

State of Arizona  
Senate  
Fifty-fourth Legislature  
First Regular Session  
2019

# SENATE BILL 1250

AN ACT

AMENDING SECTION 12-1809, ARIZONA REVISED STATUTES, AS AMENDED BY LAWS  
2018, CHAPTER 232, SECTION 2; RELATING TO INJUNCTIONS.

(TEXT OF BILL BEGINS ON NEXT PAGE)

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

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:  
5 fees; 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  
9 person who has legal custody of the minor shall file the petition unless  
10 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 F of this section. If a  
13 person is either temporarily or permanently unable to request an  
14 injunction, a third party may request an injunction on behalf of the  
15 plaintiff. After the request, the judicial officer shall determine if the  
16 third party is an appropriate requesting party for the plaintiff.  
17 Notwithstanding the location of the plaintiff or defendant, any court in  
18 this state may issue 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:

26 1. The name of the plaintiff. The plaintiff's address and contact  
27 information shall be disclosed to the court for purposes of service and  
28 notification. The address and contact information shall not be listed on  
29 the petition. Whether or not the court issues an injunction against  
30 harassment, the plaintiff's address and contact information shall be  
31 maintained in a separate document or automated database and is not subject  
32 to release or disclosure by the court or any form of public access except  
33 as ordered by the court.

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

35 3. A specific statement showing events and dates of the acts  
36 constituting the alleged harassment.

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

40 5. The relief requested.

41 D. A fee shall not be charged for filing a petition under this  
42 section. Fees for service of process may be deferred or waived under any  
43 rule or law applicable to civil actions, except that fees for service of  
44 process shall not be charged if the petition arises out of a dating  
45 relationship OR SEXUAL VIOLENCE AS DEFINED IN SECTION 23-371. The court

1 shall advise a plaintiff that the plaintiff may be eligible for the  
2 deferral or waiver of these fees at the time the plaintiff files a  
3 petition. The court shall not require the plaintiff to perform community  
4 restitution as a condition of the waiver or deferral of fees for service  
5 of process. A law enforcement agency or constable shall not require the  
6 advance payment of fees for service of process of injunctions against  
7 harassment. If the court does not waive the fees, the serving agency may  
8 assess the actual fees against the plaintiff. On request of the  
9 plaintiff, an injunction against harassment that is issued by a municipal  
10 court may be served by the police agency for that city if the defendant  
11 can be served within the city. If the defendant cannot be served within  
12 the city, the police agency in the city in which the defendant can be  
13 served may serve the injunction. On request of the plaintiff, each  
14 injunction against harassment that is issued by a justice of the peace  
15 shall be served by the constable for that jurisdiction if the defendant  
16 can be served within the jurisdiction. If the defendant cannot be served  
17 within that jurisdiction, the constable in the jurisdiction in which the  
18 defendant can be served shall serve the injunction. On request of the  
19 plaintiff, an injunction against harassment that is issued by a superior  
20 court judge or commissioner may be served by the sheriff of the  
21 county. If the defendant cannot be served within that jurisdiction, the  
22 sheriff in the jurisdiction in which the defendant can be served may serve  
23 the order. The court shall provide, without charge, forms for purposes of  
24 this section for assisting parties without counsel.

25 E. The court shall review the petition, any other pleadings on file  
26 and any evidence offered by the plaintiff, including any evidence of  
27 harassment by electronic contact or communication, to determine whether  
28 the injunction requested should issue without a further hearing. Rules  
29 65(a)(1) and 65(e) of the Arizona rules of civil procedure do not apply to  
30 injunctions that are requested pursuant to this section. If the court  
31 finds reasonable evidence of harassment of the plaintiff by the defendant  
32 during the year preceding the filing of the petition or that good cause  
33 exists to believe that great or irreparable harm would result to the  
34 plaintiff if the injunction is not granted before the defendant or the  
35 defendant's attorney can be heard in opposition and the court finds  
36 specific facts attesting to the plaintiff's efforts to give notice to the  
37 defendant or reasons supporting the plaintiff's claim that notice should  
38 not be given, the court shall issue an injunction as provided in  
39 subsection F of this section. If the court denies the requested relief,  
40 it may schedule a further hearing within ten days with reasonable notice  
41 to the defendant. For the purposes of determining the one year period,  
42 any time that the defendant has been incarcerated or out of this state  
43 shall not be 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  
12 harassment. If opposing parties separately file verified petitions for an  
13 injunction against harassment, the courts after consultation between the  
14 judicial officers involved may consolidate the petitions of the opposing  
15 parties for hearing. This does not prohibit a court from issuing cross  
16 injunctions 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  
21 unless the court finds compelling reasons to continue the hearing. The  
22 hearing shall be held at the earliest possible time. An ex parte  
23 injunction that is issued under this section shall state on its face that  
24 the defendant is entitled to a hearing on written request and shall  
25 include the name and address of the judicial office where the request may  
26 be filed. After the hearing, the court may modify, quash or continue the  
27 injunction.

28 I. The injunction shall include the following statement:

29 Warning

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

34 J. An injunction that is not served on the defendant within one  
35 year after the date that the injunction is issued expires. The injunction  
36 is effective on the defendant on service of a copy of the injunction and  
37 petition and expires one year after service on the defendant. A modified  
38 injunction is effective upon service and expires one year after service of  
39 the initial injunction and petition.

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

43 L. Each affidavit, declaration, acceptance or return of service  
44 shall be filed as soon as practicable but not later than seventy-two  
45 hours, excluding weekends and holidays, with the clerk of the issuing

1 court or as otherwise required by court rule. This filing shall be  
2 completed in person, electronically or by fax. Within twenty-four hours  
3 after the affidavit, declaration, acceptance or return of service has been  
4 filed, excluding weekends and holidays, the court from which the  
5 injunction or any modified injunction was issued shall register the  
6 injunction with the national crime information center. The supreme court  
7 shall maintain a central repository for injunctions so that the existence  
8 and validity of the injunctions can be easily verified. The effectiveness  
9 of an injunction does not depend on its registration, and for enforcement  
10 purposes pursuant to section 13-2810, a copy of an injunction, whether or  
11 not registered, is presumed to be a valid existing order of the court for  
12 a period of one year from the date of service of the injunction on the  
13 defendant.

14 M. A peace officer, with or without a warrant, may arrest a person  
15 if the peace officer has probable cause to believe that the person has  
16 violated section 13-2810 by disobeying or resisting an injunction that is  
17 issued pursuant to this section, whether or not the violation occurred in  
18 the presence of the officer. The provisions for release under section  
19 13-3903 do not apply to an arrest made pursuant to this subsection. A  
20 person who is arrested pursuant to this subsection may be released from  
21 custody in accordance with the Arizona rules of criminal procedure or any  
22 other applicable statute. An order for release, with or without an  
23 appearance bond, shall include pretrial release conditions that are  
24 necessary to provide for the protection of the alleged victim and other  
25 specifically designated persons and may provide for additional conditions  
26 that the court deems appropriate, including participation in any  
27 counseling programs available to the defendant.

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

- 32 1. An injunction pursuant to this section.
- 33 2. The emergency telephone number for the local police agency.
- 34 3. Telephone numbers for emergency services in the local community.
- 35 0. The remedies provided in this section for enforcement of the  
36 orders of the court are in addition to any other civil and criminal  
37 remedies available. The municipal court and the justice court may hear  
38 and decide all matters arising pursuant to this section. After a hearing  
39 with notice to the affected party, the court may enter an order requiring  
40 any party to pay the costs of the action, including reasonable attorney  
41 fees, if any. An order that is entered by a justice court or municipal  
42 court after a hearing pursuant to this section may be appealed to the  
43 superior court as provided in title 22, chapter 2, article 4, section  
44 22-425, subsection B and the superior court rules of civil appellate

1 procedure without regard to an amount in controversy. No fee may be  
2 charged to either party for filing an appeal.

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

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

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

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

16 1. Means:

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

21 (b) ONE OR MORE ACTS OF SEXUAL VIOLENCE AS DEFINED IN SECTION  
22 23-371.

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

27 Sec. 2. Effective date

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