

REFERENCE TITLE: internal investigations; notice; confidentiality

State of Arizona
Senate
Fifty-seventh Legislature
First Regular Session
2025

SB 1060

Introduced by
Senators Gowan: Payne, Shamp

AN ACT

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

(TEXT OF BILL BEGINS ON NEXT PAGE)

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

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

4 38-1104. Internal investigations; notice; employee
5 representative; confidentiality; exception

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

10 1. The law enforcement officer may request to have a representative
11 of the LAW ENFORCEMENT officer present at no cost to the employer during
12 the interview. The law enforcement officer shall select a representative
13 who is available on reasonable notice so that the interview is not
14 unreasonably delayed. The representative shall participate in the
15 interview only as an observer. Unless agreed to by the employer, the
16 representative shall not be an attorney and shall be from the same agency,
17 except that if a representative from the same agency is not reasonably
18 available, with the employer's permission, the law enforcement officer's
19 representative may be from the law enforcement officer's professional
20 membership organization. The law enforcement officer's representative may
21 take notes during the interview. The law enforcement officer and the LAW
22 ENFORCEMENT officer's representative and attorney may use notes taken
23 during the interview only to assist the LAW ENFORCEMENT officer in an
24 investigation or a disciplinary matter. Notes taken by the law
25 enforcement officer, the LAW ENFORCEMENT officer's representative or the
26 LAW ENFORCEMENT officer's attorney do not constitute an official record of
27 the interview. The law enforcement officer may discuss the LAW
28 ENFORCEMENT officer's interview with the LAW ENFORCEMENT officer's
29 representative or attorney. If the law enforcement officer or the LAW
30 ENFORCEMENT officer's representative or attorney releases information
31 without authorization, the employer may subject the law enforcement
32 officer or the LAW ENFORCEMENT officer's representative, if the
33 representative is from the same agency, to disciplinary action. The law
34 enforcement officer shall be allowed reasonable breaks of limited duration
35 during any interview for telephonic or in-person consultation with
36 authorized persons, including an attorney, who are immediately available.
37 An employer shall not discipline, retaliate against or threaten to
38 retaliate against a law enforcement officer for requesting that a
39 representative be present or for acting as the representative of a law
40 enforcement officer pursuant to this paragraph.

41 2. Before the commencement of any interview described in this
42 section, the employer shall provide the law enforcement officer with a
43 written notice informing the LAW ENFORCEMENT officer of the alleged facts
44 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, AT LEAST TWENTY-FOUR HOURS
 7 BEFORE THE INTERVIEW, shall provide any relevant and readily available
 8 materials, including complaints that contain the alleged facts, except for
 9 complaints that are filed with the employer and that include allegations
 10 of unlawful discrimination, harassment or retaliation or complaints that
 11 involve matters under the jurisdiction of the United States equal
 12 employment opportunity commission. The format of the materials may be
 13 written, audio or video.

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

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

24 5. THE EMPLOYER MAY NOT COMPEL THE LAW ENFORCEMENT OFFICER OR THE
 25 LAW ENFORCEMENT OFFICER'S REPRESENTATIVE TO DISCLOSE ANY COMMUNICATION
 26 BETWEEN THE LAW ENFORCEMENT OFFICER AND THE LAW ENFORCEMENT OFFICER'S
 27 REPRESENTATIVE BEFORE, DURING OR AFTER THE INTERVIEW. THIS PARAGRAPH DOES
 28 NOT PREVENT THE LAW ENFORCEMENT OFFICER'S REPRESENTATIVE FROM DISCLOSING
 29 ANY PLANNED FUTURE CRIMINAL CONDUCT BY THE LAW ENFORCEMENT OFFICER.

30 B. Subsection A of this section does not require the employer to
 31 either:

32 1. Stop an interview to issue another notice for allegations based
 33 on information provided by the law enforcement officer during the
 34 interview.

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

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

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

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

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

1 D. If, after an employer completes an investigation of a law
2 enforcement officer, the employer seeks disciplinary action, at the
3 request of the law enforcement officer, the employer shall provide a basic
4 summary of any discipline ordered against any other law enforcement
5 officer of generally similar rank and experience employed by the employer
6 within the previous two years for the same or a similar violation. As an
7 alternative, the employer may provide file copies of the relevant
8 disciplinary cases. The employer shall not take final action and the
9 employer shall not schedule a hearing until the basic summary or file
10 copies are provided to the law enforcement officer.

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