

REFERENCE TITLE: testimony; disciplinary action; prohibition

State of Arizona  
House of Representatives  
Fifty-seventh Legislature  
Second Regular Session  
2026

## **HB 2253**

Introduced by  
Representative Weninger

AN ACT

AMENDING SECTION 38-1106, 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 38-1106, Arizona Revised Statutes, is amended to  
3 read:

4 38-1106. Appeal of disciplinary actions; transcripts; change  
5 of hearing officer or administrative law judge;  
6 burden of proof; final disposition report;  
7 exception; definition

8 A. In any appeal of a disciplinary action by a law enforcement  
9 officer, the parties shall cooperate with each other, act in good faith  
10 and exchange copies of all relevant documents and a list of all witnesses  
11 pursuant to the following time periods and requirements:

12 1. Within fourteen calendar days after the employer's receipt of a  
13 written request from the law enforcement officer for a copy of the  
14 investigative file that is accompanied by a copy of the filed notice of  
15 appeal, the employer shall provide a complete copy of the investigative  
16 file as well as the names and contact information for all persons  
17 interviewed during the course of the investigation.

18 2. Not later than fourteen calendar days before the appeal hearing,  
19 the parties shall produce and serve on every party the following  
20 information:

21 (a) The name of each witness whom the disclosing party expects to  
22 call at the appeal hearing, with a designation of the subject matter on  
23 which each witness might be called to testify. A witness may decline an  
24 interview. The parties shall not interfere with any decision of a witness  
25 regarding whether to be interviewed. An employer shall not discipline,  
26 retaliate against or threaten to retaliate against any witness for  
27 agreeing to be interviewed or for testifying or providing evidence in the  
28 appeal.

29 (b) The name and contact information of each person who has given  
30 statements, whether written or recorded or signed or unsigned, regarding  
31 matters relevant to the notice of discipline and the custodian of the  
32 copies of those statements.

33 (c) Copies of any documents that may be introduced at the hearing  
34 and that have not previously been disclosed.

35 3. The duty to disclose information continues to exist throughout  
36 the process and up to the end of the appeal process.

37 B. It is unlawful for a person to disseminate information that is  
38 disclosed pursuant to subsection A of this section to any person other  
39 than the parties to the appeal and their lawful representatives for  
40 purposes of the appeal of the disciplinary action. This subsection does  
41 not prohibit the use of the information in the hearing or disclosure  
42 pursuant to title 39, chapter 1, article 2.

43 C. If a transcript is required in an administrative hearing, the  
44 employer shall obtain the transcript and provide a copy to the law

1 enforcement officer within ten calendar days after the employer's receipt  
 2 of the transcript.

3 D. Failure to comply with the requirements of subsection A or B of  
 4 this section shall result in the exclusion of the witness, evidence or  
 5 testimony, unless the failure to comply is because of excusable neglect.

6 E. The employer or the law enforcement officer may seek a  
 7 determination by the hearing officer, administrative law judge or appeals  
 8 board hearing the appeal regarding any evidence that the employer or the  
 9 law enforcement officer believes should not be disclosed pursuant to  
 10 subsection A of this section because the risk of harm involved in  
 11 disclosure outweighs any usefulness of the disclosure in the hearing. In  
 12 determining whether evidence will be disclosed, the hearing officer,  
 13 administrative law judge or appeals board may perform an in camera review  
 14 of the evidence and may disclose the material subject to any restriction  
 15 on the disclosure, including the closing of the hearing or the sealing of  
 16 the records, that the hearing officer, administrative law judge or appeals  
 17 board finds necessary under the circumstances. **AN AGENCY, AN EMPLOYER OR**  
 18 **A POLITICAL SUBDIVISION IN THIS STATE MAY NOT TAKE ANY RETALIATORY ACTION**  
 19 **AGAINST AN EMPLOYEE FOR PROVIDING TESTIMONY IN ANY PROCEEDING PURSUANT TO**  
 20 **THIS SUBSECTION.**

21 F. In any appeal of a disciplinary action by a law enforcement  
 22 officer in which a single hearing officer or administrative law judge has  
 23 been appointed to conduct the appeal hearing, the law enforcement officer  
 24 or the employer, within ten calendar days after the appointment of the  
 25 hearing officer or administrative law judge, may request a change of  
 26 hearing officer or administrative law judge. In cases before the office  
 27 of administrative hearings or if the employer is a county, city or town,  
 28 on the first request of a party, the request shall be granted. A city or  
 29 town with a population of less than sixty-five thousand persons or a  
 30 county with a population of less than two hundred fifty thousand persons  
 31 must provide, if necessary to comply with this subsection, for an  
 32 alternate hearing officer by means of an interagency agreement with  
 33 another city, town or county. If the law enforcement officer is the party  
 34 who requested the alternate hearing officer, the law enforcement officer  
 35 shall reimburse the city, town or county for one-half of any additional  
 36 expenses incurred by the city, town or county in procuring the alternate  
 37 hearing officer under the interagency agreement. If an alternate hearing  
 38 officer is requested by means of an interagency agreement, the hearing  
 39 officer shall provide to the law enforcement officer or employer the  
 40 option of continuing the hearing for an additional ten calendar days. Any  
 41 subsequent requests may be granted only on a showing that a fair and  
 42 impartial hearing cannot be obtained due to the prejudice of the assigned  
 43 hearing officer or administrative law judge. The supervisor or  
 44 supervising body of the hearing officer or administrative law judge shall  
 45 decide whether a showing of prejudice has been made.

1 G. The employer has the burden of proof in an appeal of a  
2 disciplinary action by a law enforcement officer.

3 H. The hearing officer, administrative law judge or appeals board  
4 may take into consideration violations of this article as mitigation in  
5 determining discipline.

6 I. Except where a statute, rule or ordinance makes the  
7 administrative evidentiary hearing the final administrative determination  
8 and after a hearing where the law enforcement officer and the employer  
9 have been equally allowed to call and examine witnesses, cross-examine  
10 witnesses, provide documentary evidence and otherwise fully participate in  
11 the hearing, an employer or a person acting on behalf of an employer may  
12 amend, modify, reject or reverse the portion of a decision made by a  
13 hearing officer, administrative law judge or appeals board that was  
14 arbitrary or without reasonable justification. The employer or person  
15 acting on behalf of the employer shall state the reason for the amendment,  
16 modification, rejection or reversal.

17 J. Notwithstanding chapter 3, article 3.1 of this title, all  
18 hearings pursuant to this section ~~shall be~~ ARE open to the public.  
19 Executive sessions allowed pursuant to section 38-431.03 shall be limited  
20 to legal advice to a personnel appeals board or for deliberations.

21 K. A law enforcement officer who prevails in an appeal where a  
22 termination has been reversed shall be awarded retroactive compensation  
23 from the date of the officer's separation to the date of reinstatement.  
24 The hearing officer, administrative law judge or appeals board hearing the  
25 appeal shall determine the amount of retroactive compensation awarded and  
26 any reduction to that amount. Retroactive compensation may be reduced:

27 1. If there is undue delay in setting a hearing date caused by the  
28 law enforcement officer or the law enforcement officer's representative.

29 2. If the law enforcement officer requests a continuance.

30 3. If there exists a period between separation and reinstatement  
31 that the law enforcement officer would have been unable to perform the  
32 duties of a law enforcement officer.

33 4. By any amount earned by the law enforcement officer in  
34 alternative employment.

35 5. If the hearing officer, administrative law judge or appeals  
36 board finds that the law enforcement officer's action or misconduct  
37 warrants suspension or demotion.

38 L. The hearing officer, administrative law judge or appeals board  
39 shall state in every finding of disciplinary action whether or not just  
40 cause existed for the disciplinary action.

41 M. The hearing officer, administrative law judge or appeals board  
42 shall document in the record those circumstances where the hearing  
43 officer, administrative law judge or appeals board determines that a party  
44 has clearly violated a party's obligation under this section.

1           N. Immediately after a law enforcement officer receives the final  
2 disposition of an appeal of a disciplinary action, the administrative law  
3 judge, hearing officer or presiding authority shall provide a final  
4 disposition report that includes the final decision and any amended  
5 findings of fact to the law enforcement agency that initiated or imposed  
6 the discipline.

7           O. A law enforcement agency that receives a final disposition  
8 report shall include the final disposition report in the agency's original  
9 investigation record. If the law enforcement agency provided a  
10 prosecuting agency with information that was obtained during the  
11 investigation of the law enforcement officer for the prosecuting agency's  
12 rule 15.1 database AS DEFINED IN SECTION 38-1119, the law enforcement  
13 agency shall forward the final disposition report to the prosecuting  
14 agency.

15           P. AN AGENCY, AN EMPLOYER OR A POLITICAL SUBDIVISION IN THIS STATE  
16 MAY NOT PROHIBIT OR OBSTRUCT AN EMPLOYEE, INCLUDING AN EMPLOYEE DESIGNATED  
17 AS A SUBJECT MATTER EXPERT, FROM PROVIDING TESTIMONY IN AN ADMINISTRATIVE  
18 OR JUDICIAL PROCEEDING RELATING TO THE APPEAL OF A DISCIPLINARY ACTION  
19 PURSUANT TO THIS SECTION. ANY POLICY, DIRECTIVE OR ORDER THAT ATTEMPTS TO  
20 RESTRICT OR PREVENT AN EMPLOYEE'S TESTIMONY IS A VIOLATION OF THIS SECTION  
21 AND IS VOID AND UNENFORCEABLE.

22           ~~P.~~ Q. This section does not apply to a law enforcement officer who  
23 is employed by an agency of this state as an at will employee.

24           R. FOR THE PURPOSES OF THIS SECTION, "RETALIATORY ACTION" INCLUDES  
25 A TRANSFER, REASSIGNMENT, DEMOTION, REDUCTION IN COMPENSATION, TERMINATION  
26 OR OTHER ADVERSE EMPLOYMENT ACTION.