

REFERENCE TITLE: riot; unlawful assembly; classification; liability

State of Arizona  
Senate  
Fifty-fifth Legislature  
Second Regular Session  
2022

# SB 1033

Introduced by  
Senator Rogers

## AN ACT

AMENDING TITLE 13, CHAPTER 7, ARIZONA REVISED STATUTES, BY ADDING SECTION 13-719; AMENDING SECTIONS 13-1204 AND 13-1508, ARIZONA REVISED STATUTES; AMENDING TITLE 13, CHAPTER 29, ARIZONA REVISED STATUTES, BY ADDING SECTION 13-2925; AMENDING SECTION 13-3703, ARIZONA REVISED STATUTES; AMENDING TITLE 13, CHAPTER 38, ARTICLE 1, ARIZONA REVISED STATUTES, BY ADDING SECTION 13-3805; RELATING TO RIOTS AND UNLAWFUL ASSEMBLIES.

(TEXT OF BILL BEGINS ON NEXT PAGE)

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

2 Section 1. Title 13, chapter 7, Arizona Revised Statutes, is  
3 amended by adding section 13-719, to read:

4 13-719. Offenses committed in furtherance of a riot or an  
5 unlawful assembly

6 A PERSON WHO IS CONVICTED OF ANY OFFENSE THAT IS COMMITTED IN  
7 FURTHERANCE OF A RIOT OR AN UNLAWFUL ASSEMBLY SHALL BE SENTENCED TO THE  
8 NEXT HIGHER CLASS OF OFFENSE THAN THAT FOR WHICH THE PERSON CURRENTLY IS  
9 CONVICTED.

10 Sec. 2. Section 13-1204, Arizona Revised Statutes, is amended to  
11 read:

12 13-1204. Aggravated assault; classification; definitions

13 A. A person commits aggravated assault if the person commits  
14 assault as prescribed by section 13-1203 under any of the following  
15 circumstances:

16 1. If the person causes serious physical injury to another.

17 2. If the person uses a deadly weapon or dangerous instrument.

18 3. If the person commits the assault by any means of force that  
19 causes temporary but substantial disfigurement, temporary but substantial  
20 loss or impairment of any body organ or part or a fracture of any body  
21 part.

22 4. If the person commits the assault while the victim is bound or  
23 otherwise physically restrained or while the victim's capacity to resist  
24 is substantially impaired.

25 5. If the person commits the assault after entering the private  
26 home of another with the intent to commit the assault.

27 6. If the person is eighteen years of age or older and commits the  
28 assault on a minor under fifteen years of age.

29 7. If the person commits assault as prescribed by section 13-1203,  
30 subsection A, paragraph 1 or 3 and the person is in violation of an order  
31 of protection issued against the person pursuant to section 13-3602 or  
32 13-3624.

33 8. If the person commits the assault knowing or having reason to  
34 know that the victim is any of the following:

35 (a) A peace officer or a person summoned and directed by the  
36 officer.

37 (b) A constable or a person summoned and directed by the constable  
38 while engaged in the execution of any official duties or if the assault  
39 results from the execution of the constable's official duties.

40 (c) A firefighter, fire investigator, fire inspector, emergency  
41 medical technician or paramedic engaged in the execution of any official  
42 duties or a person summoned and directed by such individual while engaged  
43 in the execution of any official duties or if the assault results from the  
44 execution of the official duties of the firefighter, fire investigator,  
45 fire inspector, emergency medical technician or paramedic.

1 (d) A teacher or other person employed by any school and the  
2 teacher or other employee is on the grounds of a school or grounds  
3 adjacent to the school or is in any part of a building or vehicle used for  
4 school purposes, any teacher or school nurse visiting a private home in  
5 the course of the teacher's or nurse's professional duties or any teacher  
6 engaged in any authorized and organized classroom activity held on other  
7 than school grounds.

8 (e) A health care practitioner who is certified or licensed  
9 pursuant to title 32, chapter 13, 15, 17 or 25, or a person summoned and  
10 directed by the licensed health care practitioner while engaged in the  
11 person's professional duties. This subdivision does not apply if the  
12 person who commits the assault is seriously mentally ill, as defined in  
13 section 36-550, or is afflicted with alzheimer's disease or related  
14 dementia.

15 (f) A prosecutor while engaged in the execution of any official  
16 duties or if the assault results from the execution of the prosecutor's  
17 official duties.

18 (g) A code enforcement officer as defined in section 39-123 while  
19 engaged in the execution of any official duties or if the assault results  
20 from the execution of the code enforcement officer's official duties.

21 (h) A state or municipal park ranger while engaged in the execution  
22 of any official duties or if the assault results from the execution of the  
23 park ranger's official duties.

24 (i) A public defender while engaged in the execution of any  
25 official duties or if the assault results from the execution of the public  
26 defender's official duties.

27 (j) A judicial officer while engaged in the execution of any  
28 official duties or if the assault results from the execution of the  
29 judicial officer's official duties.

30 9. If the person knowingly takes or attempts to exercise control  
31 over any of the following:

32 (a) A peace officer's or other officer's firearm and the person  
33 knows or has reason to know that the victim is a peace officer or other  
34 officer employed by one of the agencies listed in paragraph 10,  
35 subdivision (a), item (i), (ii), (iii), (iv) or (v) of this subsection.

36 (b) Any weapon other than a firearm that is being used by a peace  
37 officer or other officer or that the officer is attempting to use, and the  
38 person knows or has reason to know that the victim is a peace officer or  
39 other officer employed by one of the agencies listed in paragraph 10,  
40 subdivision (a), item (i), (ii), (iii), (iv) or (v) of this subsection.

41 (c) Any implement that is being used by a peace officer or other  
42 officer or that the officer is attempting to use, and the person knows or  
43 has reason to know that the victim is a peace officer or other officer  
44 employed by one of the agencies listed in paragraph 10, subdivision (a),  
45 item (i), (ii), (iii), (iv) or (v) of this subsection. For the purposes

1 of this subdivision, "implement" means an object that is designed for or  
2 that is capable of restraining or injuring an individual. Implement does  
3 not include handcuffs.

4 10. If the person meets both of the following conditions:

5 (a) Is imprisoned or otherwise subject to the custody of any of the  
6 following:

7 (i) The state department of corrections.

8 (ii) The department of juvenile corrections.

9 (iii) A law enforcement agency.

10 (iv) A county or city jail or an adult or juvenile detention  
11 facility of a city or county.

12 (v) Any other entity that is contracting with the state department  
13 of corrections, the department of juvenile corrections, a law enforcement  
14 agency, another state, any private correctional facility, a county, a city  
15 or the federal bureau of prisons or other federal agency that has  
16 responsibility for sentenced or unsentenced prisoners.

17 (b) Commits an assault knowing or having reason to know that the  
18 victim is acting in an official capacity as an employee of any of the  
19 entities listed in subdivision (a) of this paragraph.

20 11. If the person uses a simulated deadly weapon.

21 12. IF THE PERSON COMMITS THE ASSAULT ON A PEACE OFFICER IN THE  
22 FURTHERANCE OF A RIOT OR AN UNLAWFUL ASSEMBLY.

23 B. A person commits aggravated assault if the person commits  
24 assault by either intentionally, knowingly or recklessly causing any  
25 physical injury to another person, intentionally placing another person in  
26 reasonable apprehension of imminent physical injury or knowingly touching  
27 another person with the intent to injure the person, and both of the  
28 following occur:

29 1. The person intentionally or knowingly impedes the normal  
30 breathing or circulation of blood of another person by applying pressure  
31 to the throat or neck or by obstructing the nose and mouth either manually  
32 or through the use of an instrument.

33 2. Any of the circumstances exists that are set forth in section  
34 13-3601, subsection A, paragraph 1, 2, 3, 4, 5 or 6.

35 C. A person who is convicted of intentionally or knowingly  
36 committing aggravated assault on a peace officer pursuant to subsection A,  
37 paragraph 1 or 2 of this section shall be sentenced to imprisonment for  
38 not less than the presumptive sentence authorized under chapter 7 of this  
39 title and is not eligible for suspension of sentence, commutation or  
40 release on any basis until the sentence imposed is served. A PERSON WHO  
41 IS CONVICTED OF COMMITTING AGGRAVATED ASSAULT ON A PEACE OFFICER PURSUANT  
42 TO SUBSECTION A, PARAGRAPH 12 OF THIS SECTION SHALL BE SENTENCED TO SERVE  
43 NOT LESS THAN THE MINIMUM SENTENCE AND IS NOT ELIGIBLE FOR PROBATION OR  
44 SUSPENSION OF EXECUTION OF SENTENCE UNTIL THE ENTIRE SENTENCE IS SERVED.

1 D. It is not a defense to a prosecution for assaulting a peace  
2 officer or a mitigating circumstance that the peace officer was not on  
3 duty or engaged in the execution of any official duties.

4 E. Except pursuant to subsections F and G of this section,  
5 aggravated assault pursuant to subsection A, paragraph 1 or 2, paragraph  
6 9, subdivision (a) or paragraph 11 of this section is a class 3 felony  
7 except if the aggravated assault is a violation of subsection A, paragraph  
8 1 or 2 of this section and the victim is under fifteen years of age it is  
9 a class 2 felony punishable pursuant to section 13-705. Aggravated assault  
10 pursuant to subsection A, paragraph 3 or subsection B of this section is a  
11 class 4 felony. Aggravated assault pursuant to subsection A, paragraph 9,  
12 subdivision (b) or paragraph 10 of this section is a class 5 felony.  
13 Aggravated assault pursuant to subsection A, paragraph 4, 5, 6, 7 or 8, ~~or~~  
14 paragraph 9, subdivision (c) **OR PARAGRAPH 12** of this section is a class 6  
15 felony.

16 F. Aggravated assault pursuant to subsection A, paragraph 1 or 2 of  
17 this section committed on a peace officer is a class 2 felony. Aggravated  
18 assault pursuant to subsection A, paragraph 3 of this section committed on  
19 a peace officer is a class 3 felony. Aggravated assault pursuant to  
20 subsection A, paragraph 8, subdivision (a) of this section committed on a  
21 peace officer is a class 5 felony unless the assault results in any  
22 physical injury to the peace officer, in which case it is a class 4  
23 felony.

24 G. Aggravated assault pursuant to:

25 1. Subsection A, paragraph 1 or 2 of this section is a class 2  
26 felony if committed on a prosecutor.

27 2. Subsection A, paragraph 3 of this section is a class 3 felony if  
28 committed on a prosecutor.

29 3. Subsection A, paragraph 8, subdivision (f) of this section is a  
30 class 5 felony if the assault results in physical injury to a prosecutor.

31 H. For the purposes of this section:

32 1. "Judicial officer" means a justice of the supreme court, judge,  
33 justice of the peace or magistrate or a commissioner or hearing officer of  
34 a state, county or municipal court.

35 2. "Prosecutor" means a county attorney, a municipal prosecutor or  
36 the attorney general and includes an assistant or deputy county attorney,  
37 municipal prosecutor or attorney general.

38 Sec. 3. Section 13-1508, Arizona Revised Statutes, is amended to  
39 read:

40 **13-1508. Burglary in the first degree; classification**

41 A. A person commits burglary in the first degree if ~~such~~ **THE** person  
42 or an accomplice violates the provisions of either section 13-1506 or  
43 13-1507 and **EITHER:**

44 1. Knowingly possesses explosives, a deadly weapon or a dangerous  
45 instrument in the course of committing any theft or any felony.

1 2. COMMITS THE BURGLARY DURING A RIOT AND THE PERPETRATION OF THE  
2 BURGLARY IS FACILITATED BY CONDITIONS ARISING FROM THE RIOT. FOR THE  
3 PURPOSES OF THIS PARAGRAPH, "CONDITIONS ARISING FROM THE RIOT" MEANS CIVIL  
4 UNREST, POWER OUTAGES, CURFEWS OR A REDUCTION IN THE PRESENCE OF OR  
5 RESPONSE TIME FOR FIRST RESPONDERS.

6 B. Burglary in the first degree of a nonresidential structure or a  
7 fenced commercial or residential yard is a class 3 felony. It is a class  
8 2 felony if committed in a residential structure.

9 Sec. 4. Title 13, chapter 29, Arizona Revised Statutes, is amended  
10 by adding section 13-2925, to read:

11 13-2925. Mob intimidation; classification

12 A. A PERSON COMMITS MOB INTIMIDATION IF THE PERSON, ASSEMBLED WITH  
13 TWO OR MORE OTHER PERSONS AND ACTING WITH A COMMON INTENT, USES FORCE OR  
14 THREATENS TO USE IMMINENT FORCE TO COMPEL OR INDUCE, OR ATTEMPT TO COMPEL  
15 OR INDUCE, ANOTHER PERSON TO DO OR REFRAIN FROM DOING ANY ACT OR TO  
16 ASSUME, ABANDON OR MAINTAIN A PARTICULAR VIEWPOINT AGAINST THE PERSON'S  
17 WILL.

18 B. MOB INTIMIDATION IS A CLASS 1 MISDEMEANOR.

19 Sec. 5. Section 13-3703, Arizona Revised Statutes, is amended to  
20 read:

21 13-3703. Abuse of venerated objects; classification;  
22 definitions

23 A. A person commits abuse of venerated objects by intentionally:

24 1. Desecrating any public monument, memorial or property of a  
25 public park; or

26 2. In any manner likely to provoke immediate physical retaliation:

27 (a) Exhibiting or displaying, placing or causing to be placed any  
28 word, figure, mark, picture, design, drawing or advertisement of any  
29 nature ~~upon~~ ON a flag or exposing or causing to be exposed to public view  
30 a flag ~~upon~~ ON which there is printed, painted or otherwise produced or to  
31 which there is attached, appended or annexed any word, figure, mark,  
32 picture, design, drawing or advertisement; or

33 (b) Exposing to public view, manufacturing, selling, offering to  
34 sell, giving or having in possession for any purpose any article of  
35 merchandise or receptacle for holding or carrying merchandise ~~upon~~ ON or  
36 to which there is printed, painted, placed or attached any flag in order  
37 to advertise, call attention to, decorate, mark or distinguish the article  
38 or substance; or

39 (c) Casting contempt ~~upon~~ ON, mutilating, defacing, defiling,  
40 burning, trampling or otherwise dishonoring or causing to bring dishonor  
41 ~~upon~~ ON a flag.

42 B. ~~The provisions of~~ This section ~~shall~~ DOES not apply to:

43 1. Any act ~~permitted~~ ALLOWED by a statute of the United States; or

44 2. Any act ~~permitted~~ ALLOWED by United States military regulations;

45 or

