

COMMITTEE ON JUDICIARY
SENATE AMENDMENTS TO S.B. 1250
(Reference to printed bill)

1 Strike everything after the enacting clause and insert:

2 "Section 1. Section 12-1809, Arizona Revised Statutes, as amended by
3 Laws 2018, chapter 232, section 2, is amended to read:

4 12-1809. Injunction against harassment; petition; venue; fees;
5 notices; enforcement; definition

6 A. A person may file a verified petition with a magistrate, justice
7 of the peace or superior court judge for an injunction prohibiting
8 harassment. If the person is a minor, the parent, legal guardian or person
9 who has legal custody of the minor shall file the petition unless the court
10 determines otherwise. The petition shall name the parent, guardian or
11 custodian as the plaintiff, and the minor is a specifically designated
12 person for the purposes of subsection F of this section. If a person is
13 either temporarily or permanently unable to request an injunction, a third
14 party may request an injunction on behalf of the plaintiff. After the
15 request, the judicial officer shall determine if the third party is an
16 appropriate requesting party for the plaintiff. Notwithstanding the
17 location of the plaintiff or defendant, any court in this state may issue
18 or enforce an injunction against harassment.

19 B. An injunction against harassment shall not be granted:

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

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

24 3. Against more than one defendant.

25 C. The petition shall state all of the following:

1 1. The name of the plaintiff. The plaintiff's address and contact
2 information shall be disclosed to the court for purposes of service and
3 notification. The address and contact information shall not be listed on
4 the petition. Whether or not the court issues an injunction against
5 harassment, the plaintiff's address and contact information shall be
6 maintained in a separate document or automated database and is not subject
7 to release or disclosure by the court or any form of public access except
8 as ordered by the court.

9 2. The name and address, if known, of the defendant.

10 3. A specific statement showing events and dates of the acts
11 constituting the alleged harassment.

12 4. The name of the court in which there was or is any prior or
13 pending proceeding or order concerning the conduct that is sought to be
14 restrained.

15 5. The relief requested.

16 D. A fee shall not be charged for filing a petition under this
17 section. Fees for service of process may be deferred or waived under any
18 rule or law applicable to civil actions, except that fees for service of
19 process shall not be charged if the petition arises out of a dating
20 relationship **OR SEXUAL VIOLENCE AS DEFINED IN SECTION 23-371**. The court
21 shall advise a plaintiff that the plaintiff may be eligible for the
22 deferral or waiver of these fees at the time the plaintiff files a
23 petition. The court shall not require the plaintiff to perform community
24 restitution as a condition of the waiver or deferral of fees for service of
25 process. A law enforcement agency or constable shall not require the
26 advance payment of fees for service of process of injunctions against
27 harassment. If the court does not waive the fees, the serving agency may
28 assess the actual fees against the plaintiff. On request of the plaintiff,
29 an injunction against harassment that is issued by a municipal court may be
30 served by the police agency for that city if the defendant can be served
31 within the city. If the defendant cannot be served within the city, the
32 police agency in the city in which the defendant can be served may serve

1 the injunction. On request of the plaintiff, each injunction against
2 harassment that is issued by a justice of the peace shall be served by the
3 constable for that jurisdiction if the defendant can be served within the
4 jurisdiction. If the defendant cannot be served within that jurisdiction,
5 the constable in the jurisdiction in which the defendant can be served
6 shall serve the injunction. On request of the plaintiff, an injunction
7 against harassment that is issued by a superior court judge or commissioner
8 may be served by the sheriff of the county. If the defendant cannot be
9 served within that jurisdiction, the sheriff in the jurisdiction in which
10 the defendant can be served may serve the order. The court shall provide,
11 without charge, forms for purposes of this section for assisting parties
12 without counsel.

13 E. The court shall review the petition, any other pleadings on file
14 and any evidence offered by the plaintiff, including any evidence of
15 harassment by electronic contact or communication, to determine whether the
16 injunction requested should issue without a further hearing. Rules
17 65(a)(1) and 65(e) of the Arizona rules of civil procedure do not apply to
18 injunctions that are requested pursuant to this section. If the court
19 finds reasonable evidence of harassment of the plaintiff by the defendant
20 during the year preceding the filing of the petition or that good cause
21 exists to believe that great or irreparable harm would result to the
22 plaintiff if the injunction is not granted before the defendant or the
23 defendant's attorney can be heard in opposition and the court finds
24 specific facts attesting to the plaintiff's efforts to give notice to the
25 defendant or reasons supporting the plaintiff's claim that notice should
26 not be given, the court shall issue an injunction as provided in subsection
27 F of this section. If the court denies the requested relief, it may
28 schedule a further hearing within ten days with reasonable notice to the
29 defendant. For the purposes of determining the one year period, any time
30 that the defendant has been incarcerated or out of this state shall not be
31 counted.

1 F. If the court issues an injunction, the court may do any of the
2 following:

3 1. Enjoin the defendant from committing a violation of one or more
4 acts of harassment.

5 2. Restrain the defendant from contacting the plaintiff or other
6 specifically designated persons and from coming near the residence, place
7 of employment or school of the plaintiff or other specifically designated
8 locations or persons.

9 3. Grant relief necessary for the protection of the alleged victim
10 and other specifically designated persons proper under the circumstances.

11 G. The court shall not grant a mutual injunction against harassment.
12 If opposing parties separately file verified petitions for an injunction
13 against harassment, the courts after consultation between the judicial
14 officers involved may consolidate the petitions of the opposing parties for
15 hearing. This does not prohibit a court from issuing cross injunctions
16 against harassment.

17 H. At any time during the period during which the injunction is in
18 effect, the defendant is entitled to one hearing on written request. No
19 fee may be charged for requesting a hearing. A hearing that is requested
20 by a defendant shall be held within ten days from the date requested unless
21 the court finds compelling reasons to continue the hearing. The hearing
22 shall be held at the earliest possible time. An ex parte injunction that
23 is issued under this section shall state on its face that the defendant is
24 entitled to a hearing on written request and shall include the name and
25 address of the judicial office where the request may be filed. After the
26 hearing, the court may modify, quash or continue the injunction.

27 I. The injunction shall include the following statement:

28 Warning

29 This is an official court order. If you disobey this
30 order, you may be arrested and prosecuted for the crime of
31 interfering with judicial proceedings and any other crime you
32 may have committed in disobeying this order.

1 J. An injunction that is not served on the defendant within one year
2 after the date that the injunction is issued expires. The injunction is
3 effective on the defendant on service of a copy of the injunction and
4 petition and expires one year after service on the defendant. A modified
5 injunction is effective upon service and expires one year after service of
6 the initial injunction and petition.

7 K. A supplemental information form that is used solely for the
8 purposes of service of process on the defendant and that contains
9 information provided by the plaintiff is confidential.

10 L. Each affidavit, declaration, acceptance or return of service
11 shall be filed as soon as practicable but not later than seventy-two hours,
12 excluding weekends and holidays, with the clerk of the issuing court or as
13 otherwise required by court rule. This filing shall be completed in
14 person, electronically or by fax. Within twenty-four hours after the
15 affidavit, declaration, acceptance or return of service has been filed,
16 excluding weekends and holidays, the court from which the injunction or any
17 modified injunction was issued shall register the injunction with the
18 national crime information center. The supreme court shall maintain a
19 central repository for injunctions so that the existence and validity of
20 the injunctions can be easily verified. The effectiveness of an injunction
21 does not depend on its registration, and for enforcement purposes pursuant
22 to section 13-2810, a copy of an injunction, whether or not registered, is
23 presumed to be a valid existing order of the court for a period of one year
24 from the date of service of the injunction on the defendant.

25 M. A peace officer, with or without a warrant, may arrest a person
26 if the peace officer has probable cause to believe that the person has
27 violated section 13-2810 by disobeying or resisting an injunction that is
28 issued pursuant to this section, whether or not the violation occurred in
29 the presence of the officer. The provisions for release under section
30 13-3903 do not apply to an arrest made pursuant to this subsection. A
31 person who is arrested pursuant to this subsection may be released from
32 custody in accordance with the Arizona rules of criminal procedure or any

1 other applicable statute. An order for release, with or without an
2 appearance bond, shall include pretrial release conditions that are
3 necessary to provide for the protection of the alleged victim and other
4 specifically designated persons and may provide for additional conditions
5 that the court deems appropriate, including participation in any counseling
6 programs available to the defendant.

7 N. If a peace officer responds to a call alleging that harassment
8 has been or may be committed, the officer shall inform in writing any
9 alleged or potential victim of the procedures and resources available for
10 the protection of the victim including:

- 11 1. An injunction pursuant to this section.
- 12 2. The emergency telephone number for the local police agency.
- 13 3. Telephone numbers for emergency services in the local community.

14 O. The remedies provided in this section for enforcement of the
15 orders of the court are in addition to any other civil and criminal
16 remedies available. The municipal court and the justice court may hear and
17 decide all matters arising pursuant to this section. After a hearing with
18 notice to the affected party, the court may enter an order requiring any
19 party to pay the costs of the action, including reasonable attorney fees,
20 if any. An order that is entered by a justice court or municipal court
21 after a hearing pursuant to this section may be appealed to the superior
22 court as provided in title 22, chapter 2, article 4, section 22-425,
23 subsection B and the superior court rules of civil appellate procedure
24 without regard to an amount in controversy. No fee may be charged to
25 either party for filing an appeal.

26 P. A peace officer who makes an arrest pursuant to this section is
27 not civilly or criminally liable for the arrest if the officer acts on
28 probable cause and without malice. A peace officer is not civilly liable
29 for noncompliance with subsection N of this section.

30 Q. This section does not apply to preliminary injunctions issued
31 pursuant to an action for dissolution of marriage or legal separation or
32 for protective orders against domestic violence.

1 R. In addition to the persons who are authorized to serve process
2 pursuant to rule 4(d), Arizona rules of civil procedure, a peace officer or
3 a correctional officer as defined in section 41-1661 who is acting in the
4 officer's official capacity may serve an injunction against harassment that
5 is issued pursuant to this section.

6 S. For the purposes of this section, "harassment":

7 1. Means:

8 (a) A series of acts over any period of time that is directed at a
9 specific person and that would cause a reasonable person to be seriously
10 alarmed, annoyed or harassed and the conduct in fact seriously alarms,
11 annoys or harasses the person and serves no legitimate purpose.

12 (b) ONE OR MORE ACTS OF SEXUAL VIOLENCE AS DEFINED IN SECTION
13 23-371.

14 2. ~~Harassment~~ Includes unlawful picketing, trespassory assembly,
15 unlawful mass assembly, concerted interference with lawful exercise of
16 business activity and engaging in a secondary boycott as defined in section
17 23-1321 and defamation in violation of section 23-1325.

18 Sec. 2. Effective date

19 Section 12-1809, Arizona Revised Statutes, as amended by Laws 2018,
20 chapter 232, section 2 and this act, is effective from and after
21 December 31, 2019."

22 Amend title to conform

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