

REFERENCE TITLE: domestic violence; orders of protection

State of Arizona  
Senate  
Forty-seventh Legislature  
Second Regular Session  
2006

## **SB 1097**

Introduced by  
Senator Johnson; Representatives Pearce, Quelland; Burges

AN ACT

AMENDING SECTIONS 13-3601, 13-3602 AND 13-3624, ARIZONA REVISED STATUTES;  
RELATING TO ORDERS OF PROTECTION.

(TEXT OF BILL BEGINS ON NEXT PAGE)

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

2 Section 1. Section 13-3601, Arizona Revised Statutes, is amended to  
3 read:

4 13-3601. Domestic violence; definition; classification;  
5 sentencing option; arrest and procedure for  
6 violation; weapon seizure; notice

7 A. "Domestic violence" means any act which is a dangerous crime  
8 against children as defined in section 13-604.01 or an offense defined in  
9 section 13-1201 through 13-1204, 13-1302 through 13-1304, 13-1502 through  
10 13-1504 or 13-1602, ~~section 13-2810~~, section 13-2904, subsection A, paragraph  
11 1, 2, 3 or 6, section 13-2916 or section 13-2921, 13-2921.01, 13-2923,  
12 13-3019, 13-3601.02 or 13-3623, if any of the following applies:

13 1. The relationship between the victim and the defendant is one of  
14 marriage or former marriage or of persons residing or having resided in the  
15 same household.

16 2. The victim and the defendant have a child in common.

17 3. The victim or the defendant is pregnant by the other party.

18 4. The victim is related to the defendant or the defendant's spouse by  
19 blood or court order as a parent, grandparent, child, grandchild, brother or  
20 sister or by marriage as a parent-in-law, grandparent-in-law, stepparent,  
21 step-grandparent, stepchild, step-grandchild, brother-in-law or  
22 sister-in-law.

23 5. The victim is a child who resides or has resided in the same  
24 household as the defendant and is related by blood to a former spouse of the  
25 defendant or to a person who resides or who has resided in the same household  
26 as the defendant.

27 B. A peace officer ~~may~~, with or without a warrant, **MAY** arrest a person  
28 if the officer has probable cause to believe that domestic violence has been  
29 committed and the officer has probable cause to believe that the person to be  
30 arrested has committed the offense, whether such offense is a felony or a  
31 misdemeanor and whether such offense was committed within or without the  
32 presence of the peace officer. In cases of domestic violence involving the  
33 infliction of physical injury or involving the discharge, use or threatening  
34 exhibition of a deadly weapon or dangerous instrument, the peace officer  
35 shall arrest a person, with or without a warrant, if the officer has probable  
36 cause to believe that the offense has been committed and the officer has  
37 probable cause to believe that the person to be arrested has committed the  
38 offense, whether such offense was committed within or without the presence of  
39 the peace officer, unless the officer has reasonable grounds to believe that  
40 the circumstances at the time are such that the victim will be protected from  
41 further injury. Failure to make an arrest does not give rise to civil  
42 liability except pursuant to section 12-820.02. In order to arrest both  
43 parties, the peace officer shall have probable cause to believe that both  
44 parties independently have committed an act of domestic violence. An act of  
45 self-defense that is justified under chapter 4 of this title is not deemed to

1 be an act of domestic violence. The release procedures available under  
2 section 13-3883, subsection A, paragraph 4 and section 13-3903 are not  
3 applicable to arrests made pursuant to this subsection.

4 C. A peace officer may question the persons who are present to  
5 determine if a firearm is present on the premises. On learning or observing  
6 that a firearm is present on the premises, the peace officer may temporarily  
7 seize the firearm if the firearm is in plain view or was found pursuant to a  
8 consent to search and if the officer reasonably believes that the firearm  
9 would expose the victim or another person in the household to a risk of  
10 serious bodily injury or death. A firearm that is owned or possessed by the  
11 victim shall not be seized unless there is probable cause to believe that  
12 both parties independently have committed an act of domestic violence.

13 D. If a firearm is seized pursuant to subsection C of this section,  
14 the peace officer shall give the owner or possessor of the firearm a receipt  
15 for each seized firearm. The receipt shall indicate the identification or  
16 serial number or other identifying characteristic of each seized  
17 firearm. Each seized firearm shall be held for at least seventy-two hours by  
18 the law enforcement agency that seized the firearm.

19 E. If a firearm is seized pursuant to subsection C of this section,  
20 the victim shall be notified by a peace officer before the firearm is  
21 released from temporary custody.

22 F. If there is reasonable cause to believe that returning a firearm to  
23 the owner or possessor may endanger the victim, the person who reported the  
24 assault or threat or another person in the household, the prosecutor shall  
25 file a notice of intent to retain the firearm in the appropriate superior,  
26 justice or municipal court. The prosecutor shall serve notice on the owner  
27 or possessor of the firearm by certified mail. The notice shall state that  
28 the firearm will be retained for not more than six months following the date  
29 of seizure. On receipt of the notice, the owner or possessor may request a  
30 hearing for the return of the firearm, to dispute the grounds for seizure or  
31 to request an earlier return date. The court shall hold the hearing within  
32 ten days after receiving the owner's or possessor's request for a  
33 hearing. At the hearing, unless the court determines that the return of the  
34 firearm may endanger the victim, the person who reported the assault or  
35 threat or another person in the household, the court shall order the return  
36 of the firearm to the owner or possessor.

37 G. A peace officer is not liable for any act or omission in the good  
38 faith exercise of the officer's duties under subsections C, D, E and F of  
39 this section.

40 H. Each indictment, information, complaint, summons or warrant that is  
41 issued and that involves domestic violence shall state that the offense  
42 involved domestic violence and shall be designated by the letters DV. A  
43 domestic violence charge shall not be dismissed or a domestic violence  
44 conviction shall not be set aside for failure to comply with this subsection.

1 I. A person who is arrested pursuant to subsection B of this section  
2 may be released from custody in accordance with the Arizona rules of criminal  
3 procedure or any other applicable statute. Any order for release, with or  
4 without an appearance bond, shall include pretrial release conditions that  
5 are necessary to provide for the protection of the alleged victim and other  
6 specifically designated persons and may provide for additional conditions  
7 that the court deems appropriate, including participation in any counseling  
8 programs available to the defendant.

9 J. When a peace officer responds to a call alleging that domestic  
10 violence has been or may be committed, the officer shall inform in writing  
11 any alleged or potential victim of the procedures and resources available for  
12 the protection of ~~such~~ THE victim including:

13 1. An order of protection pursuant to section 13-3602, an injunction  
14 pursuant to section 25-315 and an injunction against harassment pursuant to  
15 section 12-1809.

16 2. The emergency telephone number for the local police agency.

17 3. Telephone numbers for emergency services in the local community.

18 K. A peace officer is not civilly liable for noncompliance with  
19 subsection J of this section.

20 L. An offense that is included in domestic violence carries the  
21 classification prescribed in the section of this title in which the offense  
22 is classified. If the defendant committed a felony offense listed in  
23 subsection A of this section against a pregnant victim and knew that the  
24 victim was pregnant or if the defendant committed a felony offense causing  
25 physical injury to a pregnant victim and knew that the victim was pregnant,  
26 the maximum sentence otherwise authorized shall be increased by up to two  
27 years.

28 M. If the defendant is found guilty of a first offense included in  
29 domestic violence, the court shall provide the following written notice to  
30 the defendant:

31 You have been convicted of an offense included in domestic  
32 violence. You are now on notice that:

33 1. If you are convicted of a second offense included in  
34 domestic violence, you may be placed on supervised probation and  
35 may be incarcerated as a condition of probation.

36 2. A third or subsequent charge may be filed as a felony  
37 and a conviction for that offense shall result in a term of  
38 incarceration.

39 N. The failure or inability of the court to provide the notice  
40 required under subsection M of this section does not preclude the use of the  
41 prior convictions for any purpose otherwise permitted.

1           Sec. 2. Section 13-3602, Arizona Revised Statutes, is amended to read:  
2           13-3602. Order of protection: procedure: contents: arrest for  
3                                   violation; penalty; protection order from another  
4                                   jurisdiction

5           A. A person may file a verified petition, as in civil actions, with a  
6           magistrate, justice of the peace or superior court judge for an order of  
7           protection for the purpose of restraining a person from committing an act  
8           included in domestic violence. If the person is a minor, the parent, legal  
9           guardian or person who has legal custody of the minor shall file the petition  
10          unless the court determines otherwise. The petition shall name the parent,  
11          guardian or custodian as the plaintiff and the minor is a specifically  
12          designated person for the purposes of subsection G of this section. If a  
13          person is either temporarily or permanently unable to request an order, a  
14          third party may request an order of protection on behalf of the plaintiff.  
15          After the request, the judicial officer shall determine if the third party is  
16          an appropriate requesting party for the plaintiff. For the purposes of this  
17          section, notwithstanding the location of the plaintiff or defendant, any  
18          court in this state may issue or enforce an order of protection.

19          B. An order of protection shall not be granted:

20                1. Unless the party who requests the order files a written verified  
21          petition for an order.

22                2. Against a person who is less than twelve years of age unless the  
23          order is granted by the juvenile division of the superior court.

24                3. Against more than one defendant.

25          C. The petition shall state the:

26                1. Name of the plaintiff. The plaintiff's address shall be disclosed  
27          to the court for purposes of service. If the address of the plaintiff is  
28          unknown to the defendant, the plaintiff may request that the address be  
29          protected. On the plaintiff's request, the address shall not be listed on  
30          the petition. Whether the court issues an order of protection, the protected  
31          address shall be maintained in a separate document or automated database and  
32          is not subject to release or disclosure by the court or any form of public  
33          access except as ordered by the court.

34                2. Name and address, if known, of the defendant.

35                3. Specific statement, including dates, of the domestic violence  
36          alleged.

37                4. Relationship between the parties pursuant to section 13-3601,  
38          subsection A and whether there is pending between the parties an action for  
39          maternity or paternity, annulment, legal separation or dissolution of  
40          marriage.

41                5. Name of the court in which any prior or pending proceeding or order  
42          was sought or issued concerning the conduct that is sought to be restrained.

43                6. Desired relief.

1 D. A fee shall not be charged for filing a petition under this section  
2 or for service of process. On request of the plaintiff, each order of  
3 protection that is issued by a municipal court shall be served by the police  
4 agency for that city if the defendant can be served within the city. If the  
5 defendant cannot be served within the city, the police agency in the city in  
6 which the defendant can be served shall serve the order. If the order cannot  
7 be served within a city, the sheriff shall serve the order. On request of  
8 the plaintiff, each order of protection that is issued by a justice of the  
9 peace shall be served by the constable or sheriff for that jurisdiction if  
10 the defendant can be served within the jurisdiction. If the defendant cannot  
11 be served within that jurisdiction, the constable or sheriff in the  
12 jurisdiction in which the defendant can be served shall serve the order. On  
13 request of the plaintiff, each order of protection that is issued by a  
14 superior court judge or commissioner shall be served by the sheriff of the  
15 county. If the defendant cannot be served within that jurisdiction, the  
16 sheriff in the jurisdiction in which the defendant can be served shall serve  
17 the order. Each court shall provide, without charge, forms for purposes of  
18 this section for assisting parties without counsel. The court shall make  
19 reasonable efforts to provide to both parties an appropriate information  
20 sheet on emergency and counseling services that are available in the local  
21 area.

22 E. EXCEPT FOR EMERGENCY ORDERS OF PROTECTION, THE COURT SHALL HOLD A  
23 HEARING BEFORE ISSUING AN ORDER. The court shall review the petition, any  
24 other pleadings on file and any evidence offered by the plaintiff to  
25 determine whether the orders requested should ~~issue without further hearing~~  
26 BE ISSUED. The court shall issue an order of protection under subsection G  
27 of this section if the court determines AT THE HEARING that there is  
28 reasonable cause to believe any of the following OR IF THERE IS A POLICE  
29 REPORT THAT VERIFIES ANY OF THE FOLLOWING:

- 30 1. The defendant may commit an act of domestic violence.  
31 2. The defendant has committed an act of domestic violence within the  
32 past year or within a longer period of time if the court finds that good  
33 cause exists to consider a longer period.

34 F. For purposes of determining the period of time under subsection E,  
35 paragraph 2 of this section, any time that the defendant has been  
36 incarcerated or out of this state shall not be counted. If the court denies  
37 the requested relief, it may schedule a further hearing within ten days, with  
38 reasonable notice to the defendant.

39 G. If a court issues an order of protection, the court may do any of  
40 the following:

- 41 1. Enjoin the defendant from committing a violation of one or more of  
42 the offenses included in domestic violence.  
43 2. Grant one party the use and exclusive possession of the parties'  
44 residence on a showing that there is reasonable cause to believe that  
45 physical harm may otherwise result. If the other party is accompanied by a

1 law enforcement officer, the other party may return to the residence on one  
2 occasion to retrieve belongings. A law enforcement officer is not liable for  
3 any act or omission in the good faith exercise of the officer's duties under  
4 this paragraph.

5 3. Restrain the defendant from contacting the plaintiff or other  
6 specifically designated persons and from coming near the residence, place of  
7 employment or school of the plaintiff or other specifically designated  
8 locations or persons on a showing that there is reasonable cause to believe  
9 that physical harm may otherwise result.

10 4. If the court finds that the defendant is a credible threat to the  
11 physical safety of the plaintiff or other specifically designated persons,  
12 prohibit the defendant from possessing or purchasing a firearm for the  
13 duration of the order. If the court prohibits the defendant from possessing  
14 a firearm, the court shall also order the defendant to transfer any firearm  
15 owned or possessed by the defendant immediately after service of the order to  
16 the appropriate law enforcement agency for the duration of the order. If the  
17 defendant does not immediately transfer the firearm, the defendant shall  
18 transfer the firearm within twenty-four hours after service of the order.

19 5. If the order was issued after notice and a hearing at which the  
20 defendant had an opportunity to participate, require the defendant to  
21 complete a domestic violence offender treatment program that is provided by a  
22 facility approved by the department of health services or a probation  
23 department or any other program deemed appropriate by the court.

24 6. Grant relief that is necessary for the protection of the alleged  
25 victim and other specifically designated persons and that is proper under the  
26 circumstances.

27 H. The court shall not grant a mutual order of protection. If  
28 opposing parties separately file verified petitions for an order of  
29 protection, the courts after consultation between the judges involved may  
30 consolidate the petitions of the opposing parties for hearing. This does not  
31 prohibit a court from issuing cross orders of protection.

32 I. At any time during the period during which the order is in effect,  
33 a party under an order of protection or restrained from contacting the other  
34 party is entitled to one hearing on written request. No fee may be charged  
35 for requesting a hearing. A hearing that is requested by a party who is  
36 under an order of protection or who is restrained from contacting the other  
37 party shall be held within ten days from the date requested unless the court  
38 finds good cause to continue the hearing. If exclusive use of the home is  
39 awarded, the hearing shall be held within five days from the date requested.  
40 The hearing shall be held at the earliest possible time. An ex parte order  
41 that is issued under this section shall state on its face that the defendant  
42 is entitled to a hearing on written request and shall include the name and  
43 address of the judicial office where the request may be filed. After the  
44 hearing, the court may modify, quash or continue the order.

1 J. The order shall include the following statement:

2 Warning

3 This is an official court order. If you disobey this  
4 order, you may be arrested and prosecuted for the crime of  
5 interfering with judicial proceedings and any other crime you  
6 may have committed in disobeying this order.

7 K. A copy of the petition and the order shall be served on the  
8 defendant within one year from the date the order is signed. An order of  
9 protection that is not served on the defendant within one year expires. An  
10 order is effective on the defendant on service of a copy of the order and  
11 petition. An order expires one year after service on the defendant. A  
12 modified order is effective upon service and expires one year after service  
13 of the initial order and petition.

14 L. Each affidavit, acceptance or return of service shall be promptly  
15 filed with the clerk of the issuing court. This filing shall be completed in  
16 person, shall be made by fax or shall be postmarked, if sent by mail, no  
17 later than the end of the seventh court business day after the date of  
18 service. If the filing is made by fax, the original affidavit, acceptance or  
19 return of service shall be promptly filed with the court. Within twenty-four  
20 hours after the affidavit, acceptance or return of service has been filed,  
21 excluding weekends and holidays, the court from which the order or any  
22 modified order was issued shall forward to the sheriff of the county in which  
23 the court is located a copy of the order of protection and a copy of the  
24 affidavit or certificate of service of process or acceptance of service. On  
25 receiving these copies, the sheriff shall register the order. Registration of  
26 an order means that a copy of the order of protection and a copy of the  
27 affidavit or acceptance of service have been received by the sheriff's  
28 office. The sheriff shall maintain a central repository for orders of  
29 protection so that the existence and validity of the orders can be easily  
30 verified. The effectiveness of an order does not depend on its registration,  
31 and for enforcement purposes pursuant to section 13-2810, a copy of an order  
32 of the court, whether or not registered, is presumed to be a valid existing  
33 order of the court for a period of one year from the date of service of the  
34 order on the defendant.

35 M. A peace officer, with or without a warrant, may arrest a person if  
36 the peace officer has probable cause to believe that the person has violated  
37 section 13-2810 by disobeying or resisting an order that is issued in any  
38 jurisdiction in this state pursuant to this section, whether or not such  
39 violation occurred in the presence of the officer. Criminal violations of an  
40 order issued pursuant to this section shall be referred to an appropriate law  
41 enforcement agency. The law enforcement agency shall request that a  
42 prosecutorial agency file the appropriate charges. A violation of an order  
43 of protection shall not be adjudicated by a municipal or justice court unless  
44 a complaint has been filed or other legal process has been requested by the  
45 prosecuting agency. The provisions for release under section 13-3883,

1 subsection A, paragraph 4 and section 13-3903 do not apply to an arrest made  
2 pursuant to this section. For purposes of this section, any court in this  
3 state has jurisdiction to enforce a valid order of protection that is issued  
4 in this state and that has been violated in any jurisdiction in this state.

5 N. A person who is arrested pursuant to subsection M of this section  
6 may be released from custody in accordance with the Arizona rules of criminal  
7 procedure or any other applicable statute. An order for release, with or  
8 without an appearance bond, shall include pretrial release conditions that  
9 are necessary to provide for the protection of the alleged victim and other  
10 specifically designated persons and may provide for any other additional  
11 conditions that the court deems appropriate, including participation in any  
12 counseling programs available to the defendant.

13 O. IF THE PLAINTIFF TAKES OUT A VALID ORDER OF PROTECTION AND  
14 KNOWINGLY VIOLATES ANY TERMS OR CONDITIONS LISTED IN THE ORDER, THE ORDER  
15 SHALL APPLY TO THE PLAINTIFF AND THE PLAINTIFF MAY BE ARRESTED AND PROSECUTED  
16 FOR THE CRIME OF INTERFERING WITH JUDICIAL PROCEEDINGS AND ANY OTHER CRIME  
17 THAT MAY HAVE BEEN COMMITTED IN DISOBEYING THE ORDER.

18 ~~O.~~ P. The remedies provided in this section for enforcement of the  
19 orders of the court are in addition to any other civil and criminal remedies  
20 available. The superior court shall have exclusive jurisdiction to issue  
21 orders of protection in all cases if it appears from the petition that an  
22 action for maternity or paternity, annulment, legal separation or dissolution  
23 of marriage is pending between the parties. A municipal court or justice  
24 court shall not issue an order of protection if it appears from the petition  
25 that an action for maternity or paternity, annulment, legal separation or  
26 dissolution of marriage is pending between the parties. After issuance of an  
27 order of protection, if the municipal court or justice court determines that  
28 an action for maternity or paternity, annulment, legal separation or  
29 dissolution of marriage is pending between the parties, the municipal court  
30 or justice court shall stop further proceedings in the action and forward all  
31 papers, together with a certified copy of docket entries or any other record  
32 in the action, to the superior court where they shall be docketed in the  
33 pending superior court action and shall proceed as though the petition for an  
34 order of protection had been originally brought in the superior court.  
35 Notwithstanding any other law and unless prohibited by an order of the  
36 superior court, a municipal court or justice court may hold a hearing on all  
37 matters relating to its ex parte order of protection if the hearing was  
38 requested before receiving written notice of the pending superior court  
39 action. No order of protection shall be invalid or determined to be  
40 ineffective merely because it was issued by a lower court at a time when an  
41 action for maternity or paternity, annulment, legal separation or dissolution  
42 of marriage was pending in a higher court. After a hearing with notice to  
43 the affected party, the court may enter an order requiring any party to pay  
44 the costs of the action, including reasonable attorney fees, if any. An  
45 order that is entered by a justice court or municipal court after a hearing

1 pursuant to this section may be appealed to the superior court as provided in  
2 title 22, chapter 2, article 4, section 22-425, subsection B and the superior  
3 court rules of civil appellate procedure without regard to an amount in  
4 controversy. No fee may be charged to either party for filing an  
5 appeal. For the purposes of this subsection, "pending" means, with respect  
6 to an action for annulment, legal separation or dissolution of marriage or  
7 for maternity or paternity, either that:

8 1. An action has been commenced but a final judgment, decree or order  
9 has not been entered.

10 2. A post-decree proceeding has been commenced but a judgment, decree  
11 or order finally determining the proceeding has not been entered.

12 ~~P.~~ Q. A peace officer who makes an arrest pursuant to this section or  
13 section 13-3601 is not civilly or criminally liable for the arrest if the  
14 officer acts on probable cause and without malice.

15 ~~R.~~ R. In addition to persons authorized to serve process pursuant to  
16 rule 4(d) of the Arizona rules of civil procedure, a peace officer or a  
17 correctional officer as defined in section 41-1661 who is acting in the  
18 officer's official capacity may serve an order of protection that is issued  
19 pursuant to this section. Service of the order of protection has priority  
20 over other service of process that does not involve an immediate threat to  
21 the safety of a person.

22 ~~R.~~ S. A valid protection order that is related to domestic or family  
23 violence and that is issued by a court in another state, a court of a United  
24 States territory or a tribal court shall be accorded full faith and credit  
25 and shall be enforced as if it were issued in this state for as long as the  
26 order is effective in the issuing jurisdiction. For the purposes of this  
27 subsection:

28 1. A protection order includes any injunction or other order that is  
29 issued for the purpose of preventing violent or threatening acts or  
30 harassment against, contact or communication with or physical proximity to  
31 another person. A protection order includes temporary and final orders other  
32 than support or child custody orders that are issued by civil and criminal  
33 courts if the order is obtained by the filing of an independent action or is  
34 a pendente lite order in another proceeding. The civil order shall be issued  
35 in response to a complaint, petition or motion that was filed by or on behalf  
36 of a person seeking protection.

37 2. A protection order is valid if the issuing court had jurisdiction  
38 over the parties and the matter under the laws of the issuing state, a United  
39 States territory or an Indian tribe and the person against whom the order was  
40 issued had reasonable notice and an opportunity to be heard. If the order is  
41 issued ex parte, the notice and opportunity to be heard shall be provided  
42 within the time required by the laws of the issuing state, a United States  
43 territory or an Indian tribe and within a reasonable time after the order was  
44 issued.

1           3. A mutual protection order that is issued against both the party who  
2 filed a petition or a complaint or otherwise filed a written pleading for  
3 protection against abuse and the person against whom the filing was made is  
4 not entitled to full faith and credit if either:

5           (a) The person against whom an initial order was sought has not filed  
6 a cross or counter petition or other written pleading seeking a protection  
7 order.

8           (b) The issuing court failed to make specific findings supporting the  
9 entitlement of both parties to be granted a protection order.

10          4. A peace officer may presume the validity of and rely on a copy of a  
11 protection order that is issued by another state, a United States territory  
12 or an Indian tribe if the order was given to the officer by any source. A  
13 peace officer may also rely on the statement of any person who is protected  
14 by the order that the order remains in effect. A peace officer who acts in  
15 good faith reliance on a protection order is not civilly or criminally liable  
16 for enforcing the protection order pursuant to this section.

17          Sec. 3. Section 13-3624, Arizona Revised Statutes, is amended to read:  
18 13-3624. Emergency orders of protection

19          A. In counties with a population of one hundred fifty thousand persons  
20 or more according to the most recent United States decennial census, the  
21 presiding judge of the superior court, during the hours that the courts are  
22 closed, shall make available on a rotating basis a judge, justice of the  
23 peace, magistrate or commissioner who shall issue emergency orders of  
24 protection by telephone.

25          B. In counties with a population of less than one hundred fifty  
26 thousand persons according to the most recent United States decennial census,  
27 a judge, justice of the peace, magistrate or commissioner may issue an  
28 emergency order by telephone. The court, within twenty-four hours after a  
29 defendant is arrested for an act of domestic violence, shall register a  
30 certified copy of the release order with the sheriff's office of the county  
31 in which the order was issued. The court shall notify the sheriff's office  
32 of material changes in the release order, if the conditions of the release  
33 order are no longer in effect and when the charges are resolved. The sheriff  
34 in each county shall maintain a central repository for release orders so that  
35 the existence and validity of the orders can be easily verified. The law  
36 enforcement agency shall advise domestic violence victims where the victim  
37 may verify the registration and conditions of a release order.

38          C. The judge, justice of the peace, magistrate or commissioner who is  
39 authorized to issue emergency orders of protection may issue a written or  
40 oral ex parte emergency order of protection if a peace officer states that  
41 the officer has reasonable grounds to believe that a person is in immediate  
42 and present danger of domestic violence based on an allegation of a recent  
43 incident of actual domestic violence, **INJURY OR THREATS**.

44          D. An emergency order of protection may include any of the following:

1           1. The defendant may be enjoined from committing a violation of one or  
2 more of the offenses included in domestic violence.

3           2. One party may be granted the use and exclusive possession of the  
4 parties' residence on a showing that there is reasonable cause to believe  
5 that physical harm may otherwise result.

6           3. The defendant may be restrained from contacting the plaintiff, ~~AND~~ **AND**  
7 coming near the residence, place of employment or school of the plaintiff or  
8 other specifically designated locations or persons on a showing that there is  
9 reasonable cause to believe that physical harm may otherwise result.

10          4. If the court finds that the defendant may inflict bodily injury or  
11 death on the plaintiff, the defendant may be prohibited from possessing or  
12 purchasing a firearm for the duration of the order.

13          E. An emergency order of protection expires at the close of the next  
14 day of judicial business following the day of issue unless otherwise  
15 continued by the court.

16          F. A judge, justice of the peace, magistrate or commissioner may issue  
17 an oral emergency order of protection pursuant to subsection C of this  
18 section ~~upon~~ **ON** request of the alleged victim, if there is a finding that a  
19 person's life or health is in imminent danger. If a person is either  
20 temporarily or permanently unable to request an order, a third party may  
21 request an order of protection on behalf of the plaintiff. After the  
22 request, the judicial officer shall determine if the third party is an  
23 appropriate requesting party for the plaintiff. The officer who receives the  
24 verbal order shall write and sign the order. The emergency order shall be  
25 served on the respondent, and a copy shall be given to the protected party.  
26 The emergency order shall be filed as soon as practicable after its issuance.  
27 The officer shall file a certificate of service with the court and shall  
28 verbally notify the sheriff's office that the emergency order of protection  
29 has been issued. If a person who is named in the order and who has not  
30 received personal service of the order but has received actual notice of the  
31 existence and substance of the order commits an act that violates the order,  
32 the person is subject to any penalty for the violation.

33          G. The availability of an emergency order of protection is not  
34 affected by either party leaving the residence.

35          H. A law enforcement agency that has jurisdiction to enforce an  
36 emergency order of protection shall enforce the emergency order when it has  
37 reasonable cause to believe that the order has been violated.

38          I. Failure of a law enforcement agency to enforce an emergency order  
39 of protection pursuant to this section does not give rise to civil liability  
40 except pursuant to section 12-820.02.