

REFERENCE TITLE: establishment; Arizona state guard

State of Arizona  
House of Representatives  
Fifty-sixth Legislature  
Second Regular Session  
2024

## **HCR 2059**

Introduced by  
Representatives Kolodin: Chaplik, Jones

### A CONCURRENT RESOLUTION

ENACTING AND ORDERING THE SUBMISSION TO THE PEOPLE A MEASURE RELATING TO  
EMERGENCY AND MILITARY AFFAIRS.

(TEXT OF BILL BEGINS ON NEXT PAGE)

1 Be it resolved by the House of Representatives of the State of Arizona,  
2 the Senate concurring:

3 1. Under the power of the referendum, as vested in the Legislature,  
4 the following measure, relating to emergency and military affairs, is  
5 enacted to become valid as a law if approved by the voters and on  
6 proclamation of the Governor:

7 AN ACT

8 REPEALING SECTION 26-174, ARIZONA REVISED STATUTES; AMENDING  
9 TITLE 26, CHAPTER 1, ARTICLE 3, ARIZONA REVISED STATUTES, BY  
10 ADDING A NEW SECTION 26-174; RELATING TO EMERGENCY AND  
11 MILITARY AFFAIRS.

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

13 Section 1. Repeal

14 Section 26-174, Arizona Revised Statutes, is repealed.

15 Sec. 2. Title 26, chapter 1, article 3, Arizona Revised  
16 Statutes, is amended by adding section 26-174, to read:

17 26-174. Arizona state guard; powers and duties; rules;  
18 members; oath; attorney general duties;  
19 definition

20 A. THE GOVERNOR SHALL ESTABLISH AND MAINTAIN AN ARMED  
21 FORCE KNOWN AS THE ARIZONA STATE GUARD TO SAFEGUARD AND  
22 PROTECT THE LIVES, LIBERTY AND PROPERTY OF THE CITIZENS OF  
23 THIS STATE. THE ARIZONA STATE GUARD SHALL BE UNDER THE FINAL  
24 COMMAND AND CONTROL OF THE GOVERNOR AS COMMANDER IN  
25 CHIEF. THE GOVERNOR SHALL ADOPT RULES TO GOVERN THE  
26 ADMINISTRATION AND ORGANIZATION OF THE ARIZONA STATE GUARD,  
27 INCLUDING ESTABLISHING A CHAIN OF COMMAND AND A PROCESS BY  
28 WHICH INDIVIDUALS MAY VOLUNTEER OR ENLIST AND REPORT FOR DUTY  
29 AS A MEMBER OF THE ARIZONA STATE GUARD. THE ATTORNEY GENERAL  
30 MAY ASSIST THE GOVERNOR IN FORMULATING THESE RULES. THE  
31 GOVERNOR MAY PROVIDE FOR MEMBERS OF THE ARIZONA STATE GUARD TO  
32 BE COMPENSATED UNDER CIRCUMSTANCES THE GOVERNOR DEEMS  
33 APPROPRIATE.

34 B. THE ARIZONA STATE GUARD SHALL DO ALL OF THE  
35 FOLLOWING:

36 1. ENFORCE ALL CRIMINAL LAWS OF THIS STATE WITHIN THE  
37 JURISDICTIONAL ZONE. THE ARIZONA STATE GUARD MAY NOT ENFORCE  
38 CRIMINAL LAWS OUTSIDE OF THE JURISDICTIONAL ZONE.

39 2. ENFORCE 8 UNITED STATES CODE SECTIONS 1324 THROUGH  
40 1326 WITHIN THE JURISDICTIONAL ZONE.

41 3. PERFORM ALL OTHER DUTIES, WITHIN AND OUTSIDE OF THE  
42 JURISDICTIONAL ZONE, AS THE GOVERNOR DEEMS NECESSARY AND  
43 PROPER TO SAFEGUARD THE LIVES, LIBERTY AND PROPERTY OF THE  
44 CITIZENS OF THIS STATE.

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C. NOTWITHSTANDING ANY OTHER LAW, THE ARIZONA STATE GUARD MAY DO ANY OF THE FOLLOWING:

1. REFER ANY VIOLATION OF THE CRIMINAL LAWS OF THIS STATE OR OF 8 UNITED STATES CODE SECTIONS 1324 THROUGH 1326 TO THE ATTORNEY GENERAL OR ANY OTHER APPROPRIATE PROSECUTING AUTHORITY.

2. ARREST OR DETAIN ANY PERSON WITHIN THE JURISDICTIONAL ZONE WHO IS SUSPECTED OF COMMITTING A VIOLATION OF THE CRIMINAL LAWS OF THIS STATE OR OF 8 UNITED STATES CODE SECTIONS 1324 THROUGH 1326.

3. TRANSFER CUSTODY OF ANY PERSON WHO IS ARRESTED OR DETAINED PURSUANT TO THIS SECTION TO ANY STATE OR LOCAL LAW ENFORCEMENT AGENCY AS AUTHORIZED BY LAW.

4. AT ITS OWN EXPENSE, POST SIGNS WARNING AGAINST TRESPASSING AND OTHER SIMILAR WARNING SIGNS WITHIN THE JURISDICTIONAL ZONE. WITH THE CONSENT OF A PROPERTY OWNER, THE ARIZONA STATE GUARD MAY POST WARNING SIGNS ON PRIVATE PROPERTY WITHIN THE JURISDICTIONAL ZONE.

D. NOTWITHSTANDING ANY OTHER LAW, MEMBERS OF THE ARIZONA STATE GUARD SHALL:

1. BE CLASSIFIED AS LAW ENFORCEMENT OFFICERS.

2. HAVE AT LEAST THE MINIMUM QUALIFICATIONS ESTABLISHED PURSUANT TO SECTION 41-1822.

3. COMPLY WITH ALL RULES ESTABLISHED BY THE ARIZONA PEACE OFFICER STANDARDS AND TRAINING BOARD AND WITH ANY OTHER APPROPRIATE TRAINING CERTIFICATION AS THE GOVERNOR MAY DIRECT.

E. EACH MEMBER OF THE ARIZONA STATE GUARD SHALL TAKE AN OATH OR AFFIRMATION IN SUBSTANTIALLY THE FOLLOWING FORM:

I, \_\_\_\_\_ (FIRST AND LAST NAME), DO SOLEMNLY SWEAR (OR AFFIRM) THAT I WILL SUPPORT AND DEFEND THE CONSTITUTION AND LAWS OF THE STATE OF ARIZONA AGAINST ALL ENEMIES, FOREIGN AND DOMESTIC, THAT I WILL BEAR TRUE FAITH AND ALLEGIANCE TO THE SAME, THAT I WILL OBEY THE ORDERS OF THE GOVERNOR OF THE STATE OF ARIZONA, THAT I MAKE THIS OBLIGATION FREELY, WITHOUT ANY MENTAL RESERVATIONS OR PURPOSE OF EVASION, AND THAT I WILL FAITHFULLY AND IMPARTIALLY DISCHARGE THE DUTIES OF THE ARIZONA STATE GUARD, SO HELP ME GOD (OR SO I DO AFFIRM).

F. MEMBERS OF THE ARIZONA STATE GUARD MAY NOT DO EITHER OF THE FOLLOWING:

1. REQUIRE ANY PERSON WHOM THE ARIZONA STATE GUARD DETAINS, OTHER THAN THE OPERATOR OF A MOTOR VEHICLE, TO SHOW IDENTIFICATION UNLESS THE MEMBER HAS PROBABLE CAUSE TO BELIEVE

1 THAT THE PERSON HAS COMMITTED A VIOLATION OF 8 UNITED STATES  
2 CODE SECTIONS 1324 THROUGH 1326 OR ANY CRIMINAL LAW OF THIS  
3 STATE.

4 2. CONDUCT ANY SEARCH, UNDERTAKE ANY SEIZURE OR DETAIN  
5 OR ARREST ANY PERSON IF DOING SO WOULD CONFLICT WITH THE  
6 CONSTITUTION OF ARIZONA OR THE UNITED STATES CONSTITUTION.

7 G. AFTER A LAWFUL DETENTION OR ARREST PURSUANT TO THIS  
8 SECTION, A MEMBER OF THE ARIZONA STATE GUARD MAY DO ANY OF THE  
9 FOLLOWING:

10 1. REFER THE PERSON WHO IS DETAINED OR ARRESTED TO A  
11 LAW ENFORCEMENT AGENCY WITH JURISDICTION FOR DETENTION AS  
12 AUTHORIZED BY LAW.

13 2. REFER THE PERSON WHO IS DETAINED OR ARRESTED TO A  
14 PROSECUTING AUTHORITY WITH JURISDICTION FOR PROSECUTION  
15 AUTHORIZED BY LAW.

16 3. IF THE GOVERNOR HAS MADE A DECLARATION OF INVASION,  
17 RETURN THE PERSON WHO IS DETAINED OR ARRESTED TO THE BORDER AT  
18 A LAWFUL POINT OF ENTRY. THE PERSON MAY BE RETURNED TO THE  
19 BORDER ONLY WHEN A MEMBER OF THE ARIZONA STATE GUARD HAS  
20 OBSERVED THE PERSON CROSSING THE BORDER IN A LOCATION OTHER  
21 THAN A LAWFUL POINT OF ENTRY AND HAS ESTABLISHED PROBABLE  
22 CAUSE TO BELIEVE THAT THE PERSON HAS COMMITTED A VIOLATION OF  
23 8 UNITED STATES CODE SECTIONS 1324 THROUGH 1326. THE ATTORNEY  
24 GENERAL MAY DEVELOP POLICIES AND PROCEDURES TO GOVERN THE  
25 CONDITIONS AND MANNER UNDER WHICH THE ARIZONA STATE GUARD MAY  
26 EXERCISE ITS AUTHORITY PURSUANT TO THIS PARAGRAPH.

27 H. THE ATTORNEY GENERAL SHALL DEFEND SUITS FILED  
28 AGAINST THE ARIZONA STATE GUARD AND AGAINST INDIVIDUAL MEMBERS  
29 OF THE ARIZONA STATE GUARD THAT ARISE OUT OF THEIR ACTIVITIES  
30 AS MEMBERS. THE ATTORNEY GENERAL MAY BRING OR DEFEND SUITS OR  
31 TAKE ANY OTHER ACTION REASONABLY NECESSARY TO EFFECTUATE THE  
32 PURPOSES OF THIS SECTION. THE GOVERNOR MAY RETAIN OUTSIDE  
33 COUNSEL TO BRING OR DEFEND ALL SUITS DESCRIBED IN THIS  
34 SUBSECTION.

35 I. PURSUANT TO SECTION 12-2021, ANY CITIZEN OF THIS  
36 STATE HAS STANDING TO BRING A SUIT TO ENFORCE THIS SECTION IN  
37 ANY COURT OF COMPETENT JURISDICTION. THE SUPERIOR COURT HAS  
38 NONEXCLUSIVE AND NONDISCRETIONARY JURISDICTION OVER SUCH  
39 SUITS.

40 J. THIS SECTION SHALL BE BROADLY CONSTRUED TO  
41 EFFECTUATE ITS PURPOSES.

42 K. FOR THE PURPOSES OF THIS SECTION, "JURISDICTIONAL  
43 ZONE" MEANS THE AREA WITHIN:

44 1. FIFTY MILES OF AN INTERNATIONAL BORDER.

- 1                   2. FIVE MILES OF ANY BORDER WITH AN INDIAN RESERVATION,  
2                   IF PART OF THE RESERVATION ABUTS AN INTERNATIONAL BORDER.
- 3                   3. FIVE MILES OF ANY BORDER WITH ANY OTHER STATE.
- 4                   2. The Secretary of State shall submit this proposition to the  
5 voters at the next general election as provided by article IV, part 1,  
6 section 1, Constitution of Arizona.