

REFERENCE TITLE: law enforcement officers; investigations; representative

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

SB 1660

Introduced by
Senator Gowan

AN ACT

AMENDING SECTION 38-1104, ARIZONA REVISED STATUTES; RELATING TO LAW
ENFORCEMENT OFFICERS.

(TEXT OF BILL BEGINS ON NEXT PAGE)

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

Section 1. Section 38-1104, Arizona Revised Statutes, is amended to read:

38-1104. Internal investigations; employee representative; attorney fees; exception

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

1. The law enforcement officer may request to have a representative of the ~~officer~~ LAW ENFORCEMENT OFFICER'S CHOOSING present ~~at no cost to the employer~~ during the interview. The law enforcement officer shall select a representative who is available on reasonable notice so that the interview is not unreasonably delayed. The representative shall participate in the interview only as an observer. ~~Unless agreed to by the employer, the representative shall not be an attorney and shall be from the same agency except that if a representative from the same agency is not reasonably available, with the employer's permission, the law enforcement officer's representative may be from the law enforcement officer's professional membership organization.~~ The law enforcement officer's representative may take notes during the interview. The law enforcement officer and the LAW ENFORCEMENT officer's representative and attorney may use notes taken during the interview only to assist the LAW ENFORCEMENT officer in an investigation or a disciplinary matter. Notes taken by the law enforcement officer, the LAW ENFORCEMENT officer's representative or the LAW ENFORCEMENT officer's attorney do not constitute an official record of the interview. The law enforcement officer may discuss the LAW ENFORCEMENT officer's interview with the LAW ENFORCEMENT officer's representative or attorney. If the law enforcement officer or the LAW ENFORCEMENT officer's representative or attorney releases information without authorization, the employer may subject the law enforcement officer or the LAW ENFORCEMENT officer's representative, if the representative is from the same agency, to disciplinary action. The law enforcement officer shall be allowed reasonable breaks of limited duration during any interview for telephonic or in-person consultation with authorized persons, including an attorney, who are immediately available. An employer shall not discipline, retaliate against or threaten to retaliate against a law enforcement officer for requesting that a representative be present or for acting as the representative of a law enforcement officer pursuant to this paragraph.

2. Before the commencement of any interview described in this section, the employer shall provide the law enforcement officer with a written notice informing the LAW ENFORCEMENT officer of the alleged facts that are the basis of the investigation, the specific nature of the

1 investigation, the LAW ENFORCEMENT officer's status in the investigation,
2 all known allegations of misconduct that are the reason for the interview
3 and the LAW ENFORCEMENT officer's right to have a representative present
4 at the interview. The employer shall provide the law enforcement officer
5 with a copy of the written notice that the LAW ENFORCEMENT officer may
6 retain. Along with the notice, the employer shall provide any relevant
7 and readily available materials, including complaints that contain the
8 alleged facts, except for complaints that are filed with the employer and
9 that include allegations of unlawful discrimination, harassment or
10 retaliation or complaints that involve matters under the jurisdiction of
11 the United States equal employment opportunity commission. The format of
12 the materials may be written, audio or video.

13 3. In the course of an administrative investigation, the law
14 enforcement officer is allowed to record the LAW ENFORCEMENT officer's own
15 interview. Recordings made by the law enforcement officer, the LAW
16 ENFORCEMENT officer's representative or the officer's attorney do not
17 constitute an official record of the interview.

18 4. At the conclusion of the interview, the law enforcement officer
19 is entitled to a period of time to consult with the LAW ENFORCEMENT
20 officer's representative and may make a statement not to exceed five
21 minutes addressing specific facts or policies that are related to the
22 interview.

23 B. Subsection A of this section does not require the employer to
24 either:

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

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

30 C. Subsection A, paragraphs 1 and 2 of this section do not apply to
31 an interview of a law enforcement officer that is:

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

35 2. Preliminary questioning to determine the scope of the
36 allegations or if an investigation is necessary.

37 3. Conducted during the course of a criminal investigation.

38 D. If, after an employer completes an investigation of a law
39 enforcement officer, the employer seeks disciplinary action, at the
40 request of the law enforcement officer, the employer shall provide a basic
41 summary of any discipline ordered against any other law enforcement
42 officer of generally similar rank and experience employed by the employer
43 within the previous two years for the same or a similar violation. As an
44 alternative, the employer may provide file copies of the relevant

1 disciplinary cases. The employer shall not take final action and the
2 employer shall not schedule a hearing until the basic summary or file
3 copies are provided to the law enforcement officer.

4 E. This section does not apply to a law enforcement officer who is
5 employed by an agency of this state as an at will employee.