

REFERENCE TITLE: **firearm transfers; domestic violence offenses**

State of Arizona  
Senate  
Fifty-fourth Legislature  
Second Regular Session  
2020

## **SB 1165**

Introduced by  
Senators Brophy McGee: Bowie, Carter

### **AN ACT**

AMENDING SECTION 12-284, ARIZONA REVISED STATUTES, AS AMENDED BY LAWS 2018, CHAPTER 317, SECTION 1; REPEALING SECTION 12-284, ARIZONA REVISED STATUTES, AS AMENDED BY LAWS 2018, CHAPTER 232, SECTION 1; AMENDING SECTION 13-3101, ARIZONA REVISED STATUTES; AMENDING TITLE 13, CHAPTER 36, ARIZONA REVISED STATUTES, BY ADDING SECTION 13-3601.03; AMENDING SECTION 13-3602, ARIZONA REVISED STATUTES; RELATING TO FIREARMS.

(TEXT OF BILL BEGINS ON NEXT PAGE)

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

2 Section 1. Section 12-284, Arizona Revised Statutes, as amended by  
 3 Laws 2018, chapter 317, section 1, is amended to read:

4 12-284. Fees

5 A. Except as otherwise provided by law, the clerk of the superior  
 6 court shall receive fees classified as follows:

7 Class	Description	Fee
8 A	Initial case filing fee	
9	Tax case	\$ 188.00
10	Filing complaint, notice of appeal	
11	under section 12-904 or petition	188.00
12	Filing intervenor	188.00
13	Additional plaintiffs	188.00
14	Filing foreign judgment	188.00
15	Ownership of real property becomes an	
16	issue plaintiff	188.00
17	Appellant	
18	(except under sections 12-1809 and 13-3602)	188.00
19	Change of venue to this county	188.00
20	Petition for change of name	188.00
21	Filing a process server application	188.00
22 B	Subsequent case filing fee	
23	Filing answer, notice of appearance	
24	under section 12-907 or initial appearance	\$ 100.00
25	Additional defendants	100.00
26	Notice of appeal to appellate courts	
27	(except under section 12-2107)	100.00
28	Cross-appeal by appellee (except under section	
29	12-2107)	100.00
30	Ownership of real property becomes an	
31	issue defendant	100.00
32	Jurisdiction exceeded appellee	
33	(within 20 days of filing)	100.00
34	Response to show cause that does one or more	
35	of the following:	
36	1. Requests affirmative relief or	
37	counterrelief	
38	2. Attacks the sufficiency of process	
39	or the proceedings	
40	3. Takes other affirmative action	100.00
41 C	Initial case filing fee	
42	Filing petition for annulment	\$ 149.00
43	Filing for dissolution/legal separation petition	149.00
44	Petition in formal testacy or appointment	
45	proceeding	149.00

1	Application for informal probate or informal	
2	appointment	149.00
3	Petition for supervised administration petition	
4	to appoint guardian	149.00
5	Petition to appoint conservator or make other	
6	protective order	149.00
7	Opposing petition in testacy or appointment	
8	proceedings or appointment of guardian or	
9	conservator	149.00
10	Single estate application or petition under	
11	title 14, chapter 3, section 14-3938	149.00
12	Domestic relations case for which a fee is not	
13	specifically prescribed	149.00
14	D Subsequent case filing fee	
15	Filing answer to annulment	\$ 74.00
16	Filing for dissolution/legal separation answer	74.00
17	Any person opposing contested petition if no	
18	prior payment made	74.00
19	Postadjudication petitions in	
20	domestic relations cases	74.00
21	Postjudgment activities in probate cases	74.00
22	E Minimum clerk fee	
23	Filing power of attorney	\$ 30.00
24	Change of venue to another county transmittal	
25	fee	30.00
26	Change of venue to another county pursuant to	
27	section 12-404 transmittal fee	30.00
28	Filing transcript and docketing judgment from	
29	any courts	30.00
30	Issuance of writs of: attachment, execution,	
31	possession, restitution, prohibition and	
32	enforcement of order of judgment-garnishment	30.00
33	Certified copy or abstract of marriage	
34	application or license	30.00
35	Certificate of correctness of copy of record	30.00
36	Justice of peace certificate	30.00
37	Each certificate of clerk to any matter in	
38	clerk's record not specifically provided	30.00
39	Filing any paper or performing any act for which	
40	a fee is not specifically prescribed	30.00
41	Subpoena - (civil)	30.00
42	Research in locating a document (per year or	
43	source researched)	30.00
44	Exemplification (per certification)	30.00

1	Authentication (per certification)	30.00
2	Seal a court file	30.00
3	Reopen a sealed court file	30.00
4	Retrieve bank records	30.00
5	Reel of film alpha index per year (plus per	
6	page fee below)	30.00
7	Payment history report	30.00
8	Certification under one document certification	30.00
9	Civil traffic appeal	30.00
10	F Per page fee	
11	Making copies (on appeal and on request)	
12	per page	\$ .50
13	Making extra copies per page	.50
14	Making photographic or photostatic copies	
15	per page	.50
16	Comparison fee of papers furnished by applicant	
17	per page	.50
18	Alpha index per page	.50
19	G Special fees	
20	Small claim tax case	\$ 24.00
21	Marriage license and return of a	
22	marriage license	83.00
23	Postage and handling	7.00
24	Notary services	7.00
25	Stop payment on check	16.00

26 B. The clerk of the superior court shall receive the fees  
 27 prescribed in subsection A of this section for the following services:

28 1. Making copies of papers and records required to be made by the  
 29 clerk on appeal, and copies of papers and records in the clerk's office  
 30 made on request in other cases, for each legal size page of original.

31 2. Making extra copies of the papers and records mentioned in  
 32 paragraph 1 of this subsection, required or requested for each page of  
 33 copy of such papers and records.

34 3. In a clerk's office, in which a photographic or photostatic  
 35 method of recording is used or is available for use in cooperation with  
 36 other public offices, preparing copies enumerated in paragraphs 1 and 2 of  
 37 this subsection for each page of copy or fraction of a page of copy.  
 38 Portions of several pages of records may be combined in one page of copy.  
 39 The clerk may prepare an abstract of marriage in lieu of a reproduction of  
 40 the recorded marriage license. The fee shall apply to matters whether  
 41 recorded in such office by longhand, typing, electronic, photographic or  
 42 photostatic methods. The fees for copies are exclusive of the fees for  
 43 certification or authentication.

44 4. Issuing a certificate as to official capacity of a justice of  
 45 the peace and affixing a seal to the certificate.

1           5. Each subpoena issued in a civil proceeding or filing any paper  
2 or performing any act for which a fee is not specifically prescribed by  
3 law, but the clerk shall not charge for the clerk's services in  
4 administering the oath in connection with any affidavit, petition, letters  
5 or other pleading or document that, after administration of the oath, is  
6 promptly filed by the clerk and becomes a part of a case or matter of  
7 record in the office of the clerk.

8           C. In addition to the fees required by subsection A of this  
9 section, the clerk shall charge and collect a surcharge of ~~fifteen dollars~~  
10 \$15 for each filing of a postadjudication petition in a domestic relations  
11 case for which a fee presently is charged under class D in subsection A of  
12 this section. The surcharge shall be used exclusively to fund domestic  
13 relations education and mediation programs established pursuant to section  
14 25-413. Each month the clerk shall transmit the monies the clerk collects  
15 pursuant to this subsection to the county treasurer for deposit in the  
16 domestic relations education and mediation fund established by section  
17 25-413.

18           D. Excluding the monies that are collected pursuant to subsection C  
19 of this section, each month the clerk shall transmit seventy-five percent  
20 of the monies collected for subsequent case filing fees for  
21 postadjudication petitions in domestic relations cases under class D in  
22 subsection A of this section to the county treasurer for deposit in the  
23 expedited child support and parenting time fund established pursuant to  
24 section 25-412. The remaining twenty-five percent of the monies collected  
25 pursuant to this subsection shall be distributed pursuant to section  
26 12-284.03.

27           E. At the commencement of each action for annulment, dissolution of  
28 marriage, legal separation, maternity or paternity, the petitioner shall  
29 pay to the clerk of the court the initial case filing fee for the action  
30 provided in subsection A of this section. At the time of filing a  
31 response, the respondent shall pay to the clerk of the court the  
32 subsequent case filing fee for the action provided in subsection A of this  
33 section. In each county where the superior court has established a  
34 conciliation court, the petitioner and respondent shall each pay to the  
35 clerk a sixty-five dollar fee. The monies from the additional fee shall  
36 be used to carry out the purposes of the conciliation court pursuant to  
37 title 25, chapter 3, article 7.

38           F. In garnishment matters:

39           1. A fee shall not be charged for filing an affidavit seeking only  
40 the release of exempt wages.

41           2. A fee shall not be charged for filing a garnishee's answer, for  
42 filing a judgment against the garnishee or for the issuance or return of  
43 process incident to such a judgment.

44           3. For any contest relating to or any controversion of a  
45 garnishment matter, unless the contesting party has paid an appearance fee

1 in that cause, the required appearance fee shall be paid, except that the  
2 garnishee shall not pay a clerk's fee.

3 G. A person who is cited to appear and defend an order to show  
4 cause shall not be charged an appearance fee. The person may stipulate to  
5 or consent to the entry of an order without the payment of an appearance  
6 fee. An appearance fee shall be paid if the person is present in person  
7 or by an attorney and does one or more of the following:

- 8 1. Requests affirmative relief or counterrelief.
- 9 2. Attacks the sufficiency of process or the proceedings.
- 10 3. Takes other affirmative action.

11 H. A petitioner shall not be charged a fee for requesting an order  
12 of protection pursuant to section 13-3602 or an injunction against  
13 harassment pursuant to section 12-1809. A defendant shall not be charged  
14 an answer fee in an order of protection action if the defendant requests a  
15 hearing pursuant to section 13-3602, subsection ~~I~~ N or in an injunction  
16 against harassment action if the defendant requests a hearing pursuant to  
17 section 12-1809, subsection H.

18 I. A person who files a registrar's order pursuant to section  
19 32-1166.06 shall not be charged a fee.

20 J. The clerk of the court shall charge and collect a forty-six  
21 dollar filing fee for a petition for emancipation of a minor filed  
22 pursuant to chapter 15 of this title. Each month the clerk shall transmit  
23 the monies the clerk collects pursuant to this subsection to the county  
24 treasurer for deposit in the emancipation administrative costs fund  
25 established by section 12-2456.

26 K. Except for monies that are collected pursuant to subsections C,  
27 D, E and J of this section, the clerk of the superior court shall transmit  
28 monthly to the county treasurer all monies collected pursuant to this  
29 section for distribution or deposit pursuant to section 12-284.03.

30 L. The supreme court may increase the fees prescribed in subsection  
31 A of this section in an amount not to exceed the percent of change in the  
32 average consumer price index as published by the United States department  
33 of labor, bureau of labor statistics between that figure for the latest  
34 calendar year and the calendar year in which the last fee increase  
35 occurred.

36 Sec. 2. Repeal

37 Section 12-284, Arizona Revised Statutes, as amended by Laws 2018,  
38 chapter 232, section 1, is repealed.

39 Sec. 3. Section 13-3101, Arizona Revised Statutes, is amended to  
40 read:

41 13-3101. Definitions

42 A. In this chapter, unless the context otherwise requires:

- 43 1. "Deadly weapon" means anything that is designed for lethal use.

44 The term includes a firearm.

1           2. "Deface" means to remove, alter or destroy the manufacturer's  
2 serial number.

3           3. "Explosive" means any dynamite, nitroglycerine, black powder, or  
4 other similar explosive material, including plastic explosives. Explosive  
5 does not include ammunition or ammunition components such as primers,  
6 percussion caps, smokeless powder, black powder and black powder  
7 substitutes used for hand loading purposes.

8           4. "Firearm" means any loaded or unloaded handgun, pistol,  
9 revolver, rifle, shotgun or other weapon that will expel, is designed to  
10 expel or may readily be converted to expel a projectile by the action of  
11 an explosive. Firearm does not include a firearm in permanently  
12 inoperable condition.

13           5. "Improvised explosive device" means a device that incorporates  
14 explosives or destructive, lethal, noxious, pyrotechnic or incendiary  
15 chemicals and that is designed to destroy, disfigure, terrify or harass.

16           6. "Occupied structure" means any building, object, vehicle,  
17 watercraft, aircraft or place with sides and a floor that is separately  
18 securable from any other structure attached to it, that is used for  
19 lodging, business, transportation, recreation or storage and in which one  
20 or more human beings either are or are likely to be present or so near as  
21 to be in equivalent danger at the time the discharge of a firearm occurs.  
22 Occupied structure includes any dwelling house, whether occupied,  
23 unoccupied or vacant.

24           7. "Prohibited possessor" means any person:

25           (a) Who has been found to constitute a danger to self or to others  
26 or to have a persistent or acute disability or grave disability pursuant  
27 to court order pursuant to section 36-540, and whose right to possess a  
28 firearm has not been restored pursuant to section 13-925.

29           (b) Who has been convicted within or without this state of a felony  
30 or who has been adjudicated delinquent for a felony and whose civil right  
31 to possess or carry a firearm has not been restored.

32           (c) Who is at the time of possession serving a term of imprisonment  
33 in any correctional or detention facility.

34           (d) Who is at the time of possession serving a term of probation  
35 pursuant to a conviction for a domestic violence offense as defined in  
36 section 13-3601 or a felony offense, parole, community supervision, work  
37 furlough, home arrest or release on any other basis or who is serving a  
38 term of probation or parole pursuant to the interstate compact under title  
39 31, chapter 3, article 4.1.

40           (e) Who is an undocumented alien or a nonimmigrant alien traveling  
41 with or without documentation in this state for business or pleasure or  
42 who is studying in this state and who maintains a foreign residence  
43 abroad. This subdivision does not apply to:

44           (i) Nonimmigrant aliens who possess a valid hunting license or  
45 permit that is lawfully issued by a state in the United States.

1 (ii) Nonimmigrant aliens who enter the United States to participate  
2 in a competitive target shooting event or to display firearms at a sports  
3 or hunting trade show that is sponsored by a national, state or local  
4 firearms trade organization devoted to the competitive use or other  
5 sporting use of firearms.

6 (iii) Certain diplomats.

7 (iv) Officials of foreign governments or distinguished foreign  
8 visitors who are designated by the United States department of state.

9 (v) Persons who have received a waiver from the United States  
10 attorney general.

11 (f) Who has been found incompetent pursuant to rule 11, Arizona  
12 rules of criminal procedure, and who subsequently has not been found  
13 competent.

14 (g) Who is found guilty except insane.

15 (h) WHO HAS BEEN CONVICTED OF EITHER:

16 (i) A DOMESTIC VIOLENCE OFFENSE AS DEFINED IN SECTION 13-3601 IF  
17 THE OFFENSE INVOLVED A DANGEROUS CRIME AGAINST CHILDREN AS DEFINED IN  
18 SECTION 13-705 OR AN OFFENSE PRESCRIBED IN SECTION 13-1102, 13-1103 OR  
19 13-1104, SECTION 13-1202, SUBSECTION A, PARAGRAPH 1, SECTION 13-1203,  
20 SUBSECTION A, PARAGRAPH 1 OR 3, SECTION 13-1204, SUBSECTION A, PARAGRAPH  
21 1, 2, 3, 4 OR 7 OR SUBSECTION B, SECTION 13-1303, 13-1304 OR 13-1406 OR  
22 SECTION 13-2904, SUBSECTION A, PARAGRAPH 1 OR 6.

23 (ii) ANY OTHER OFFENSE THAT WAS COMMITTED WITHIN OR WITHOUT THIS  
24 STATE AND THAT INVOLVES THE USE OR ATTEMPTED USE OF PHYSICAL FORCE OR THE  
25 THREATENED USE OF A DEADLY WEAPON IF SECTION 13-3601, SUBSECTION A,  
26 PARAGRAPH 1, 2, 3, 4, 5 OR 6 APPLIES TO THE RELATIONSHIP BETWEEN THE  
27 VICTIM AND THE DEFENDANT.

28 (i) WHO IS SUBJECT TO AN ORDER OF PROTECTION THAT WAS ISSUED  
29 PURSUANT TO SECTION 13-3602 OR A SIMILAR LAW IN ANOTHER JURISDICTION, AND  
30 THE ORDER WAS ISSUED AFTER THE PERSON RECEIVED NOTICE AND HAD AN  
31 OPPORTUNITY TO PARTICIPATE IN THE PROCEEDINGS.

32 8. "Prohibited weapon":

33 (a) Includes the following:

34 (i) An item that is a bomb, grenade, rocket having a propellant  
35 charge of more than four ounces or mine and that is explosive, incendiary  
36 or poison gas.

37 (ii) A device that is designed, made or adapted to muffle the  
38 report of a firearm.

39 (iii) A firearm that is capable of shooting more than one shot  
40 automatically, without manual reloading, by a single function of the  
41 trigger.

42 (iv) A rifle with a barrel length of less than sixteen inches, or  
43 shotgun with a barrel length of less than eighteen inches, or any firearm  
44 that is made from a rifle or shotgun and that, as modified, has an overall  
45 length of less than twenty-six inches.

1 (v) A breakable container that contains a flammable liquid with a  
2 flash point of one hundred fifty degrees Fahrenheit or less and that has a  
3 wick or similar device capable of being ignited.

4 (vi) A chemical or combination of chemicals, compounds or  
5 materials, including dry ice, that is possessed or manufactured for the  
6 purpose of generating a gas to cause a mechanical failure, rupture or  
7 bursting or an explosion or detonation of the chemical or combination of  
8 chemicals, compounds or materials.

9 (vii) An improvised explosive device.

10 (viii) Any combination of parts or materials that is designed and  
11 intended for use in making or converting a device into an item set forth  
12 in item (i), (v) or (vii) of this subdivision.

13 (b) Does not include:

14 (i) Any fireworks that are imported, distributed or used in  
15 compliance with state laws or local ordinances.

16 (ii) Any propellant, propellant actuated devices or propellant  
17 actuated industrial tools that are manufactured, imported or distributed  
18 for their intended purposes.

19 (iii) A device that is commercially manufactured primarily for the  
20 purpose of illumination.

21 9. "Trafficking" means to sell, transfer, distribute, dispense or  
22 otherwise dispose of a weapon or explosive to another person, or to buy,  
23 receive, possess or obtain control of a weapon or explosive, with the  
24 intent to sell, transfer, distribute, dispense or otherwise dispose of the  
25 weapon or explosive to another person.

26 B. The items set forth in subsection A, paragraph 8, subdivision  
27 (a), items (i), (ii), (iii) and (iv) of this section do not include any  
28 firearms or devices that are possessed, manufactured or transferred in  
29 compliance with federal law.

30 Sec. 4. Title 13, chapter 36, Arizona Revised Statutes, is amended  
31 by adding section 13-3601.03, to read:

32 13-3601.03. Domestic violence; prohibited possessor; firearm  
33 transfer order; firearm disposal; immunity;  
34 search warrant; definition

35 A. AT THE TIME OF SENTENCING, THE COURT SHALL INFORM, EITHER ORALLY  
36 OR IN WRITING, A PERSON WHO IS A PROHIBITED POSSESSOR AS DEFINED IN  
37 SECTION 13-3101, SUBSECTION A, PARAGRAPH 7, SUBDIVISION (h) THAT THE  
38 PERSON IS PROHIBITED FROM OWNING OR POSSESSING A FIREARM. THE COURT SHALL  
39 INDICATE ON THE RECORD OF CONVICTION THAT THE CONVICTION PROHIBITS THE  
40 PERSON FROM POSSESSING A FIREARM PURSUANT TO SECTION 13-3101, SUBSECTION  
41 A, PARAGRAPH 7, SUBDIVISION (h) AND SECTION 13-3102, SUBSECTION A,  
42 PARAGRAPH 4 AND ORDER THE PERSON TO TRANSFER ALL FIREARMS THAT THE PERSON  
43 OWNS OR POSSESSES TO THE APPROPRIATE LAW ENFORCEMENT AGENCY OR A FEDERALLY  
44 LICENSED FIREARMS DEALER WITHIN TWENTY-FOUR HOURS AFTER THE COURT ISSUES  
45 THE ORDER.

1           B. THE LAW ENFORCEMENT AGENCY OR FEDERALLY LICENSED FIREARMS DEALER  
2 THAT TAKES POSSESSION OF A TRANSFERRED FIREARM SHALL PROVIDE A PROOF OF  
3 TRANSFER TO THE PERSON WHO SURRENDERED THE FIREARM. THE PROOF OF TRANSFER  
4 SHALL INCLUDE THE NAME OF THE FIREARM OWNER OR POSSESSOR, THE DATE OF THE  
5 TRANSFER AND THE SERIAL NUMBER AND MAKE AND MODEL OF THE TRANSFERRED  
6 FIREARM.

7           C. WITHIN FORTY-EIGHT HOURS AFTER THE PERSON IS SERVED WITH A  
8 TRANSFER ORDER, THE PERSON SHALL EITHER:

9           1. ATTEST TO THE COURT THAT THE PERSON DID NOT OWN OR POSSESS ANY  
10 FIREARM AT THE TIME OF CONVICTION AND DOES NOT CURRENTLY OWN OR POSSESS  
11 ANY FIREARM.

12           2. FILE A PROOF OF TRANSFER WITH THE SENTENCING COURT AND ATTEST TO  
13 THE COURT THAT ALL FIREARMS OWNED OR POSSESSED BY THE PERSON WERE  
14 TRANSFERRED TO THE APPROPRIATE LAW ENFORCEMENT AGENCY OR A FEDERALLY  
15 LICENSED FIREARMS DEALER.

16           D. AFTER PROVIDING NOTICE TO THE OWNER OF A TRANSFERRED FIREARM,  
17 THE LAW ENFORCEMENT AGENCY OR FEDERALLY LICENSED FIREARMS DEALER THAT  
18 RECEIVES A TRANSFERRED FIREARM MAY DISPOSE OF THE FIREARM IN ACCORDANCE  
19 WITH STATE AND FEDERAL LAW. THE LAW ENFORCEMENT AGENCY OR FEDERALLY  
20 LICENSED FIREARMS DEALER MUST PROVIDE ALL MONIES RECEIVED FROM THE  
21 DISPOSAL OF THE FIREARM TO THE ORIGINAL FIREARM OWNER EXCEPT FOR ANY COSTS  
22 ASSOCIATED WITH TAKING POSSESSION, STORING AND DISPOSING OF THE FIREARM.

23           E. A PERSON WHO IS SUBJECT TO A TRANSFER ORDER MAY NOT BE  
24 PROSECUTED FOR POSSESSING, CARRYING OR TRANSPORTING A FIREARM IF ALL OF  
25 THE FOLLOWING APPLY:

26           1. THE PERSON POSSESSES THE WRITTEN TRANSFER ORDER.

27           2. THE FIREARM IS UNLOADED.

28           3. THE PERSON IS TRANSPORTING THE FIREARM DIRECTLY TO THE  
29 APPROPRIATE LAW ENFORCEMENT AGENCY OR A FEDERALLY LICENSED FIREARMS  
30 DEALER.

31           F. IF THE PLAINTIFF OR A PEACE OFFICER FILES AN AFFIDAVIT ALLEGING  
32 THAT THE PERSON HAS FAILED TO TRANSFER A FIREARM, THE COURT SHALL  
33 DETERMINE WHETHER PROBABLE CAUSE EXISTS TO BELIEVE THAT THE PERSON HAS  
34 FAILED TO TRANSFER A FIREARM THAT THE PERSON OWNS OR POSSESSES. IF THE  
35 COURT FINDS THAT PROBABLE CAUSE EXISTS, THE COURT SHALL ISSUE A WARRANT  
36 THAT DESCRIBES THE FIREARM POSSESSED BY THE PERSON AND THAT AUTHORIZES A  
37 SEARCH OF THE LOCATION WHERE THE FIREARM IS REASONABLY BELIEVED TO BE AND  
38 THE SEIZURE OF ANY FIREARM THAT IS OWNED OR POSSESSED BY THE PERSON AND  
39 DISCOVERED PURSUANT TO THE SEARCH. THE FAILURE TO COMPLY WITH THE  
40 SURRENDER OF A FIREARM IS GROUNDS FOR THE ISSUANCE OF A SEARCH WARRANT.

41           G. FOR THE PURPOSES OF THIS SECTION, "DOMESTIC VIOLENCE OFFENSE"  
42 MEANS AN OFFENSE INVOLVING DOMESTIC VIOLENCE AS DEFINED IN SECTION  
43 13-3601.

1           Sec. 5. Section 13-3602, Arizona Revised Statutes, is amended to  
2 read:

3           13-3602. Order of protection; procedure; contents; arrest for  
4                                   violation; penalty; protection order from another  
5                                   jurisdiction; firearm transfer order; immunity;  
6                                   search warrant; definition

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

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

23           1. Unless the party who requests the order files a written verified  
24 petition for an order.

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

27           3. Against more than one defendant.

28           C. The petition shall state the:

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

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

38           3. Specific statement, including dates, of the domestic violence  
39 alleged.

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

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

4           6. Desired relief.

5           D. A fee shall not be charged for filing a petition under this  
6 section or for service of process. Each court shall provide, without  
7 charge, forms for purposes of this section for assisting parties without  
8 counsel. The court shall make reasonable efforts to provide the  
9 appropriate information to both parties on emergency and counseling  
10 services that are available in the local area.

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

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

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

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

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

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

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

38           3. Restrain the defendant from contacting the plaintiff or other  
39 specifically designated persons and from coming near the residence, place  
40 of employment or school of the plaintiff or other specifically designated  
41 locations or persons on a showing that there is reasonable cause to  
42 believe that physical harm may otherwise result.

43           4. If **THE ORDER OF PROTECTION WAS ISSUED BEFORE NOTICE AND A**  
44 **HEARING AT WHICH THE DEFENDANT HAD AN OPPORTUNITY TO PARTICIPATE AND** the  
45 court finds that the defendant is a credible threat to the physical safety

1 of the plaintiff or other specifically designated persons, prohibit the  
2 defendant from possessing or purchasing a firearm for the duration of the  
3 order. If the court prohibits the defendant from possessing a firearm,  
4 the court shall also order the defendant to transfer any firearm owned or  
5 possessed by the defendant immediately after service of the order to the  
6 appropriate law enforcement agency OR A FEDERALLY LICENSED FIREARMS DEALER  
7 for the duration of the order. If the defendant does not immediately  
8 transfer the firearm, the defendant shall transfer the firearm within  
9 twenty-four hours after service of the order IN ACCORDANCE WITH THE  
10 REQUIREMENTS IN SUBSECTION I OF THIS SECTION.

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

16 6. Grant relief that is necessary for the protection of the alleged  
17 victim and other specifically designated persons and that is proper under  
18 the circumstances.

19 7. Grant the plaintiff the exclusive care, custody or control of  
20 any animal that is owned, possessed, leased, kept or held by the  
21 plaintiff, the defendant or a minor child residing in the residence or  
22 household of the plaintiff or the defendant, and order the defendant to  
23 stay away from the animal and forbid the defendant from taking,  
24 transferring, encumbering, concealing, committing an act of cruelty or  
25 neglect in violation of section 13-2910 or otherwise disposing of the  
26 animal.

27 H. IF THE COURT ISSUES AN ORDER OF PROTECTION AFTER NOTICE AND A  
28 HEARING AT WHICH THE DEFENDANT HAD AN OPPORTUNITY TO PARTICIPATE, THE  
29 COURT SHALL PROHIBIT THE DEFENDANT FROM POSSESSING OR PURCHASING A FIREARM  
30 AND SHALL ORDER THE DEFENDANT TO TRANSFER ANY FIREARM OWNED OR POSSESSED  
31 BY THE DEFENDANT IMMEDIATELY AFTER SERVICE OF THE ORDER TO THE APPROPRIATE  
32 LAW ENFORCEMENT AGENCY OR A FEDERALLY LICENSED FIREARMS DEALER FOR THE  
33 DURATION OF THE ORDER. IF THE DEFENDANT DOES NOT IMMEDIATELY TRANSFER THE  
34 FIREARM, THE DEFENDANT SHALL TRANSFER THE FIREARM WITHIN TWENTY-FOUR HOURS  
35 AFTER SERVICE OF THE TRANSFER ORDER.

36 I. IF A DEFENDANT IS ORDERED TO TRANSFER A FIREARM TO THE  
37 APPROPRIATE LAW ENFORCEMENT AGENCY OR A FEDERALLY LICENSED FIREARMS DEALER  
38 PURSUANT TO SUBSECTION G, PARAGRAPH 4 OR SUBSECTION H OF THIS SECTION, ALL  
39 OF THE FOLLOWING APPLY:

40 1. THE LAW ENFORCEMENT AGENCY OR FEDERALLY LICENSED FIREARMS DEALER  
41 THAT TAKES POSSESSION OF A TRANSFERRED FIREARM SHALL PROVIDE A PROOF OF  
42 TRANSFER TO THE DEFENDANT WHO SURRENDERED THE FIREARM. THE PROOF OF  
43 TRANSFER SHALL INCLUDE THE NAME OF THE FIREARM OWNER OR POSSESSOR, THE  
44 DATE OF THE TRANSFER AND THE SERIAL NUMBER AND MAKE AND MODEL OF THE  
45 TRANSFERRED FIREARM.

1           2. WITHIN FORTY-EIGHT HOURS AFTER SERVICE OF THE TRANSFER ORDER,  
2 THE DEFENDANT SHALL EITHER:

3           (a) ATTEST TO THE COURT THAT THE DEFENDANT DID NOT OWN OR POSSESS  
4 ANY FIREARM WHEN THE DEFENDANT RECEIVED THE TRANSFER ORDER AND DOES NOT  
5 CURRENTLY OWN OR POSSESS ANY FIREARM.

6           (b) FILE A PROOF OF TRANSFER WITH THE COURT AND ATTEST TO THE COURT  
7 THAT ALL FIREARMS OWNED OR POSSESSED BY THE DEFENDANT WERE TRANSFERRED TO  
8 THE APPROPRIATE LAW ENFORCEMENT AGENCY OR A FEDERALLY LICENSED FIREARMS  
9 DEALER.

10          3. AFTER THE ORDER OF PROTECTION EXPIRES AND ON THE DEFENDANT'S  
11 REQUEST, THE LAW ENFORCEMENT AGENCY OR FEDERALLY LICENSED FIREARMS DEALER  
12 SHALL RETURN ANY TEMPORARILY TRANSFERRED FIREARM TO THE DEFENDANT UNLESS  
13 THE ORDER IS EXTENDED OR THE DEFENDANT IS OTHERWISE PROHIBITED FROM  
14 POSSESSING A FIREARM PURSUANT TO FEDERAL OR STATE LAW. BEFORE RETURNING A  
15 FIREARM TO THE DEFENDANT, THE LAW ENFORCEMENT AGENCY OR FEDERALLY LICENSED  
16 FIREARMS DEALER MUST CONDUCT A CHECK OF AVAILABLE RECORDS AND CONTACT THE  
17 NATIONAL INSTANT CRIMINAL BACKGROUND CHECK SYSTEM TO ENSURE THAT THE  
18 DEFENDANT IS NO LONGER PROHIBITED FROM POSSESSING A FIREARM PURSUANT TO  
19 FEDERAL OR STATE LAW.

20          4. A DEFENDANT WHO IS SUBJECT TO A TRANSFER ORDER MAY NOT BE  
21 PROSECUTED FOR POSSESSING, CARRYING OR TRANSPORTING A FIREARM IF ALL OF  
22 THE FOLLOWING APPLY:

23           (a) THE DEFENDANT POSSESSES THE WRITTEN TRANSFER ORDER.

24           (b) THE FIREARM IS UNLOADED.

25           (c) THE DEFENDANT IS TRANSPORTING THE FIREARM DIRECTLY TO THE  
26 APPROPRIATE LAW ENFORCEMENT AGENCY OR A FEDERALLY LICENSED FIREARMS  
27 DEALER.

28          5. IF THE PLAINTIFF OR A PEACE OFFICER FILES AN AFFIDAVIT ALLEGING  
29 THAT THE DEFENDANT HAS FAILED TO TRANSFER A FIREARM, THE COURT SHALL  
30 DETERMINE WHETHER PROBABLE CAUSE EXISTS TO BELIEVE THAT THE DEFENDANT HAS  
31 FAILED TO TRANSFER A FIREARM THAT THE DEFENDANT OWNS OR POSSESSES. IF THE  
32 COURT FINDS THAT PROBABLE CAUSE EXISTS, THE COURT SHALL ISSUE A WARRANT  
33 THAT DESCRIBES THE FIREARM POSSESSED BY THE DEFENDANT AND THAT AUTHORIZES  
34 A SEARCH OF THE LOCATION WHERE THE FIREARM IS REASONABLY BELIEVED TO BE  
35 AND THE SEIZURE OF ANY FIREARM THAT IS OWNED OR POSSESSED BY THE DEFENDANT  
36 AND DISCOVERED PURSUANT TO THE SEARCH. THE FAILURE TO COMPLY WITH THE  
37 SURRENDER OF A FIREARM IS GROUNDS FOR THE ISSUANCE OF A SEARCH WARRANT.

38          ~~H~~ J. The court shall not grant a mutual order of protection. If  
39 opposing parties separately file verified petitions for an order of  
40 protection, the courts after consultation between the judges involved may  
41 consolidate the petitions of the opposing parties for hearing. This does  
42 not prohibit a court from issuing cross orders of protection.

43          ~~I~~ K. After granting an order of protection, the court shall  
44 provide the order to a law enforcement agency or a constable as set forth  
45 in subsection ~~J~~ L of this section for service or to an entity that is

1 authorized in subsection ~~K~~ M of this section to serve process. The  
2 agency or entity serving the order shall provide confirmation of service  
3 to the plaintiff as soon as practicable. If service of an order cannot be  
4 completed within fifteen days after the agency or entity receives the  
5 order, the agency or entity that is attempting service shall notify the  
6 plaintiff and continue to attempt service. This notification may be  
7 completed by a victim notification system, if available.

8 ~~J~~ L. If the order of protection is provided to a law enforcement  
9 agency or a constable, service of an order of protection is as follows:

10 1. For each order of protection that is issued by a municipal  
11 court, if the defendant can be served within that city or town, the order  
12 shall be served by the law enforcement agency of that city or town. If  
13 the order can be served in another city or town, the order shall be served  
14 by the law enforcement agency of that city or town. If the order cannot  
15 be served within a city or town, the order shall be served by the sheriff  
16 or constable of the county in which the defendant can be served.

17 2. For each order of protection that is issued by a justice of the  
18 peace, the order of protection shall be served by the sheriff or constable  
19 of the county in which the defendant can be served or by a municipal law  
20 enforcement agency.

21 3. For each order of protection that is issued by a superior court  
22 judge or commissioner, the order of protection shall be served by the  
23 sheriff or constable of the county where the defendant can be served.

24 ~~K~~ M. In addition to persons authorized to serve process pursuant  
25 to rule 4(d) of the Arizona rules of civil procedure, a peace officer or a  
26 correctional officer as defined in section 41-1661 who is acting in the  
27 officer's official capacity may serve an order of protection that is  
28 issued pursuant to this section. Service of the order of protection has  
29 priority over other service of process that does not involve an immediate  
30 threat to the safety of a person.

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



1           ~~R.~~ T. A person who is arrested pursuant to subsection ~~⊖~~ S of this  
2 section may be released from custody in accordance with the Arizona rules  
3 of criminal procedure or any other applicable statute. An order for  
4 release, with or without an appearance bond, shall include pretrial  
5 release conditions that are necessary to provide for the protection of the  
6 alleged victim and other specifically designated persons and may provide  
7 for any other additional conditions that the court deems appropriate,  
8 including participation in any counseling programs available to the  
9 defendant. The agency with custody of the defendant shall make reasonable  
10 efforts to contact the victim and other specifically designated persons in  
11 the order of protection, if known to the custodial agency, who requested  
12 notification immediately on release of the arrested person from custody.

13           ~~S.~~ U. The remedies provided in this section for enforcement of the  
14 orders of the court are in addition to any other civil and criminal  
15 remedies available. The superior court shall have exclusive jurisdiction  
16 to issue orders of protection in all cases if it appears from the petition  
17 that an action for maternity or paternity, annulment, legal separation or  
18 dissolution of marriage is pending between the parties. A municipal court  
19 or justice court shall not issue an order of protection if it appears from  
20 the petition that an action for maternity or paternity, annulment, legal  
21 separation or dissolution of marriage is pending between the parties.  
22 After issuance of an order of protection, if the municipal court or  
23 justice court determines that an action for maternity or paternity,  
24 annulment, legal separation or dissolution of marriage is pending between  
25 the parties, the municipal court or justice court shall stop further  
26 proceedings in the action and forward all papers, together with a  
27 certified copy of docket entries or any other record in the action, to the  
28 superior court where they shall be docketed in the pending superior court  
29 action and shall proceed as though the petition for an order of protection  
30 had been originally brought in the superior court. Notwithstanding any  
31 other law and unless prohibited by an order of the superior court, a  
32 municipal court or justice court may hold a hearing on all matters  
33 relating to its ex parte order of protection if the hearing was requested  
34 before receiving written notice of the pending superior court action. ~~No~~  
35 AN order of protection shall NOT be invalid or determined to be  
36 ineffective merely because it was issued by a lower court at a time when  
37 an action for maternity or paternity, annulment, legal separation or  
38 dissolution of marriage was pending in a higher court. 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  
45 procedure without regard to an amount in controversy. No fee may be

1 charged to either party for filing an appeal. For the purposes of this  
2 subsection, "pending" means, with respect to an action for annulment,  
3 legal separation or dissolution of marriage or for maternity or paternity,  
4 either that:

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

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

9 ~~†~~ V. A peace officer who makes an arrest pursuant to this section  
10 or section 13-3601 is not civilly or criminally liable for the arrest if  
11 the officer acts on probable cause and without malice.

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

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

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

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

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

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

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

9           ~~V.~~ X. For the purposes of this section, "victim notification  
10 system" means an automated system that may provide plaintiffs and crime  
11 victims with an automated notification regarding the person's case.