY OF AN INDIVIDUAL.

35 Sec. 10. Section 38-1109, Arizona Revised Statutes, is amended to
36 read:

37 38-1109. Confidentiality of records; exception; violation;
38 classification

39 A. An employer shall not include in that portion of the personnel file
40 of a law enforcement officer that is available for public inspection and
41 copying any information about an investigation until the investigation is
42 complete or the employer has discontinued the investigation.

43 B. If the law enforcement officer has timely appealed a disciplinary
44 action, the investigation is not complete until the conclusion of the appeal

1 process. ~~This subsection does not apply to a law enforcement officer who is~~
2 ~~employed by an agency of this state as an at will employee.~~

3 C. A PERSON WHO VIOLATES SUBSECTION A OF THIS SECTION IS GUILTY OF A
4 CLASS 3 MISDEMEANOR.

5 Sec. 11. Section 38-1110, Arizona Revised Statutes, is amended to
6 read:

7 38-1110. Time limitation on disciplinary action against law
8 enforcement officer; exceptions

9 A. An employer shall ~~make a good faith effort to~~ complete any
10 investigation of employee misconduct within one hundred eighty calendar days
11 after the employer receives notice of the allegation by a person authorized
12 by the employer to initiate an investigation of the misconduct. FOR THE
13 PURPOSES OF THIS SECTION, the investigation is considered complete on the
14 date the employee is served with the notice of discipline or the notice of
15 findings, WHICHEVER OCCURS FIRST. ~~If the employer exceeds the one hundred~~
16 ~~eighty calendar day limit, the employer shall provide the employee with a~~
17 ~~written explanation containing the reasons the investigation continued beyond~~
18 ~~one hundred eighty calendar days.~~

19 B. The limitation period established by subsection A of this section:

20 1. Is suspended during the time that any criminal investigation or
21 prosecution is pending in connection with the act, omission or other
22 allegation of misconduct.

23 2. Is suspended during the period of time in which a law enforcement
24 officer who is involved in the investigation is incapacitated or otherwise
25 unavailable.

26 3. May be suspended for a period prescribed in a written waiver of the
27 limitation by the law enforcement officer.

28 4. May be suspended for emergencies or natural disasters during the
29 time period in which the governor has declared a state of emergency within
30 the jurisdictional boundaries of the concerned employer.

31 5. In a multijurisdictional investigation, may be extended for a
32 period of time reasonably necessary to facilitate the coordination of the
33 employers involved.

34 C. On an appeal of discipline by the employee, a hearing officer,
35 administrative law judge or appeals board ~~may~~ SHALL dismiss the discipline if
36 it is determined that ~~the employer did not make a good faith effort to~~
37 ~~complete the investigation within one hundred eighty calendar days. The~~
38 ~~allegation regarding any act, omission or other misconduct may be sustained,~~
39 ~~and the employee's record shall reflect that the allegation was sustained but~~
40 ~~no discipline was administered due to the finding of the hearing officer,~~
41 ~~administrative law judge or appeals board that the employer did not make a~~
42 ~~good faith effort to complete the investigation in one hundred eighty~~
43 ~~calendar days. The sustained discipline may be considered when determining~~
44 ~~discipline in any future sustained misconduct allegation. If the employer~~
45 ~~determines that disciplinary action is appropriate, the employer shall~~

1 ~~complete the employer's investigation and give notice in writing to the law~~
2 ~~enforcement officer of the employer's intent to proceed with disciplinary~~
3 ~~action, along with a proposal of the specific action sought, including length~~
4 ~~of suspension, if applicable~~ THERE WAS A DENIAL OF THE LAW ENFORCEMENT
5 OFFICER'S RIGHT TO DUE PROCESS.

6 ~~D. This section does not apply to a law enforcement officer who is~~
7 ~~employed by an agency of this state as an at will employee.~~

8 Sec. 12. Section 38-1111, Arizona Revised Statutes, is amended to
9 read:

10 38-1111. Critical incident stress management team member;
11 privilege; exceptions; violation; classification;
12 definitions

13 A. Except as provided in subsection B OF THIS SECTION, a critical
14 incident stress management team member who, in the course of the member's
15 response to a critical incident at the request of the member or member's
16 agency, acquires information secretly and in confidence from a designated
17 person shall not VOLUNTARILY DISCLOSE OR be compelled to disclose ~~that~~ ANY OF
18 THE information in a legal proceeding, trial or investigation before THE
19 EMPLOYER, any agency of this state or a political subdivision of this state.

20 B. Subsection A OF THIS SECTION does not apply if:

21 1. The communication or advice indicates clear and present danger to
22 the designated person who received crisis response services or to other
23 persons.

24 2. The designated person who received crisis response services gives
25 express consent to the testimony.

26 ~~3. The communication or advice is made during the course of a criminal~~
27 ~~investigation.~~

28 ~~4. The designated person who received crisis response services~~
29 ~~voluntarily testifies, in which case the critical incident stress management~~
30 ~~team member may be compelled to testify on the same subject.~~

31 ~~5. A breach of department policy exists and that breach amounts to a~~
32 ~~violation of laws that are normally enforced by law enforcement.~~

33 C. A PERSON WHO VIOLATES THIS SECTION IS GUILTY OF A CLASS 2
34 MISDEMEANOR.

35 ~~C.~~ D. For the purposes of this section:

36 1. "Crisis response services" means consultation, risk assessment,
37 referral and onsite crisis intervention services provided by a critical
38 incident stress management team to a designated person.

39 2. "Critical incident stress management team member" means an
40 individual who has completed training through a recognized organization that
41 delivers critical incident stress management training and who is part of a
42 law enforcement, probation, firefighter or emergency medical provider crisis
43 response team.

44 3. "Department" means the branch of government in which a designated
45 person is employed.

1 4. "Designated person" means an emergency medical provider,
2 firefighter or law enforcement officer.

3 5. "Emergency medical provider" means municipal or state emergency
4 medical services personnel.

5 6. "Firefighter" means a municipal or state firefighter.

6 7. "Law enforcement officer" means:

7 (a) An individual who is certified by the Arizona peace officer
8 standards and training board, other than a person employed by a multi-county
9 water conservation district.

10 (b) A detention officer or correction officer, other than a
11 probationary employee, who is employed by this state or a political
12 subdivision of this state.

13 Sec. 13. Section 38-1112, Arizona Revised Statutes, is amended to
14 read:

15 38-1112. Law enforcement officers; fitness for duty
16 examinations; rights of officers; definitions

17 A. An employer may order a law enforcement officer to submit to a
18 physical, **MENTAL OR BEHAVIORAL** examination only if the law enforcement
19 officer has acted or failed to act in an observable manner that indicates
20 that there is a ~~physical~~ condition materially limiting the law enforcement
21 officer's ability to perform the essential functions of the law enforcement
22 officer's job within the law enforcement officer's job description. The
23 order shall state all of the specific objective facts on which the order for
24 the ~~physical exam~~ **EXAMINATION** is based except that the order may omit the
25 specific names of individuals who reported the law enforcement officer's
26 conduct to the supervisor.

27 B. The order shall provide at least ~~ten~~ **FOURTEEN** calendar days' notice
28 to the law enforcement officer to be examined and shall specify the time,
29 place, manner, conditions and scope of the examination and the person or
30 persons who will conduct the examination. The law enforcement officer to be
31 examined may **RECORD THE EXAMINATION AND** have a representative **OF THE**
32 **OFFICER'S CHOICE, INCLUDING A SPOUSE**, present during the examination ~~if the~~
33 ~~physician conducting the examination agrees~~.

34 C. The employer shall provide the law enforcement officer with the
35 final report of the examination containing the ~~medical~~ professional's
36 findings. The employer may provide any additional information related to the
37 fitness for duty examination to the examining ~~physician~~ **PROFESSIONAL**.

38 D. The report shall be provided only to the employer and the law
39 enforcement officer and shall not be provided to any other person except as
40 required for any subsequent appeal or certification action involving the law
41 enforcement officer. The employer shall provide notice to the law
42 enforcement officer that the report has been received by the employer. ~~The~~
43 ~~report shall be provided to the law enforcement officer immediately if the~~
44 ~~law enforcement officer presents the final report of an independent medical~~
45 ~~examination or if the law enforcement officer waives any right to request an~~

1 ~~independent medical examination. If the law enforcement officer does not~~
2 ~~present the results of an independent medical examination within twenty~~
3 ~~calendar days after the employer provides notice to the law enforcement~~
4 ~~officer that the report has been received by the employer, the law~~
5 ~~enforcement officer is deemed to have waived the right to present the results~~
6 ~~of the independent medical examination.~~

7 E. The employer shall ~~make a reasonable good faith effort to~~ deliver
8 the report to the law enforcement officer.

9 F. The ~~physician~~ PROFESSIONAL may consider and report on only the law
10 enforcement officer's medical or other records, INCLUDING PREEMPLOYMENT
11 PHYSICAL, BEHAVIORAL AND MENTAL EVALUATIONS, that are directly relevant to
12 the actions in question ~~and~~ when conducting the examination, including
13 medical records that record preexisting conditions that are relevant to the
14 examination. The ~~physician~~ PROFESSIONAL may additionally consider and report
15 any condition of the law enforcement officer that the ~~physician~~ PROFESSIONAL
16 identifies during the course of the ~~physical~~ examination and that endangers
17 the safety of the law enforcement officer or the community.

18 G. The employer shall not take any final action until after the law
19 enforcement officer has had at least twenty calendar days to review the
20 report unless the law enforcement officer waives the twenty-day period or the
21 employer grants an extension.

22 H. This section does not prohibit the preexamination materials from
23 being used in any proceeding held pursuant to section 38-1104.

24 ~~I. Providing the preexamination materials to the person conducting the~~
25 ~~independent examination of the law enforcement officer does not change the~~
26 ~~disclosure requirements under section 38-1104.~~

27 ~~J.~~ I. For the purposes of this section:

28 ~~1. "Independent medical examination" means an assessment that is~~
29 ~~requested by a law enforcement officer, that is conducted by a physician who~~
30 ~~is licensed pursuant to title 32, chapter 13 or 17 and that is used to~~
31 ~~provide a second, independent opinion of a current law enforcement officer~~
32 ~~who has been determined to not be able to perform essential functions of the~~
33 ~~job as a result of observation and a subsequent employer-ordered physical~~
34 ~~examination.~~

35 ~~2.~~ 1. "Law enforcement officer" means:

36 (a) A regularly employed and paid individual, ~~other than a~~
37 ~~probationary employee,~~ who is certified by the Arizona peace officer
38 standards and training board and who is working in a position requiring
39 certification by the Arizona peace officer standards and training board,
40 other than a person employed by a multi-county water conservation district,
41 an at-will employee or a voluntary or reserve employee.

42 (b) A corrections officer or detention officer, ~~other than a juvenile~~
43 ~~detention officer,~~ who is employed by this state or a political subdivision
44 of this state.

1 ~~3.~~ 2. "Preexamination materials" means all information or materials,
2 INCLUDING PREEMPLOYMENT MATERIALS, that the employer gives to the physician
3 PROFESSIONAL who conducts the ~~physical~~ examination and that serve as the
4 basis for the examination.

5 3. "PROFESSIONAL" MEANS A PHYSICIAN, PSYCHOLOGIST OR PSYCHIATRIST WHO
6 IS LICENSED PURSUANT TO TITLE 32, CHAPTER 13, 17 OR 19.1 AND ANY OTHER
7 LICENSED INDIVIDUAL WHO PROVIDES A BEHAVIORAL, PHYSICAL OR MENTAL EVALUATION
8 OR OPINION ON A LAW ENFORCEMENT OFFICER SUBSEQUENT TO AN EMPLOYER'S ORDER.

9 Sec. 14. Section 38-1114, Arizona Revised Statutes, is amended to
10 read:

11 38-1114. Health insurance payments for spouse or dependents of
12 law enforcement officer killed in the line of duty;
13 applicability; definitions

14 A. Notwithstanding any other law, the surviving spouse or a surviving
15 dependent of a deceased law enforcement officer is entitled to receive
16 payments for health insurance premiums from public monies of the employer of
17 the law enforcement officer if the law enforcement officer was killed in the
18 line of duty or died from injuries suffered in the line of duty.

19 B. The employer shall make payments if the surviving spouse or
20 surviving dependent is enrolled or was enrolled at the time the law
21 enforcement officer was killed in the line of duty or died from injuries
22 suffered in the line of duty in either:

23 1. The health insurance program of the employer.

24 2. The health insurance program that is offered by the state
25 retirement system or plan from which the surviving spouse or surviving
26 dependent is receiving benefits.

27 C. If a surviving spouse or surviving dependent was enrolled in either
28 health insurance program described in subsection B of this section at the
29 time the law enforcement officer was killed in the line of duty or died from
30 injuries suffered in the line of duty and is eligible pursuant to subsection
31 D of this section to receive health insurance premium payments under this
32 section but is no longer enrolled in either health insurance program
33 described in subsection B of this section, the employer shall allow the
34 surviving spouse and any surviving dependent to enroll in the employer's
35 health insurance program to receive health insurance premium payments
36 pursuant to this section.

37 D. The health insurance premium amount payable by the employer of the
38 deceased law enforcement officer is the amount the employer of the deceased
39 law enforcement officer would pay for an active law enforcement officer for a
40 family coverage premium or single coverage premium, whichever is applicable.
41 Payments shall be discontinued pursuant to this section if:

42 1. The surviving spouse remarries.

43 2. The surviving spouse becomes medicare eligible.

44 3. The surviving spouse dies.

1 4. For dependent coverage, the person is no longer considered a
2 dependent.

3 E. If the employer currently pays a greater portion of the health
4 insurance premium for a surviving spouse or a surviving dependent than the
5 required amount prescribed in subsection D of this section, the surviving
6 spouse or surviving dependent shall receive the greater amount as payment
7 toward the surviving spouse's or surviving dependent's health insurance
8 premium.

9 F. This section applies:

10 1. To a surviving spouse or a surviving dependent of a deceased law
11 enforcement officer, as defined in subsection G, paragraph 2, subdivision
12 (a), ~~OR (b) or (c)~~ of this section, who was killed in the line of duty or
13 who died from injuries suffered in the line of duty on or after April 5,
14 1933.

15 2. To a surviving spouse or a surviving dependent of a deceased law
16 enforcement officer, as defined in subsection G, paragraph 2, subdivision ~~(d)~~
17 (c) of this section, who was killed in the line of duty or who died from
18 injuries suffered in the line of duty on or after April 5, 2013.

19 3. For the surviving spouse or the surviving dependent who qualifies
20 pursuant to paragraph 1 of this subsection, only to health insurance premiums
21 paid on or after September 13, 2013.

22 G. For the purposes of this section:

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

25 (a) Is under eighteen years of age.

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

28 (c) Is under a disability that began before the child attained
29 twenty-three years of age and remains a dependent of the surviving spouse or
30 a guardian.

31 2. "Law enforcement officer" means:

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

34 (b) A detention officer or corrections officer who, other than a
35 juvenile detention officer, is employed by this state or a political
36 subdivision of this state.

37 ~~(c) A firefighter who is employed by this state or a political~~
38 ~~subdivision of this state.~~

39 ~~(d)~~ (c) A corrections officer or firefighter **WITH LAW ENFORCEMENT**
40 **AUTHORITY** who works on behalf of this state or a political subdivision of
41 this state through a contract with a private company.