

COMMITTEE ON JUDICIARY  
HOUSE OF REPRESENTATIVES AMENDMENTS TO H.B. 2633  
(Reference to printed bill)

Amendment instruction key:

[GREEN UNDERLINING IN BRACKETS] indicates text added to statute or previously enacted session law.

[Green underlining in brackets] indicates text added to new session law or text restoring existing law.

[~~GREEN STRIKEOUT IN BRACKETS~~] indicates new text removed from statute or previously enacted session law.

[~~Green strikeout in brackets~~] indicates text removed from existing statute, previously enacted session law or new session law.

<<Green carets>> indicate a section added to the bill.

<<~~Green strikeout in carets~~>> indicates a section removed from the bill.

1 The bill as proposed to be amended is reprinted as follows:

2 Section 1. Section 12-751, Arizona Revised Statutes, is amended to  
3 read:

4 12-751. Strategic actions against public participation:  
5 motion to dismiss or quash or for summary judgment;  
6 definitions

7 A. In any legal action that involves a person's lawful exercise of  
8 the right of petition, the right of speech, the freedom of the press, the  
9 right to freely associate, THE RIGHT TO RELIGIOUS LIBERTY or the right to  
10 peaceably assemble pursuant to the United States Constitution or Arizona  
11 Constitution, OR WHICH OTHERWISE IMPLICATES A PERSON'S FREEDOM TO HOLD OR  
12 EXPRESS POLITICAL OR RELIGIOUS VIEWS OR ENGAGE IN POLITICALLY RELATED  
13 ADVOCACY WITHOUT FEAR OF RETALIATION, the person other than a state actor  
14 or an intervenor may file a motion to dismiss, ~~or~~ quash OR OBTAIN SUMMARY  
15 JUDGMENT IN the action under this section, EXCEPT THAT REMEDIES FOR A  
16 VIOLATION OF THIS SECTION WITH RESPECT TO LEGAL ACTIONS SET FORTH IN  
17 SUBSECTION L, PARAGRAPH 1, SUBDIVISION (a), ITEM (ii) OF THIS SECTION  
18 SHALL BE AS SET FORTH IN SECTION 13-4242.

19 B. A person who files a motion pursuant to subsection A of this  
20 section, OR WHO FILES A PETITION FOR POSTCONVICTION RELIEF AS SET FORTH IN  
21 SECTION 13-4242, has the burden of establishing prima facie proof that A  
22 SUBSTANTIAL MOTIVATION FOR the legal action was ~~substantially motivated by~~  
23 a desire to deter, retaliate against or prevent ~~the lawful exercise of a~~  
24 ~~constitutional right~~ ANY PERSON FROM HOLDING OR EXPRESSING POLITICAL OR  
25 RELIGIOUS VIEWS, FROM FREE POLITICAL ASSOCIATION OR FROM ENGAGING IN  
26 POLITICALLY RELATED ADVOCACY WITHOUT FEAR OF RETALIATION OR FROM THE  
27 LAWFUL EXERCISE OF ANY CONSTITUTIONAL RIGHT. The moving person may submit  
28 evidence based on the record, a sworn affidavit or other evidence that is

1 submitted with the motion ~~to dismiss or quash~~ OR PETITION FOR  
2 POSTCONVICTION RELIEF. A party is not required to file a response to a  
3 motion filed pursuant to subsection A of this section unless and until the  
4 court finds that the moving party has established the prima facie proof  
5 and orders the party to file a response. The court shall grant the motion  
6 unless one of the following applies:

7 1. If the responding party is a state actor, the responding party  
8 shows that the legal action on which the motion OR PETITION FOR  
9 POSTCONVICTION RELIEF is based is justified by clearly established law and  
10 that the responding party did not act ~~in order~~ WITH A SUBSTANTIAL MOTIVE  
11 to deter, RETALIATE AGAINST OR prevent ~~or retaliate against the moving~~  
12 ~~party's exercise of constitutional rights~~ ANY PERSON FROM HOLDING OR  
13 EXPRESSING POLITICAL OR RELIGIOUS VIEWS, FROM FREE POLITICAL ASSOCIATION  
14 OR FROM ENGAGING IN POLITICALLY RELATED ADVOCACY WITHOUT FEAR OF  
15 RETALIATION. A state actor may satisfy the requirements of this paragraph  
16 by doing any of the following:

17 (a) Establishing that the person who initiated and conducted an  
18 investigation that resulted in the legal action and ~~that~~ WHO made the  
19 decision to pursue the legal action was unaware of the movant's lawful  
20 exercise of the constitutional right OR POLITICAL BELIEFS OR ADVOCACY.

21 ~~(b) Establishing that the state actor has a consistent practice of~~  
22 ~~pursuing similar legal actions against similarly situated persons who did~~  
23 ~~not lawfully exercise constitutional rights.~~

24 ~~(c)~~ (b) Producing any other evidence that the court finds  
25 sufficient TO ESTABLISH THAT THE STATE ACTOR DID NOT ACT WITH A  
26 SUBSTANTIAL MOTIVE TO DETER, RETALIATE AGAINST OR PREVENT ANY PERSON FROM  
27 HOLDING OR EXPRESSING POLITICAL OR RELIGIOUS VIEWS, FROM FREE POLITICAL  
28 EXPRESSION OR FROM ENGAGING IN POLITICALLY RELATED ADVOCACY WITHOUT FEAR  
29 OF RETALIATION.

30 2. If the responding party is not a state actor, the responding  
31 party shows that the legal action on which the motion is based is  
32 justified by existing law or supported by a reasonable argument for  
33 extending or modifying existing law.

34 C. In making its determination, the court shall conduct an  
35 evidentiary hearing or consider the pleadings and supporting and opposing  
36 affidavits stating facts on which the liability, defense or action is  
37 based.

38 D. The motion ~~to dismiss or quash~~ may be filed within sixty days  
39 after the service of the complaint or other document on which the motion  
40 is based, AT ANY LATER TIME WITHIN SIXTY DAYS AFTER ACTUAL NOTICE OF A  
41 PARTY'S MISCONDUCT or, in the court's discretion, at any later time on  
42 terms that the court deems proper, ~~including a later time after there is~~  
43 ~~actual notice of a party's misconduct.~~ If the court finds that prima  
44 facie proof has been established as prescribed in subsection B of this  
45 section, the court, if possible, shall conduct an expedited hearing on the  
46 motion.

1 E. Unless a court rule specifically provides otherwise, all  
2 discovery proceedings in the action shall be stayed on a finding of prima  
3 facie proof as prescribed in subsection B of this section. The stay of  
4 discovery shall remain in effect until notice of entry of the order ruling  
5 on the motion. Notwithstanding this subsection, the court, on noticed  
6 motion and for good cause shown, may order that specified discovery be  
7 conducted.

8 F. If the court grants the motion ~~to dismiss or quash~~, the court  
9 may award the moving party costs and reasonable attorney fees, including  
10 those incurred for the motion, AND SHALL AWARD COSTS AND REASONABLE  
11 ATTORNEY FEES IF THE NONMOVING PARTY IS A STATE ACTOR. If the court finds  
12 that a motion ~~to dismiss or quash~~ FILED PURSUANT TO THIS SECTION is  
13 frivolous or solely intended to delay, the court shall award costs and  
14 reasonable attorney fees to the prevailing party on the motion UNLESS THE  
15 PREVAILING PARTY IS A STATE ACTOR. For the purposes of this subsection,  
16 "costs" means all costs that are reasonably incurred and includes filing  
17 fees, record preparation and document copying fees, documented time away  
18 from employment to confer with counsel or attend case related proceedings,  
19 expert witness fees, travel expenses and any other costs that the court  
20 deems appropriate.

21 G. If the court denies the motion ~~to dismiss or quash~~, the denial  
22 and the court's findings in support of the denial are not admissible in  
23 evidence at any later stage of the case, or in any subsequent action, and  
24 the burden of proof or degree of proof that is otherwise applicable is not  
25 affected by the findings in any later stage of the case or in any  
26 subsequent proceeding.

27 H. If the court determines that the moving party has established  
28 prima facie proof as prescribed in subsection B of this section, an order  
29 granting or denying a motion filed pursuant to this section is appealable  
30 pursuant to section 12-2101.

31 I. A STATE ACTOR IS LIABLE FOR INTENTIONALLY BRINGING OR  
32 MAINTAINING, CONSPIRING TO BRING OR MAINTAIN OR AIDING AND ABETTING THE  
33 PURSUIT OR MAINTENANCE OF A [NONCRIMINAL OR TRAFFIC] LEGAL ACTION WHEN A  
34 SUBSTANTIAL MOTIVATION FOR THE STATE ACTOR IS A DESIRE TO DETER, RETALIATE  
35 AGAINST OR PREVENT ANY PERSON FROM HOLDING OR EXPRESSING POLITICAL OR  
36 RELIGIOUS VIEWS, FROM FREE POLITICAL ASSOCIATION OR FROM ENGAGING IN  
37 POLITICALLY RELATED ADVOCACY. IN AN ACTION BROUGHT PURSUANT TO THIS  
38 SUBSECTION:

39 1. THE ACTION SHALL BE COMMENCED WITHIN FOUR YEARS AFTER THE  
40 CONCLUSION OF THE UNDERLYING ACTION.

41 2. EACH PARTY HAS THE RIGHT TO A TRIAL BY JURY, IF DEMANDED.

42 3. IT IS NOT A DEFENSE TO THE ACTION THAT EITHER:

43 (a) THE UNDERLYING LEGAL ACTION RESULTED IN AN ADVERSE JUDGMENT,  
44 DECISION, OPINION, VERDICT, RULING OR OTHER ADVERSE ACTION AGAINST THE  
45 PERSON WHOSE RIGHTS WERE VIOLATED.

46 (b) A MOTION FILED PURSUANT TO SUBSECTION A OF THIS SECTION WAS NOT  
47 BROUGHT IN THE UNDERLYING LEGAL ACTION. IF A MOTION FILED PURSUANT TO

1 SUBSECTION A OF THIS SECTION WAS MADE IN THE UNDERLYING LEGAL ACTION AND  
2 WAS UNSUCCESSFUL, THE COURT, IN ITS DISCRETION, MAY ALLOW A JURY TO  
3 CONSIDER THIS FACT BUT THE DISPOSITION OF THE MOTION IS NOT BINDING ON THE  
4 JURY.

5 4. A PREVAILING PARTY IS ENTITLED TO DECLARATORY RELIEF, NOMINAL  
6 DAMAGES, COMPENSATORY DAMAGES, ATTORNEY FEES AND COSTS AND VACATUR AND THE  
7 SEALING OF ANY ADVERSE JUDGMENTS, DECISIONS, OPINIONS, VERDICTS, RULINGS  
8 OR OTHER DISPOSITIONS IN THE UNDERLYING ACTION.

9 5. IF AN INDIVIDUAL IS FOUND LIABLE, THE INDIVIDUAL MAY ~~NOT~~ BE  
10 INDEMNIFIED BY THIS STATE OR A POLITICAL SUBDIVISION OF THIS STATE OR THE  
11 STATE'S OR POLITICAL SUBDIVISION'S INSURER.

12 6. A PEACE OFFICER IS IMMUNE FROM LIABILITY UNDER THIS SECTION.

13 7. NOTWITHSTANDING ANY OTHER PROVISION OF THIS SUBSECTION, THE  
14 EXCLUSIVE MEANS OF REDRESS FOR A VIOLATION OF THIS SECTION WITH RESPECT TO  
15 LEGAL ACTIONS SET FORTH IN SUBSECTION L, PARAGRAPH 1, SUBDIVISION (a),  
16 ITEM (ii) OF THIS SECTION SHALL BE AS SET FORTH IN SECTION 13-4242.

17 ~~J.~~ J. EXCEPT AS OTHERWISE PROVIDED IN THIS SECTION, this article  
18 does not:

19 1. Affect, limit or preclude the right of the moving party to any  
20 remedy otherwise authorized by law.

21 2. Create any privileges or immunities or otherwise affect, limit  
22 or preclude any privileges or immunities authorized by law.

23 3. Limit or preclude a legislative or executive body or a public  
24 agency from enforcing the rules of procedure and rules of order of the  
25 body or agency.

26 K. THIS SECTION IS INTENDED TO PREVENT THE GOVERNMENT FROM BEING  
27 USED AS A TOOL TO CHILL THE ADOPTION OR EXPRESSION OF, OR ADVOCACY FOR,  
28 UNPOPULAR POLITICAL OR RELIGIOUS BELIEFS OR POSITIONS AND SHALL BE  
29 LIBERALLY CONSTRUED TO EFFECTUATE THIS PURPOSE.

30 ~~J.~~ L. For the purposes of this section:

31 1. "Legal action":

32 (a) Means any of the following:

33 (i) Any civil action, claim, cross-claim or counterclaim for  
34 damages other than nominal damages.

35 (ii) Any criminal prosecution, except for a drug trafficking  
36 offense included in title 13, chapter 34 or 34.1, ~~a riot~~ or a serious  
37 offense or violent or aggravated felony as defined in section 13-706.

38 (iii) Any written investigative demand pursuant to section  
39 38-431.06 or other compulsory legal process or any regulatory or  
40 administrative action by a state actor.

41 (b) Does not include a motion filed pursuant to subsection A of  
42 this section.

43 2. "State actor" means any of the following:

44 (a) This state and any county, city, town or political subdivision  
45 of this state AND THE UNITED STATES, TO THE MAXIMUM EXTENT PERMITTED UNDER  
46 THE UNITED STATES CONSTITUTION AND THE ARIZONA CONSTITUTION.

1 (b) Any branch, department, board, bureau, commission, council,  
2 PROFESSIONAL OR OCCUPATIONAL LICENSING OR REGULATORY ORGANIZATION IN WHICH  
3 MEMBERSHIP IS MANDATORY FOR INDUSTRY PARTICIPANTS or committee of an  
4 entity included in subdivision (a) of this paragraph.

5 (c) Any officer, employee or other agent of an entity included in  
6 subdivision (a) of this paragraph who is acting in the officer's,  
7 employee's or agent's official capacity.

8 Sec. 2. Title 13, chapter 38, article 29, Arizona Revised Statutes,  
9 is amended by adding section 13-4242, to read:

10 13-4242. Postconviction relief for criminal political  
11 prosecution; definitions

12 A. NOTWITHSTANDING ANY OTHER LAW, A DEFENDANT WHO HAS BEEN  
13 CONVICTED OF A CRIMINAL OFFENSE IN A LEGAL ACTION COMMENCED OR MAINTAINED  
14 IN VIOLATION OF SECTION 12-751 AND WHO IS AN ELIGIBLE PETITIONER MAY FILE  
15 A PETITION FOR POSTCONVICTION RELIEF PURSUANT TO THIS SECTION AND SECTION  
16 13-4231, PARAGRAPH 2, EXCEPT THAT RELIEF MAY NOT BE PRECLUDED FOR THE  
17 FAILURE TO TIMELY RAISE THE ISSUE OR ON THE GROUNDS THAT THE ACCUSED  
18 CONSENTED TO JURISDICTION OF THE COURT.

19 B. A DEFENDANT WHO OBTAINS RELIEF PURSUANT TO SECTION 12-751 AND  
20 THIS SECTION SHALL HAVE THE CONVICTION SET ASIDE AND SHALL BE AWARDED  
21 REASONABLE ATTORNEY FEES AND COSTS INCURRED IN DEFENDING AGAINST THE LEGAL  
22 ACTION AND BRINGING AND MAINTAINING THE PETITION FOR POSTCONVICTION  
23 RELIEF, INCLUDING ANY FEES AND COSTS INCURRED ON APPEAL.

24 C. TO BE ELIGIBLE FOR RELIEF UNDER THIS SECTION, A DEFENDANT SHALL  
25 FILE A NOTICE WITH THE COURT WITHIN THIRTY DAYS AFTER THE DATE OF  
26 SENTENCING INDICATING AN INTENT TO REQUEST POSTCONVICTION RELIEF BY REASON  
27 THAT THE DEFENDANT WAS CONVICTED IN AN ACTION BROUGHT OR MAINTAINED IN  
28 VIOLATION OF SECTION 12-751.

29 D. WITHIN SIXTY DAYS AFTER THE FILING OF THE NOTICE UNDER  
30 SUBSECTION C OF THIS SECTION, THE COURT SHALL HOLD A HEARING TO DETERMINE  
31 WHETHER THE DEFENDANT QUALIFIES AS AN ELIGIBLE PETITIONER. IF THE COURT  
32 FINDS THAT THE DEFENDANT IS AN ELIGIBLE PETITIONER, THE DEFENDANT SHALL BE  
33 ALLOWED TO PROCEED WITH THE PETITION FOR POSTCONVICTION RELIEF.

34 E. THIS SECTION SHALL BE LIBERALLY CONSTRUED TO EFFECTUATE ITS  
35 PURPOSES, WHICH INCLUDE THE PROTECTION OF INDIVIDUALS WHO HAVE BEEN  
36 SUBJECTED TO POLITICAL PROSECUTIONS AND THE PRESERVATION OF THE INTEGRITY  
37 OF THE CRIMINAL JUSTICE SYSTEM.

38 F. FOR THE PURPOSES OF THIS SECTION:

39 1. "ELIGIBLE PETITIONER" MEANS AN INDIVIDUAL WHO WAS, AT THE TIME  
40 OF ARREST, ONE OR MORE OF THE FOLLOWING:

41 (a) A CURRENT OR FORMER PUBLIC OFFICIAL, INCLUDING A PRECINCT  
42 COMMITTEEMAN.

43 (b) A CURRENT OR FORMER CANDIDATE FOR PUBLIC OFFICE, INCLUDING A  
44 PRECINCT COMMITTEEMAN.

45 (c) A CURRENT OR FORMER OFFICER OF A NONPROFIT ORGANIZATION,  
46 POLITICAL ACTION COMMITTEE OR RECOGNIZED POLITICAL PARTY.

1 (d) A CURRENT OR FORMER PUBLIC FIGURE AS THAT TERM IS DEFINED AT  
2 COMMON LAW.

3 (e) A CURRENT OR FORMER POLICE OFFICER.

4 (f) A CURRENT OR FORMER PARTICIPANT IN A PROTEST WHERE THE  
5 INDIVIDUAL'S ARREST WAS RELATED TO THE INDIVIDUAL'S INVOLVEMENT IN THE  
6 PROTEST.

7 (g) AN AGENT, EMPLOYEE OR ATTORNEY OF ANY PERSON SET FORTH ABOVE OF  
8 A NONPROFIT ORGANIZATION, POLITICAL ACTION COMMITTEE OR RECOGNIZED  
9 POLITICAL PARTY.

10 2. "LEGAL ACTION" HAS THE SAME MEANING PRESCRIBED IN SECTION  
11 12-751.

12 Sec. 3. Legislative intent

13 The legislature intends that the change made to the definition of  
14 state actor in section 12-751, subsection L, paragraph 2, Arizona Revised  
15 Statutes, is to clarify the definition and is not intended to be a  
16 substantive change.

17 Sec. 4. Legislative findings

18 The legislature finds that:

19 1. Systemic issues with current law render our current system of  
20 justice unworthy of the fairness that we demand as Arizonans.

21 2. State and federal statutes, rules, laws and regulations are so  
22 numerous, broad and expansive that they allow for virtually any person to  
23 be targeted by the government for their violation. Once targeted,  
24 sentencing rules do not allow for the appropriate degree of judicial  
25 discretion. Legal ambiguity in sentencing orders threatens to further  
26 compound this problem.

27 3. Our judicial system requires additional adjustments to ensure  
28 procedural fairness.

29 Sec. 5. Severability

30 If a provision of this act or its application to any person or  
31 circumstance is held invalid, the invalidity does not affect other  
32 provisions or applications of the act that can be given effect without the  
33 invalid provision or application, and to this end the provisions of this  
34 act are severable.

35 Sec. 6. Short title

36 This act may be cited as the "Justice For All Act".

37 Enroll and engross to conform

38 Amend title to conform

And, as so amended, it do pass

QUANG H. NGUYEN  
CHAIRMAN

2633JUDICIARY.docx

02/05/2025

10:11 AM

H: NM/l's