

REFERENCE TITLE: attorneys; court-appointed professionals; juries

State of Arizona
Senate
Fifty-sixth Legislature
Second Regular Session
2024

SB 1589

Introduced by
Senator Wadsack

AN ACT

AMENDING TITLE 32, ARIZONA REVISED STATUTES, BY ADDING CHAPTER 2; RELATING
TO THE SUPREME COURT.

(TEXT OF BILL BEGINS ON NEXT PAGE)

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

2 Section 1. Title 32, Arizona Revised Statutes, is amended by adding
3 chapter 2, to read:

4 CHAPTER 2

5 ATTORNEYS AND COURT-APPOINTED PROFESSIONALS

6 ARTICLE 1. GENERAL PROVISIONS

7 32-201. Attorneys; complaints; discipline; right to jury
8 hearings; prohibitions; perjury

9 A. THE SUPREME COURT MAY PROCESS COMPLAINTS FILED AGAINST AN
10 ATTORNEY AND DISCIPLINE AN ATTORNEY THROUGH THE STATE BAR OF ARIZONA. IN
11 DISCIPLINARY PROCEEDINGS, THE SUPREME COURT SHALL PROVIDE NOTICE AND AN
12 OPPORTUNITY FOR A HEARING PURSUANT TO RULES ADOPTED BY THE SUPREME COURT
13 AND SHALL DISCLOSE THE ATTORNEY'S RESPONSES TO THE COMPLAINANT.

14 B. IN ADDITION TO FOLLOWING THE ARIZONA RULES OF PROFESSIONAL
15 CONDUCT, AN ATTORNEY SHALL:

16 1. SWEAR AN OATH TO THE UNITED STATES CONSTITUTION AND THE ARIZONA
17 CONSTITUTION AND DEFEND THE RIGHTS OF THE ATTORNEY'S CLIENTS PURSUANT TO
18 ARTICLE VI, CLAUSE 3, UNITED STATES CONSTITUTION. ANY OTHER OATH SWEARING
19 ALLEGIANCE TO THE COURT OR ANY ENTITY OTHER THAN THE CONSTITUTION IS VOID
20 AND PROHIBITED.

21 2. DEFEND THE RIGHTS OF THE ATTORNEY'S CLIENTS, INCLUDING ARTICLE
22 II, SECTION 23, CONSTITUTION OF ARIZONA, EFFECTUATED BY THE TENTH
23 AMENDMENT, UNITED STATES CONSTITUTION.

24 C. IF AN ATTORNEY WHO IS BEING INVESTIGATED OR DISCIPLINED BY THE
25 STATE BAR OF ARIZONA BELIEVES THAT A CIVIL PENALTY, FINE OR DISCIPLINE IS
26 EXCESSIVE OR UNJUST OR THAT JUSTICE IS NOT SERVED BY A DECISION OF THE
27 STATE BAR OF ARIZONA IN A DISCIPLINARY PROCEEDING, WITHIN FORTY-FIVE DAYS
28 AFTER THE DECISION THE ATTORNEY MAY REQUEST AND SHALL BE PROVIDED A NEW
29 HEARING IN SUPERIOR COURT IN THE COUNTY OF JURISDICTION WITHIN FORTY-FIVE
30 DAYS AFTER THE REQUEST.

31 D. MEDIATION, INCLUDING DISCUSSIONS AND NEGOTIATIONS BETWEEN THE
32 PARTIES, IS THE PREFERRED METHOD OF SETTLING DISPUTES RELATING TO AN
33 ATTORNEY. RECORDS OF MEDIATION OR THE FACT THAT THERE HAS NOT BEEN
34 MEDIATION SHALL BE PLACED ON THE RECORD FOR THE JUDGE AND JURY TO
35 CONSIDER. IF MEDIATION FAILS, A BENCH TRIAL SHALL BE CONDUCTED IN
36 SUPERIOR COURT AT WHICH A JUDGE SHALL EXAMINE THE EVIDENCE AND ISSUE A
37 RULING. IF THE ATTORNEY BELIEVES THE JUDICIAL RULING IS UNJUST, THE
38 ATTORNEY MAY DEMAND AND SHALL BE FURNISHED ANOTHER BENCH TRIAL WITH THE
39 SAME JUDGE AT WHICH A JURY SHALL EXAMINE EVIDENCE AND RENDER A VERDICT.

40 E. NOTWITHSTANDING ANY OTHER LAW, FOR THE PURPOSES OF THIS SECTION
41 A JURY SHALL CONSIST OF TEN CITIZENS CHOSEN AT RANDOM FROM A JURY
42 POOL. THE JURY MAY ENTER A VERDICT TO DISBAR AN ATTORNEY ONLY BY
43 UNANIMOUS VERDICT USING EVIDENCE THAT REACHES THE STANDARD OF CLEAR AND
44 CONVINCING. IF THE EVIDENCE DOES NOT REACH THIS STANDARD, THE ATTORNEY
45 SHALL REMAIN LICENSED TO PRACTICE LAW OR HAVE SANCTIONS REDUCED AS

1 DETERMINED BY THE JURY. JURY INSTRUCTIONS SHALL INCLUDE A COPY OF THIS
2 SECTION AND THE COURT RECORD.

3 F. PERJURY, PROVIDING FALSE OR MANUFACTURED EVIDENCE OR WITHHOLDING
4 EXCULPATORY EVIDENCE IS PROHIBITED AND:

5 1. IS PUNISHABLE UNDER TITLE 13, CHAPTER 27.

6 2. IS A CLASS 4 FELONY.

7 3. SHALL BE ENFORCED IN CRIMINAL COURT.

8 4. A PERSON MAY REFER A VIOLATION OF THIS SUBSECTION TO THE COUNTY
9 ATTORNEY OR THE ATTORNEY GENERAL.

10 G. TOTAL FEES FOR ALL SUBSEQUENT HEARINGS DESCRIBED IN THIS
11 SECTION, INCLUDING A JURY, MAY NOT EXCEED \$500.

12 H. ATTORNEYS AND COURT-APPOINTED PROFESSIONALS SHALL BE VERIFIABLY
13 NOTICED OF THE OPTION TO HAVE A JURY MAKE THE FINAL DECISION FOR
14 SANCTIONS, INCLUDING DISBARMENT. FAILURE TO PROVIDE NOTICE RENDERS
15 DECISIONS MADE BY THE STATE BAR OF ARIZONA VOID AND UNENFORCEABLE
16 REQUIRING FURTHER PROCEEDINGS TO SETTLE A DISPUTE.

17 I. IN A HEARING PURSUANT TO THIS SECTION, A JURY MAY SANCTION A
18 PARTY, INCLUDING THE STATE BAR OF ARIZONA, FOR MISCONDUCT IN AN AMOUNT OF
19 NOT MORE THAN \$5,000, WHICH MAY BE PAID TO ANY PARTY TO THE HEARING.

20 J. FOR DECISIONS MADE BY THE STATE BAR OF ARIZONA BEFORE THE
21 EFFECTIVE DATE OF THIS SECTION, IF THE ATTORNEY DID NOT EXPLICITLY WAIVE
22 THE ATTORNEY'S RIGHT TO A JURY, THE ATTORNEY IS ENTITLED TO A NEW HEARING
23 AS PRESCRIBED IN THIS SECTION.

24 K. THE APPELLATE PROVISIONS OF THIS SECTION ARE:

25 1. AVAILABLE FOR THE PROTECTION OF LAWYERS AND OTHER LICENSED
26 PROFESSIONALS WHO ARE ASSIGNED TO COURT PROCEEDINGS.

27 2. NOT AVAILABLE TO THIS STATE OR THE STATE BAR OF ARIZONA.

28 32-202. Licensed professionals; complaints; hearings

29 A. THE SUPREME COURT SHALL EXERCISE REGULATORY RESPONSIBILITY AND
30 AUTHORITY OVER A LICENSED PROFESSIONAL ASSIGNED TO A COURT CASE AND MAY
31 PROHIBIT THE LICENSED PROFESSIONAL FROM PARTICIPATING IN FUTURE COURT
32 PROCEEDINGS.

33 B. IN ADDITION TO THE REQUIREMENTS OF SECTION 32-201:

34 1. ATTORNEYS AND ALL LICENSED PROFESSIONALS WHO ARE ASSIGNED TO A
35 COURT CASE SHALL FOLLOW THEIR CODE OF CONDUCT.

36 2. IF A LICENSED PROFESSIONAL DESCRIBED IN SUBSECTION A OF THIS
37 SECTION BELIEVES THAT JUSTICE IS NOT SERVED OR THE PUBLIC IS NOT PROTECTED
38 BY A DECISION OF THE STATE BAR OF ARIZONA IN A DISCIPLINARY PROCEEDING,
39 THE PERSON MAY REQUEST AND SUBSEQUENTLY SHALL BE PROVIDED A HEARING IN THE
40 SUPERIOR COURT IN THE COUNTY OF JURISDICTION USING THE PROCESS DESCRIBED
41 IN PARAGRAPH 3 OF THIS SUBSECTION THAT APPLIES TO ATTORNEYS AND OTHER
42 LICENSED PROFESSIONALS WHO ARE ASSIGNED TO A LEGAL PROCEEDING THROUGH ANY
43 REGULATORY BODY UNDER THIS TITLE. THE REQUEST SHALL BE FILED WITHIN
44 THIRTY DAYS AFTER THE DECISION IS RENDERED, AND A NEW HEARING SHALL BE

1 PROVIDED IN SUPERIOR COURT WITHIN FORTY-FIVE DAYS AFTER THE REQUEST IS
2 FILED.

3 3. MEDIATION, INCLUDING DISCUSSIONS AND NEGOTIATIONS BETWEEN THE
4 PARTIES, IS THE PREFERRED METHOD OF SETTLING DISPUTES RELATING TO AN
5 ATTORNEY AND A LICENSED PROFESSIONAL WHO IS ASSIGNED TO A COURT CASE.
6 RECORDS OF MEDIATION OR THE FACT THAT THERE HAS NOT BEEN MEDIATION SHALL
7 BE PLACED ON THE RECORD FOR THE JUDGE AND JURY TO CONSIDER. IF MEDIATION
8 FAILS, A BENCH TRIAL SHALL BE CONDUCTED IN SUPERIOR COURT AT WHICH A JUDGE
9 SHALL EXAMINE THE EVIDENCE AND ISSUE A RULING. IF AN ATTORNEY OR THE
10 LICENSED PROFESSIONAL BELIEVES THE JUDICIAL RULING IS UNJUST, THE ATTORNEY
11 OR THE LICENSED PROFESSIONAL MAY DEMAND AND SHALL BE FURNISHED ANOTHER
12 BENCH TRIAL WITH THE SAME JUDGE AT WHICH THE EVIDENCE SHALL BE EXAMINED
13 AND A JURY VERDICT RENDERED.

14 4. IN A HEARING CONDUCTED PURSUANT TO THIS SECTION, A JURY MAY:

15 (a) RESTORE AN ATTORNEY'S OR OTHER LICENSED PROFESSIONAL'S LICENSE
16 IF THE JURY DOES NOT HAVE MORE THAN TWO DISSENTING VOTES.

17 (b) REVOKE AN ATTORNEY'S OR OTHER LICENSED PROFESSIONAL'S LICENSE
18 IF THE JURY HAS A UNANIMOUS VOTE.

19 5. THE APPELLATE PROVISIONS OF THIS SECTION ARE:

20 (a) AVAILABLE TO THE CLIENTS OF LAWYERS AND OTHER LICENSED
21 PROFESSIONALS WHO ARE ASSIGNED TO COURT PROCEEDINGS.

22 (b) NOT AVAILABLE TO THIS STATE OR THE STATE BAR OF ARIZONA.

23 32-203. Duty to defend client's constitutional rights; state
24 statutes; attorney's code of conduct; violation;
25 discipline

26 A. IF AN ATTORNEY KNOWS THAT A STATE STATUTE IS CONTRARY TO THE
27 RIGHTS OF THE ATTORNEY'S CLIENT AS ENUMERATED IN THE UNITED STATES
28 CONSTITUTION OR THE ARIZONA CONSTITUTION, AS INTERPRETED BY THE SUPREME
29 COURT OF THE UNITED STATES OR LOWER COURTS OF JURISDICTION, THE ATTORNEY
30 MUST CHALLENGE THE CONSTITUTIONALITY OF THE STATE STATUTE IN A TRIAL COURT
31 OR MUST ADVISE THE STATE LEGISLATURE REGARDING THE UNCONSTITUTIONAL
32 STATUTE.

33 B. THE RIGHTS DESCRIBED IN SUBSECTION A OF THIS SECTION INCLUDE DUE
34 PROCESS, EQUAL PROTECTION, SEPARATION OF POWERS AND CHECKS AND BALANCES.

35 C. PROPER NOTICE SHALL BE PLACED ON THE RECORD PURSUANT TO SECTION
36 12-1841, AS APPLICABLE.

37 D. AN ATTORNEY'S FAILURE TO PROTECT A CLIENT'S RIGHTS FROM AN
38 UNCONSTITUTIONAL LAW IS A VIOLATION OF THE ATTORNEY'S CODE OF CONDUCT, AND
39 THE ATTORNEY IS SUBJECT TO DISCIPLINE BY THE STATE BAR OF ARIZONA.

40 32-204. Law school curriculum supplements; bar examination;
41 demonstrated proficiency

42 A. A LAW SCHOOL CURRICULUM IN THIS STATE SHALL INCLUDE TIME AND
43 MATERIALS NECESSARY FOR STUDENTS TO UNDERSTAND THE RESPONSIBILITIES
44 DESCRIBED IN SECTION 32-203.

1 B. A STATE BAR EXAMINATION SHALL CONTAIN QUESTIONS RELATING TO AN
2 APPLICANT'S KNOWLEDGE OF THE RESPONSIBILITIES DESCRIBED IN SECTION 32-203.
3 INCORRECT RESPONSES TO THESE QUESTIONS SHALL RESULT IN AN APPLICANT'S
4 FAILURE OF THE EXAMINATION AND THE REQUIREMENT FOR THE APPLICANT TO RETAKE
5 THE EXAMINATION.

6 C. THE SUPREME COURT SHALL DETERMINE HOW TO VERIFY THAT AN ATTORNEY
7 PRACTICING LAW IN THIS STATE ON THE EFFECTIVE DATE OF THIS SECTION KNOWS
8 THE REQUIREMENTS PRESCRIBED BY SECTION 32-203. AN ATTORNEY WHO FAILS TO
9 COMPLY WITH SECTION 32-203 IS SUBJECT TO DISCIPLINE BY THE STATE BAR OF
10 ARIZONA.

11 Sec. 2. Legislative findings

12 The legislature finds that:

13 1. Attorneys are currently officers of the court and members of the
14 judicial branch. This places every attorney who is in the executive and
15 legislative branches in violation of article III, Constitution of Arizona,
16 relating to separation of powers. These attorneys are conflicted and do
17 not work for the public. The public and the legislature are getting
18 conflicted and unreliable legal advice as a result.

19 2. Psychologists, parenting coordinators and other professionals
20 are not regulated after they are assigned to a court case with predictable
21 results of no accountability.

22 3. The right to a hearing decided by a jury cannot be violated and
23 no one has the discretion to violate this right. The right to have a jury
24 make the final decision on attorney licensure and discipline is a
25 fundamental liberty interest and is inviolate pursuant to article II,
26 section 23 and article VI, section 17, Constitution of Arizona.