

State of Arizona
Senate
Forty-ninth Legislature
Second Regular Session
2010

CHAPTER 276
SENATE BILL 1266

AN ACT

AMENDING TITLE 8, CHAPTER 3, ARTICLE 1, ARIZONA REVISED STATUTES, BY ADDING SECTION 8-309; AMENDING SECTIONS 13-1204, 13-3601 AND 13-3602, ARIZONA REVISED STATUTES; RELATING TO CRIMES AND OFFENSES.

(TEXT OF BILL BEGINS ON NEXT PAGE)

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

2 Section 1. Title 8, chapter 3, article 1, Arizona Revised Statutes, is
3 amended by adding section 8-309, to read:

4 8-309. Unlawful use of an electronic communication device by a
5 minor; classification; definitions

6 A. IT IS UNLAWFUL FOR A JUVENILE TO INTENTIONALLY OR KNOWINGLY USE AN
7 ELECTRONIC COMMUNICATION DEVICE TO TRANSMIT OR DISPLAY A VISUAL DEPICTION OF
8 A MINOR THAT DEPICTS EXPLICIT SEXUAL MATERIAL.

9 B. IT IS UNLAWFUL FOR A JUVENILE TO INTENTIONALLY OR KNOWINGLY POSSESS
10 A VISUAL DEPICTION OF A MINOR THAT DEPICTS EXPLICIT SEXUAL MATERIAL AND THAT
11 WAS TRANSMITTED TO THE JUVENILE THROUGH THE USE OF AN ELECTRONIC
12 COMMUNICATION DEVICE.

13 C. IT IS NOT A VIOLATION OF SUBSECTION B OF THIS SECTION IF ALL OF THE
14 FOLLOWING APPLY:

15 1. THE JUVENILE DID NOT SOLICIT THE VISUAL DEPICTION.

16 2. THE JUVENILE TOOK REASONABLE STEPS TO DESTROY OR ELIMINATE THE
17 VISUAL DEPICTION OR REPORT THE VISUAL DEPICTION TO THE JUVENILE'S PARENT,
18 GUARDIAN, SCHOOL OFFICIAL OR LAW ENFORCEMENT OFFICIAL.

19 D. A VIOLATION OF SUBSECTION A OF THIS SECTION IS A PETTY OFFENSE IF
20 THE JUVENILE TRANSMITS OR DISPLAYS THE VISUAL DEPICTION TO ONE OTHER PERSON.
21 A VIOLATION OF SUBSECTION A OF THIS SECTION IS A CLASS 3 MISDEMEANOR IF THE
22 JUVENILE TRANSMITS OR DISPLAYS THE VISUAL DEPICTION TO MORE THAN ONE OTHER
23 PERSON.

24 E. A VIOLATION OF SUBSECTION B OF THIS SECTION IS A PETTY OFFENSE.

25 F. ANY VIOLATION OF THIS SECTION THAT OCCURS AFTER ADJUDICATION FOR A
26 PRIOR VIOLATION OF THIS SECTION OR AFTER COMPLETION OF A DIVERSION PROGRAM AS
27 A RESULT OF A REFERRAL OR PETITION CHARGING A VIOLATION OF THIS SECTION IS A
28 CLASS 2 MISDEMEANOR.

29 G. FOR THE PURPOSES OF THIS SECTION:

30 1. "ELECTRONIC COMMUNICATION DEVICE" HAS THE SAME MEANING PRESCRIBED
31 IN SECTION 13-3560.

32 2. "EXPLICIT SEXUAL MATERIAL" MEANS MATERIAL THAT DEPICTS HUMAN
33 GENITALIA OR THAT DEPICTS NUDITY, SEXUAL ACTIVITY, SEXUAL CONDUCT, SEXUAL
34 EXCITEMENT OR SADOMASOCHISTIC ABUSE AS DEFINED IN SECTION 13-3501.

35 3. "VISUAL DEPICTION" HAS THE SAME MEANING PRESCRIBED IN SECTION
36 13-3551.

37 Sec. 2. Section 13-1204, Arizona Revised Statutes, is amended to read:

38 13-1204. Aggravated assault; classification; definition

39 A. A person commits aggravated assault if the person commits assault
40 as prescribed by section 13-1203 under any of the following circumstances:

41 1. If the person causes serious physical injury to another.

42 2. If the person uses a deadly weapon or dangerous instrument.

43 3. If the person commits the assault by any means of force that causes
44 temporary but substantial disfigurement, temporary but substantial loss or
45 impairment of any body organ or part or a fracture of any body part.

1 4. If the person commits the assault while the victim is bound or
2 otherwise physically restrained or while the victim's capacity to resist is
3 substantially impaired.

4 5. If the person commits the assault after entering the private home
5 of another with the intent to commit the assault.

6 6. If the person is eighteen years of age or older and commits the
7 assault on a child who is fifteen years of age or under.

8 7. If the person commits assault as prescribed by section 13-1203,
9 subsection A, paragraph 1 or 3 and the person is in violation of an order of
10 protection issued against the person pursuant to section 13-3602 or 13-3624.

11 8. If the person commits the assault knowing or having reason to know
12 that the victim is any of the following:

13 (a) A peace officer, or a person summoned and directed by the officer
14 while engaged in the execution of any official duties.

15 (b) A constable, or a person summoned and directed by the constable
16 while engaged in the execution of any official duties.

17 (c) A firefighter, fire investigator, fire inspector, emergency
18 medical technician or paramedic engaged in the execution of any official
19 duties, or a person summoned and directed by such individual while engaged in
20 the execution of any official duties.

21 (d) A teacher or other person employed by any school and the teacher
22 or other employee is on the grounds of a school or grounds adjacent to the
23 school or is in any part of a building or vehicle used for school purposes,
24 any teacher or school nurse visiting a private home in the course of the
25 teacher's or nurse's professional duties or any teacher engaged in any
26 authorized and organized classroom activity held on other than school
27 grounds.

28 (e) A health care practitioner who is certified or licensed pursuant to
29 title 32, chapter 13, 15, 17 or 25, or a person summoned and directed by the
30 licensed health care practitioner while engaged in the person's professional
31 duties. This subdivision does not apply if the person who commits the
32 assault is seriously mentally ill, as defined in section 36-550, or is
33 afflicted with alzheimer's disease or related dementia.

34 (f) A prosecutor.

35 9. If the person knowingly takes or attempts to exercise control over
36 any of the following:

37 (a) A peace officer's or other officer's firearm and the person knows
38 or has reason to know that the victim is a peace officer or other officer
39 employed by one of the agencies listed in paragraph 10, subdivision (a), item
40 (i), (ii), (iii), (iv) or (v) of this subsection and is engaged in the
41 execution of any official duties.

42 (b) Any weapon other than a firearm that is being used by a peace
43 officer or other officer or that the officer is attempting to use, and the
44 person knows or has reason to know that the victim is a peace officer or
45 other officer employed by one of the agencies listed in paragraph 10,

1 subdivision (a), item (i), (ii), (iii), (iv) or (v) of this subsection and is
2 engaged in the execution of any official duties.

3 (c) Any implement that is being used by a peace officer or other
4 officer or that the officer is attempting to use, and the person knows or has
5 reason to know that the victim is a peace officer or other officer employed
6 by one of the agencies listed in paragraph 10, subdivision (a), item (i),
7 (ii), (iii), (iv) or (v) of this subsection and is engaged in the execution
8 of any official duties. For the purposes of this subdivision, "implement"
9 means an object that is designed for or that is capable of restraining or
10 injuring an individual. Implement does not include handcuffs.

11 10. If the person meets both of the following conditions:

12 (a) Is imprisoned or otherwise subject to the custody of any of the
13 following:

14 (i) The state department of corrections.

15 (ii) The department of juvenile corrections.

16 (iii) A law enforcement agency.

17 (iv) A county or city jail or an adult or juvenile detention facility
18 of a city or county.

19 (v) Any other entity that is contracting with the state department of
20 corrections, the department of juvenile corrections, a law enforcement
21 agency, another state, any private correctional facility, a county, a city or
22 the federal bureau of prisons or other federal agency that has responsibility
23 for sentenced or unsentenced prisoners.

24 (b) Commits an assault knowing or having reason to know that the
25 victim is acting in an official capacity as an employee of any of the
26 entities listed in subdivision (a) of this paragraph.

27 **B. A PERSON COMMITS AGGRAVATED ASSAULT IF THE PERSON COMMITS ASSAULT
28 BY EITHER INTENTIONALLY, KNOWINGLY OR RECKLESSLY CAUSING ANY PHYSICAL INJURY
29 TO ANOTHER PERSON, INTENTIONALLY PLACING ANOTHER PERSON IN REASONABLE
30 APPREHENSION OF IMMINENT PHYSICAL INJURY OR KNOWINGLY TOUCHING ANOTHER PERSON
31 WITH THE INTENT TO INJURE THE PERSON, AND BOTH OF THE FOLLOWING OCCUR:**

32 **1. THE PERSON INTENTIONALLY OR KNOWINGLY IMPEDES THE NORMAL BREATHING
33 OR CIRCULATION OF BLOOD OF ANOTHER PERSON BY APPLYING PRESSURE TO THE THROAT
34 OR NECK OR BY OBSTRUCTING THE NOSE AND MOUTH EITHER MANUALLY OR THROUGH THE
35 USE OF AN INSTRUMENT.**

36 **2. ANY OF THE CIRCUMSTANCES EXISTS THAT ARE SET FORTH IN SECTION
37 13-3601, SUBSECTION A, PARAGRAPH 1, 2, 3, 4, 5 OR 6.**

38 ~~B-~~ **C.** Except pursuant to subsections ~~C~~ and D AND E of this section,
39 aggravated assault pursuant to subsection A, paragraph 1 or 2 or paragraph 9,
40 subdivision (a) of this section is a class 3 felony except if the victim is
41 under fifteen years of age in which case it is a class 2 felony punishable
42 pursuant to section 13-705. Aggravated assault pursuant to subsection A,
43 paragraph 3 OR SUBSECTION B of this section is a class 4 felony. Aggravated
44 assault pursuant to subsection A, paragraph 9, subdivision (b) or paragraph
45 10 of this section is a class 5 felony. Aggravated assault pursuant to

1 subsection A, paragraph 4, 5, 6, 7 or 8 or paragraph 9, subdivision (c) of
2 this section is a class 6 felony.

3 ~~E.~~ D. Aggravated assault pursuant to subsection A, paragraph 1 or 2
4 of this section committed on a peace officer while the officer is engaged in
5 the execution of any official duties is a class 2 felony. Aggravated assault
6 pursuant to subsection A, paragraph 3 of this section committed on a peace
7 officer while the officer is engaged in the execution of any official duties
8 is a class 3 felony. Aggravated assault pursuant to subsection A, paragraph
9 8, subdivision (a) of this section resulting in any physical injury to a
10 peace officer while the officer is engaged in the execution of any official
11 duties is a class 5 felony.

12 ~~D.~~ E. Aggravated assault pursuant to:

13 1. Subsection A, paragraph 1 or 2 of this section is a class 2 felony
14 if committed on a prosecutor.

15 2. Subsection A, paragraph 3 of this section is a class 3 felony if
16 committed on a prosecutor.

17 3. Subsection A, paragraph 8, subdivision (f) of this section is a
18 class 5 felony if the assault results in physical injury to a prosecutor.

19 ~~E.~~ F. For the purposes of this section, "prosecutor" means a county
20 attorney, a municipal prosecutor or the attorney general and includes an
21 assistant or deputy county attorney, municipal prosecutor or attorney
22 general.

23 Sec. 3. Section 13-3601, Arizona Revised Statutes, is amended to read:

24 13-3601. Domestic violence; definition; classification;
25 sentencing option; arrest and procedure for
26 violation; weapon seizure

27 A. "Domestic violence" means any act ~~which~~ THAT is a dangerous crime
28 against children as defined in section 13-705 or an offense ~~defined~~
29 ~~PRESCRIBED~~ in section 13-1102, 13-1103, 13-1104, 13-1105, 13-1201, ~~through~~
30 13-1202, 13-1203, 13-1204, 13-1302, ~~through~~ 13-1303, 13-1304, 13-1406,
31 13-1502, ~~through~~ 13-1503, 13-1504, ~~or~~ 13-1602, ~~section~~ OR 13-2810, section
32 13-2904, subsection A, paragraph 1, 2, 3 or 6, SECTION 13-2910, SUBSECTION A,
33 PARAGRAPH 8 OR 9, SECTION 13-2915, SUBSECTION A, PARAGRAPH 3 OR section
34 13-2916, ~~or section~~ 13-2921, 13-2921.01, 13-2923, 13-3019, 13-3601.02 or
35 13-3623, if any of the following applies:

36 1. The relationship between the victim and the defendant is one of
37 marriage or former marriage or of persons residing or having resided in the
38 same household.

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

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

41 4. The victim is related to the defendant or the defendant's spouse by
42 blood or court order as a parent, grandparent, child, grandchild, brother or
43 sister or by marriage as a parent-in-law, grandparent-in-law, stepparent,
44 step-grandparent, stepchild, step-grandchild, brother-in-law or
45 sister-in-law.

1 5. The victim is a child who resides or has resided in the same
2 household as the defendant and is related by blood to a former spouse of the
3 defendant or to a person who resides or who has resided in the same household
4 as the defendant.

5 6. The relationship between the victim and the defendant is currently
6 or was previously a romantic or sexual relationship. The following factors
7 may be considered in determining whether the relationship between the victim
8 and the defendant is currently or was previously a romantic or sexual
9 relationship:

10 (a) The type of relationship.

11 (b) The length of the relationship.

12 (c) The frequency of the interaction between the victim and the
13 defendant.

14 (d) If the relationship has terminated, the length of time since the
15 termination.

16 B. A peace officer, with or without a warrant, may arrest a person if
17 the officer has probable cause to believe that domestic violence has been
18 committed and the officer has probable cause to believe that the person to be
19 arrested has committed the offense, whether the offense is a felony or a
20 misdemeanor and whether the offense was committed within or without the
21 presence of the peace officer. In cases of domestic violence involving the
22 infliction of physical injury or involving the discharge, use or threatening
23 exhibition of a deadly weapon or dangerous instrument, the peace officer
24 shall arrest a person, with or without a warrant, if the officer has probable
25 cause to believe that the offense has been committed and the officer has
26 probable cause to believe that the person to be arrested has committed the
27 offense, whether the offense was committed within or without the presence of
28 the peace officer, unless the officer has reasonable grounds to believe that
29 the circumstances at the time are such that the victim will be protected from
30 further injury. Failure to make an arrest does not give rise to civil
31 liability except pursuant to section 12-820.02. In order to arrest both
32 parties, the peace officer shall have probable cause to believe that both
33 parties independently have committed an act of domestic violence. An act of
34 self-defense that is justified under chapter 4 of this title is not deemed to
35 be an act of domestic violence. The release procedures available under
36 section 13-3883, subsection A, paragraph 4 and section 13-3903 are not
37 applicable to arrests made pursuant to this subsection.

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

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

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

10 F. If there is reasonable cause to believe that returning a firearm to
11 the owner or possessor may endanger the victim, the person who reported the
12 assault or threat or another person in the household, the prosecutor shall
13 file a notice of intent to retain the firearm in the appropriate superior,
14 justice or municipal court. The prosecutor shall serve notice on the owner
15 or possessor of the firearm by certified mail. The notice shall state that
16 the firearm will be retained for not more than six months following the date
17 of seizure. On receipt of the notice, the owner or possessor may request a
18 hearing for the return of the firearm, to dispute the grounds for seizure or
19 to request an earlier return date. The court shall hold the hearing within
20 ten days after receiving the owner's or possessor's request for a hearing.
21 At the hearing, unless the court determines that the return of the firearm
22 may endanger the victim, the person who reported the assault or threat or
23 another person in the household, the court shall order the return of the
24 firearm to the owner or possessor.

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

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

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

41 J. When a peace officer responds to a call alleging that domestic
42 violence has been or may be committed, the officer shall inform in writing
43 any alleged or potential victim of the procedures and resources available for
44 the protection of the victim including:

1 B. An order of protection shall not be granted:
2 1. Unless the party who requests the order files a written verified
3 petition for an order.
4 2. Against a person who is less than twelve years of age unless the
5 order is granted by the juvenile division of the superior court.
6 3. Against more than one defendant.
7 C. The petition shall state the:
8 1. Name of the plaintiff. The plaintiff's address shall be disclosed
9 to the court for purposes of service. If the address of the plaintiff is
10 unknown to the defendant, the plaintiff may request that the address be
11 protected. On the plaintiff's request, the address shall not be listed on
12 the petition. Whether the court issues an order of protection, the protected
13 address shall be maintained in a separate document or automated database and
14 is not subject to release or disclosure by the court or any form of public
15 access except as ordered by the court.
16 2. Name and address, if known, of the defendant.
17 3. Specific statement, including dates, of the domestic violence
18 alleged.
19 4. Relationship between the parties pursuant to section 13-3601,
20 subsection A and whether there is pending between the parties an action for
21 maternity or paternity, annulment, legal separation or dissolution of
22 marriage.
23 5. Name of the court in which any prior or pending proceeding or order
24 was sought or issued concerning the conduct that is sought to be restrained.
25 6. Desired relief.
26 D. A fee shall not be charged for filing a petition under this section
27 or for service of process. On request of the plaintiff, each order of
28 protection that is issued by a municipal court shall be served by the police
29 agency for that city if the defendant can be served within the city. If the
30 defendant cannot be served within the city, the police agency in the city in
31 which the defendant can be served shall serve the order. If the order cannot
32 be served within a city, the sheriff shall serve the order. On request of
33 the plaintiff, each order of protection that is issued by a justice of the
34 peace shall be served by the constable or sheriff for that jurisdiction if
35 the defendant can be served within the jurisdiction. If the defendant cannot
36 be served within that jurisdiction, the constable or sheriff in the
37 jurisdiction in which the defendant can be served shall serve the order. On
38 request of the plaintiff, each order of protection that is issued by a
39 superior court judge or commissioner shall be served by the sheriff of the
40 county. If the defendant cannot be served within that jurisdiction, the
41 sheriff in the jurisdiction in which the defendant can be served shall serve
42 the order. Each court shall provide, without charge, forms for purposes of
43 this section for assisting parties without counsel. The court shall make
44 reasonable efforts to provide to both parties an appropriate information
45 sheet on emergency and counseling services that are available in the local
46 area.

1 E. The court shall review the petition, any other pleadings on file
2 and any evidence offered by the plaintiff, including any evidence of
3 harassment by electronic contact or communication, to determine whether the
4 orders requested should issue without further hearing. The court shall issue
5 an order of protection under subsection G of this section if the court
6 determines that there is reasonable cause to believe any of the following:

7 1. The defendant may commit an act of domestic violence.

8 2. The defendant has committed an act of domestic violence within the
9 past year or within a longer period of time if the court finds that good
10 cause exists to consider a longer period.

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

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

18 1. Enjoin the defendant from committing a violation of one or more of
19 the offenses included in domestic violence.

20 2. Grant one party the use and exclusive possession of the parties'
21 residence on a showing that there is reasonable cause to believe that
22 physical harm may otherwise result. If the other party is accompanied by a
23 law enforcement officer, the other party may return to the residence on one
24 occasion to retrieve belongings. A law enforcement officer is not liable for
25 any act or omission in the good faith exercise of the officer's duties under
26 this paragraph.

27 3. Restrain the defendant from contacting the plaintiff or other
28 specifically designated persons and from coming near the residence, place of
29 employment or school of the plaintiff or other specifically designated
30 locations or persons on a showing that there is reasonable cause to believe
31 that physical harm may otherwise result.

32 4. If the court finds that the defendant is a credible threat to the
33 physical safety of the plaintiff or other specifically designated persons,
34 prohibit the defendant from possessing or purchasing a firearm for the
35 duration of the order. If the court prohibits the defendant from possessing
36 a firearm, the court shall also order the defendant to transfer any firearm
37 owned or possessed by the defendant immediately after service of the order to
38 the appropriate law enforcement agency for the duration of the order. If the
39 defendant does not immediately transfer the firearm, the defendant shall
40 transfer the firearm within twenty-four hours after service of the order.

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

1 order is effective on the defendant on service of a copy of the order and
2 petition. An order expires one year after service on the defendant. A
3 modified order is effective on service and expires one year after service of
4 the initial order and petition.

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

26 ~~N~~ M. A peace officer, with or without a warrant, may arrest a person
27 if the peace officer has probable cause to believe that the person has
28 violated section 13-2810 by disobeying or resisting an order that is issued
29 in any jurisdiction in this state pursuant to this section, whether or not
30 such violation occurred in the presence of the officer. Criminal violations
31 of an order issued pursuant to this section shall be referred to an
32 appropriate law enforcement agency. The law enforcement agency shall request
33 that a prosecutorial agency file the appropriate charges. A violation of an
34 order of protection shall not be adjudicated by a municipal or justice court
35 unless a complaint has been filed or other legal process has been requested
36 by the prosecuting agency. The provisions for release under section 13-3883,
37 subsection A, paragraph 4 and section 13-3903 do not apply to an arrest made
38 pursuant to this section. For the purposes of this section, any court in
39 this state has jurisdiction to enforce a valid order of protection that is
40 issued in this state and that has been violated in any jurisdiction in this
41 state.

42 ~~O~~ N. A person who is arrested pursuant to subsection ~~N~~ M of this
43 section may be released from custody in accordance with the Arizona rules of
44 criminal procedure or any other applicable statute. An order for release,
45 with or without an appearance bond, shall include pretrial release conditions
46 that are necessary to provide for the protection of the alleged victim and

1 other specifically designated persons and may provide for any other
2 additional conditions that the court deems appropriate, including
3 participation in any counseling programs available to the defendant. The
4 agency with custody of the defendant shall make reasonable efforts to contact
5 the victim and other specifically designated persons in the order of
6 protection, if known to the custodial agency, who requested notification
7 immediately on release of the arrested person from custody.

8 ~~P.~~ 0. The remedies provided in this section for enforcement of the
9 orders of the court are in addition to any other civil and criminal remedies
10 available. The superior court shall have exclusive jurisdiction to issue
11 orders of protection in all cases if it appears from the petition that an
12 action for maternity or paternity, annulment, legal separation or dissolution
13 of marriage is pending between the parties. A municipal court or justice
14 court shall not issue an order of protection if it appears from the petition
15 that an action for maternity or paternity, annulment, legal separation or
16 dissolution of marriage is pending between the parties. After issuance of an
17 order of protection, if the municipal court or justice court determines that
18 an action for maternity or paternity, annulment, legal separation or
19 dissolution of marriage is pending between the parties, the municipal court
20 or justice court shall stop further proceedings in the action and forward all
21 papers, together with a certified copy of docket entries or any other record
22 in the action, to the superior court where they shall be docketed in the
23 pending superior court action and shall proceed as though the petition for an
24 order of protection had been originally brought in the superior court.
25 Notwithstanding any other law and unless prohibited by an order of the
26 superior court, a municipal court or justice court may hold a hearing on all
27 matters relating to its ex parte order of protection if the hearing was
28 requested before receiving written notice of the pending superior court
29 action. No order of protection shall be invalid or determined to be
30 ineffective merely because it was issued by a lower court at a time when an
31 action for maternity or paternity, annulment, legal separation or dissolution
32 of marriage was pending in a higher court. After a hearing with notice to
33 the affected party, the court may enter an order requiring any party to pay
34 the costs of the action, including reasonable attorney fees, if any. An
35 order that is entered by a justice court or municipal court after a hearing
36 pursuant to this section may be appealed to the superior court as provided in
37 title 22, chapter 2, article 4, section 22-425, subsection B and the superior
38 court rules of civil appellate procedure without regard to an amount in
39 controversy. No fee may be charged to either party for filing an appeal.
40 For the purposes of this subsection, "pending" means, with respect to an
41 action for annulment, legal separation or dissolution of marriage or for
42 maternity or paternity, either that:

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

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

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

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

11 ~~R.~~ R. A valid protection order that is related to domestic or family
12 violence and that is issued by a court in another state, a court of a United
13 States territory or a tribal court shall be accorded full faith and credit
14 and shall be enforced as if it were issued in this state for as long as the
15 order is effective in the issuing jurisdiction. For the purposes of this
16 subsection:

17 1. A protection order includes any injunction or other order that is
18 issued for the purpose of preventing violent or threatening acts or
19 harassment against, contact or communication with or physical proximity to
20 another person. A protection order includes temporary and final orders other
21 than support or child custody orders that are issued by civil and criminal
22 courts if the order is obtained by the filing of an independent action or is
23 a pendente lite order in another proceeding. The civil order shall be issued
24 in response to a complaint, petition or motion that was filed by or on behalf
25 of a person seeking protection.

26 2. A protection order is valid if the issuing court had jurisdiction
27 over the parties and the matter under the laws of the issuing state, a United
28 States territory or an Indian tribe and the person against whom the order was
29 issued had reasonable notice and an opportunity to be heard. If the order is
30 issued ex parte, the notice and opportunity to be heard shall be provided
31 within the time required by the laws of the issuing state, a United States
32 territory or an Indian tribe and within a reasonable time after the order was
33 issued.

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

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

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

43 4. A peace officer may presume the validity of and rely on a copy of a
44 protection order that is issued by another state, a United States territory
45 or an Indian tribe if the order was given to the officer by any source. A
46 peace officer may also rely on the statement of any person who is protected

1 by the order that the order remains in effect. A peace officer who acts in
2 good faith reliance on a protection order is not civilly or criminally liable
3 for enforcing the protection order pursuant to this section.

APPROVED BY THE GOVERNOR MAY 7, 2010.

FILED IN THE OFFICE OF THE SECRETARY OF STATE MAY 7, 2010.