

REFERENCE TITLE: notice of claim; requirements

State of Arizona  
House of Representatives  
Fifty-third Legislature  
Second Regular Session  
2018

## **HB 2386**

Introduced by  
Representative Rivero

AN ACT

AMENDING SECTION 12-821.01, ARIZONA REVISED STATUTES; RELATING TO ACTIONS  
AGAINST PUBLIC ENTITIES.

(TEXT OF BILL BEGINS ON NEXT PAGE)

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

2 Section 1. Section 12-821.01, Arizona Revised Statutes, is amended  
3 to read:

4 12-821.01. Authorization of claim against public entity,  
5 public school or public employee

6 A. Persons who have claims against a public entity, A public school  
7 or a public employee shall file claims with the person or persons  
8 authorized to accept service for the public entity, public school or  
9 public employee as set forth in the Arizona rules of civil procedure  
10 within one hundred eighty days after the cause of action accrues. The  
11 claim shall contain facts sufficient to permit the public entity, public  
12 school or public employee to understand the basis on which liability is  
13 claimed. The claim shall also contain a specific amount ~~for which the~~  
14 ~~claim can be settled~~ and the facts supporting that amount. PAYMENT IN  
15 FULL OF THE AMOUNT INCLUDED IN THE CLAIM RELEASES THE PUBLIC ENTITY,  
16 PUBLIC SCHOOL OR PUBLIC EMPLOYEE FROM ANY FURTHER LIABILITY FOR THE CLAIM.  
17 Any claim that is not filed IN SUBSTANTIAL COMPLIANCE WITH THIS SECTION  
18 within one hundred eighty days after the cause of action accrues is barred  
19 and no action may be maintained thereon.

20 B. For the purposes of this section, a cause of action accrues when  
21 the damaged party realizes he or she has been damaged BY A FINAL OFFICIAL  
22 ACT OF THE PUBLIC ENTITY, PUBLIC SCHOOL OR PUBLIC EMPLOYEE and knows or  
23 reasonably should know the cause, source, act, event, instrumentality or  
24 condition that caused or contributed to the damage.

25 C. Notwithstanding subsection A OF THIS SECTION, any claim that  
26 must be submitted to a binding or nonbinding dispute resolution process or  
27 an administrative claims process or review process pursuant to a statute,  
28 ordinance, resolution, administrative or governmental rule or regulation,  
29 or contractual term shall not accrue for the purposes of this section  
30 until all such procedures, processes or remedies have been exhausted. The  
31 time in which to give notice of a potential claim and to sue on the claim  
32 shall run from the date on which a final decision or notice of disposition  
33 is issued in an alternative dispute resolution procedure, administrative  
34 claim process or review process. This subsection does not prevent the  
35 parties to any contract from agreeing to extend the time for filing such  
36 notice of claim.

37 D. Notwithstanding subsection A OF THIS SECTION, a minor or an  
38 insane or incompetent person may file a claim within one hundred eighty  
39 days after the disability ceases.

40 E. A claim against a public entity, PUBLIC SCHOOL or public  
41 employee filed pursuant to this section is deemed denied sixty days after  
42 the filing of the claim unless the claimant is advised of the denial in  
43 writing before the expiration of sixty days.

44 F. This section applies to all causes of action that accrue on or  
45 after July 17, 1994.

1 G. If a genuine issue of material fact exists as to whether the  
2 requirements of this section have been complied with, the issue shall be  
3 resolved before a trial on the merits and at the earliest possible time.

4 H. This section does not apply to any claim for just compensation  
5 pursuant to chapter 8, article 2.1 of this title.

6 Sec. 2. Applicability

7 Section 12-821.01, Arizona Revised Statutes, as amended by this act,  
8 applies to claims filed against a public entity, public school or public  
9 employee after July 1, 2016, and such claims must be adjudicated under the  
10 requirements prescribed in section 12-821.01, subsections A and B, Arizona  
11 Revised Statutes, as amended by this act, as if timely filed from and  
12 after March 31, 2018.

13 Sec. 3. Retroactivity

14 This act applies retroactively to from and after March 31, 2018.