

REFERENCE TITLE: **violent; disorderly assembly; public order**

State of Arizona
House of Representatives
Fifty-fifth Legislature
First Regular Session
2021

HB 2309

Introduced by

Representatives Roberts: Barton, Biasiucci, Blackman, Bolick, Bowers,
Burges, Carroll, Chaplik, Cobb, Cook, Dunn, Finchem, Grantham, Griffin,
Hoffman, Kaiser, Kavanagh, Nguyen, Nutt, Osborne, Parker, Payne,
Pingerelli, Pratt, Toma, Wilmeth

AN ACT

AMENDING SECTIONS 13-1204, 13-1213, 13-1602, 13-2906 AND 13-2917, ARIZONA REVISED STATUTES; AMENDING TITLE 13, CHAPTER 29, ARIZONA REVISED STATUTES, BY ADDING SECTION 13-2925; AMENDING SECTIONS 13-3703 AND 36-1608, ARIZONA REVISED STATUTES; RELATING TO OFFENSES AGAINST PUBLIC ORDER.

(TEXT OF BILL BEGINS ON NEXT PAGE)

1 Be it enacted by the Legislature of the State of Arizona:
2 Section 1. Section 13-1204, Arizona Revised Statutes, is amended to
3 read:
4 13-1204. Aggravated assault; classification; definitions
5 A. A person commits aggravated assault if the person commits
6 assault as prescribed by section 13-1203 under any of the following
7 circumstances:
8 1. If the person causes serious physical injury to another.
9 2. If the person uses a deadly weapon or dangerous instrument.
10 3. If the person commits the assault by any means of force that
11 causes temporary but substantial disfigurement, temporary but substantial
12 loss or impairment of any body organ or part or a fracture of any body
13 part.
14 4. If the person commits the assault while the victim is bound or
15 otherwise physically restrained or while the victim's capacity to resist
16 is substantially impaired.
17 5. If the person commits the assault after entering the private
18 home of another with the intent to commit the assault.
19 6. If the person is eighteen years of age or older and commits the
20 assault on a minor under fifteen years of age.
21 7. If the person commits assault as prescribed by section 13-1203,
22 subsection A, paragraph 1 or 3 and the person is in violation of an order
23 of protection issued against the person pursuant to section 13-3602 or
24 13-3624.
25 8. If the person commits the assault knowing or having reason to
26 know that the victim is any of the following:
27 (a) A peace officer or a person summoned and directed by the
28 officer.
29 (b) A constable or a person summoned and directed by the constable
30 while engaged in the execution of any official duties or if the assault
31 results from the execution of the constable's official duties.
32 (c) A firefighter, fire investigator, fire inspector, emergency
33 medical technician or paramedic engaged in the execution of any official
34 duties or a person summoned and directed by such individual while engaged
35 in the execution of any official duties or if the assault results from the
36 execution of the official duties of the firefighter, fire investigator,
37 fire inspector, emergency medical technician or paramedic.
38 (d) A teacher or other person employed by any school and the
39 teacher or other employee is on the grounds of a school or grounds
40 adjacent to the school or is in any part of a building or vehicle used for
41 school purposes, any teacher or school nurse visiting a private home in
42 the course of the teacher's or nurse's professional duties or any teacher
43 engaged in any authorized and organized classroom activity held on other
44 than school grounds.

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

8 (f) A prosecutor while engaged in the execution of any official
9 duties or if the assault results from the execution of the prosecutor's
10 official duties.

11 (g) A code enforcement officer as defined in section 39-123 while
12 engaged in the execution of any official duties or if the assault results
13 from the execution of the code enforcement officer's official duties.

14 (h) A state or municipal park ranger while engaged in the execution
15 of any official duties or if the assault results from the execution of the
16 park ranger's official duties.

17 (i) A public defender while engaged in the execution of any
18 official duties or if the assault results from the execution of the public
19 defender's official duties.

20 (j) A judicial officer while engaged in the execution of any
21 official duties or if the assault results from the execution of the
22 judicial officer's official duties.

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

25 (a) A peace officer's or other officer's firearm and the person
26 knows or has reason to know that the victim is a peace officer or other
27 officer employed by one of the agencies listed in paragraph 10,
28 subdivision (a), item (i), (ii), (iii), (iv) or (v) of this subsection.

29 (b) Any weapon other than a firearm that is being used by a peace
30 officer or other officer or that the officer is attempting to use, and the
31 person knows or has reason to know that the victim is a peace officer or
32 other officer employed by one of the agencies listed in paragraph 10,
33 subdivision (a), item (i), (ii), (iii), (iv) or (v) of this subsection.

34 (c) Any implement that is being used by a peace officer or other
35 officer or that the officer is attempting to use, and the person knows or
36 has reason to know that the victim is a peace officer or other officer
37 employed by one of the agencies listed in paragraph 10, subdivision (a),
38 item (i), (ii), (iii), (iv) or (v) of this subsection. For the purposes
39 of this subdivision, "implement" means an object that is designed for or
40 that is capable of restraining or injuring an individual. Implement does
41 not include handcuffs.

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

43 (a) Is imprisoned or otherwise subject to the custody of any of the
44 following:

45 (i) The state department of corrections.

1 (ii) The department of juvenile corrections.

2 (iii) A law enforcement agency.

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

5 (v) Any other entity that is contracting with the state department
6 of corrections, the department of juvenile corrections, a law enforcement
7 agency, another state, any private correctional facility, a county, a city
8 or the federal bureau of prisons or other federal agency that has
9 responsibility for sentenced or unsentenced prisoners.

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

13 11. If the person uses a simulated deadly weapon.

14 12. IF THE PERSON COMMITS THE ASSAULT ON A PEACE OFFICER IN THE
15 COURSE OF COMMITTING VIOLENT OR DISORDERLY ASSEMBLY.

16 B. A person commits aggravated assault if the person commits
17 assault by either intentionally, knowingly or recklessly causing any
18 physical injury to another person, intentionally placing another person in
19 reasonable apprehension of imminent physical injury or knowingly touching
20 another person with the intent to injure the person, and both of the
21 following occur:

22 1. The person intentionally or knowingly impedes the normal
23 breathing or circulation of blood of another person by applying pressure
24 to the throat or neck or by obstructing the nose and mouth either manually
25 or through the use of an instrument.

26 2. Any of the circumstances exists that are set forth in section
27 13-3601, subsection A, paragraph 1, 2, 3, 4, 5 or 6.

28 C. A person who is convicted of intentionally or knowingly
29 committing aggravated assault on a peace officer pursuant to subsection A,
30 paragraph 1 or 2 of this section shall be sentenced to imprisonment for
31 not less than the presumptive sentence authorized under chapter 7 of this
32 title and is not eligible for suspension of sentence, commutation or
33 release on any basis until the sentence imposed is served. A PERSON WHO
34 IS CONVICTED OF COMMITTING AGGRAVATED ASSAULT PURSUANT TO SUBSECTION A,
35 PARAGRAPH 12 OF THIS SECTION SHALL BE SENTENCED TO SERVE NOT LESS THAN SIX
36 MONTHS IN JAIL AND IS NOT ELIGIBLE FOR PROBATION OR SUSPENSION OF
37 EXECUTION OF SENTENCE UNTIL THE ENTIRE SENTENCE IS SERVED.

38 D. It is not a defense to a prosecution for assaulting a peace
39 officer or a mitigating circumstance that the peace officer was not on
40 duty or engaged in the execution of any official duties.

41 E. Except pursuant to subsections F and G of this section,
42 aggravated assault pursuant to subsection A, paragraph 1 or 2, paragraph
43 9, subdivision (a) or paragraph 11 of this section is a class 3 felony
44 except if the aggravated assault is a violation of subsection A, paragraph
45 1 or 2 of this section and the victim is under fifteen years of age it is

1 a class 2 felony punishable pursuant to section 13-705. Aggravated assault
2 pursuant to subsection A, paragraph 3 or subsection B of this section is a
3 class 4 felony. Aggravated assault pursuant to subsection A, paragraph 9,
4 subdivision (b) or paragraph 10 of this section is a class 5 felony.
5 Aggravated assault pursuant to subsection A, paragraph 4, 5, 6, 7 or 8, ~~or~~
6 paragraph 9, subdivision (c) OR PARAGRAPH 12 of this section is a class 6
7 felony.

8 F. Aggravated assault pursuant to subsection A, paragraph 1 or 2 of
9 this section committed on a peace officer is a class 2 felony. Aggravated
10 assault pursuant to subsection A, paragraph 3 of this section committed on
11 a peace officer is a class 3 felony. Aggravated assault pursuant to
12 subsection A, paragraph 8, subdivision (a) of this section committed on a
13 peace officer is a class 5 felony unless the assault results in any
14 physical injury to the peace officer, in which case it is a class 4
15 felony.

16 G. Aggravated assault pursuant to:

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

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

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

23 H. For the purposes of this section:

24 1. "Judicial officer" means a justice of the supreme court, judge,
25 justice of the peace or magistrate or a commissioner or hearing officer of
26 a state, county or municipal court.

27 2. "Prosecutor" means a county attorney, a municipal prosecutor or
28 the attorney general and includes an assistant or deputy county attorney,
29 municipal prosecutor or attorney general.

30 Sec. 2. Section 13-1213, Arizona Revised Statutes, is amended to
31 read:

32 13-1213. Aiming a laser pointer at a peace officer or an
33 occupied aircraft; classification; definitions

34 A. A person commits aiming a laser pointer at a peace officer if
35 the person intentionally or knowingly directs the beam of light from a
36 laser pointer or laser emitting device at another person and the person
37 knows or reasonably should know that the other person is a peace officer.

38 B. A person commits aiming a laser pointer at an occupied aircraft
39 if the person intentionally or knowingly directs the beam of light from a
40 laser pointer or laser emitting device at an aircraft and the person knows
41 or reasonably should know that the aircraft is occupied.

42 C. Aiming a laser pointer at a peace officer is a class 1
43 misdemeanor UNLESS THE OFFENSE OCCURS IN THE COURSE OF COMMITTING VIOLENT
44 OR DISORDERLY ASSEMBLY IN WHICH CASE IT IS A CLASS 6 FELONY.

1 D. Aiming a laser pointer at an occupied aircraft is a class 1
2 misdemeanor. If the act renders the pilot unable to safely operate the
3 aircraft or causes serious physical injury to any person on board the
4 aircraft it is an assault pursuant to this chapter.

5 E. For the purposes of this section:

6 1. "Aircraft" means any vehicle that is designed for flight in the
7 air by buoyancy or by the dynamic action of air on the vehicle's surfaces,
8 including powered airplanes, gliders and helicopters.

9 2. "Laser pointer or laser emitting device" means any device that
10 is designed or used to amplify electromagnetic radiation by stimulated
11 emission that emits a beam designed to be used by the operator as a
12 pointer or highlighter to indicate, mark or identify a specific position,
13 place, item or object.

14 Sec. 3. Section 13-1602, Arizona Revised Statutes, is amended to
15 read:

16 13-1602. Criminal damage; classification

17 A. A person commits criminal damage by:

18 1. Recklessly defacing or damaging property of another person.

19 2. Recklessly tampering with property of another person so as
20 substantially to impair its function or value.

21 3. Recklessly damaging property of a utility.

22 4. Recklessly parking any vehicle in such a manner as to deprive
23 livestock of access to the only reasonably available water.

24 5. Recklessly drawing or inscribing a message, slogan, sign or
25 symbol that is made on any public or private building, structure or
26 surface, except the ground, and that is made without permission of the
27 owner.

28 6. Intentionally tampering with utility property.

29 B. Criminal damage is punished as follows:

30 1. Criminal damage is a class 4 felony if the person recklessly
31 damages property of another in an amount of ~~ten thousand dollars~~ \$10,000
32 or more.

33 2. Criminal damage is a class 4 felony if the person recklessly
34 damages the property of a utility in an amount of ~~five thousand dollars~~
35 \$5,000 or more or if the person intentionally tampers with utility
36 property and the damage causes an imminent safety hazard to any person.

37 3. Criminal damage is a class 5 felony if the person recklessly
38 damages property of another in an amount of ~~two thousand dollars~~ \$2,000 or
39 more but less than ~~ten thousand dollars~~ \$10,000 or if the damage is
40 inflicted to promote, further or assist any criminal street gang or
41 criminal syndicate with the intent to intimidate and the person is not
42 subject to paragraph 1 or 2 of this subsection.

43 4. Criminal damage is a class 6 felony if the person recklessly
44 damages property of another in an amount of ~~one thousand dollars~~ \$1,000 or
45 more but less than ~~two thousand dollars~~ \$2,000.

1 5. Criminal damage is a class 1 misdemeanor if the person
2 recklessly damages property of another in an amount of more than ~~two~~
3 ~~hundred fifty dollars~~ \$250 but less than ~~one thousand dollars~~ \$1,000
4 UNLESS THE CRIMINAL DAMAGE OCCURS IN THE COURSE OF COMMITTING VIOLENT OR
5 DISORDERLY ASSEMBLY IN WHICH CASE IT IS A CLASS 6 FELONY.

6 6. In all other cases criminal damage is a class 2 misdemeanor.

7 C. For a violation of subsection A, paragraph 5 of this section, in
8 determining the amount of damage to property, damages include reasonable
9 labor costs of any kind, reasonable material costs of any kind and any
10 reasonable costs that are attributed to equipment that is used to abate or
11 repair the damage to the property.

12 Sec. 4. Section 13-2906, Arizona Revised Statutes, is amended to
13 read:

14 13-2906. Obstructing a highway or other public thoroughfare;
15 classification; definition

16 A. A person commits obstructing a highway or other public
17 thoroughfare if the person, alone or with other persons, does any of the
18 following:

19 1. Having no legal privilege to do so, recklessly interferes with
20 the passage of any highway or public thoroughfare by creating an
21 unreasonable inconvenience or hazard.

22 2. Intentionally activates a pedestrian signal on a highway or
23 public thoroughfare if the person's reason for activating the signal is
24 not to cross the highway or public thoroughfare but to do both of the
25 following:

26 (a) Stop the passage of traffic on the highway or public
27 thoroughfare.

28 (b) Solicit a driver for a donation or business.

29 3. After receiving a verbal warning to desist, intentionally
30 interferes with passage on a highway or other public thoroughfare or
31 entrance into a public forum that results in preventing other persons from
32 gaining access to a governmental meeting, a governmental hearing or a
33 political campaign event.

34 B. Obstructing a highway or other public thoroughfare under
35 subsection A, paragraph 3 of this section is a class 1 misdemeanor.
36 Obstructing a highway or other public thoroughfare under subsection A,
37 paragraph 1 or 2 of this section is a class 3 misdemeanor.

38 C. NOTWITHSTANDING SUBSECTION B OF THIS SECTION, OBSTRUCTING A
39 HIGHWAY OR OTHER PUBLIC THOROUGHFARE UNDER SUBSECTION A, PARAGRAPH 1 OR 3
40 OF THIS SECTION IS A CLASS 6 FELONY IF THE OBSTRUCTION OCCURS IN THE
41 COURSE OF COMMITTING VIOLENT OR DISORDERLY ASSEMBLY.

42 D. For the purposes of this section, "public forum" has the
43 same meaning prescribed in section 15-1861.

1 Sec. 5. Section 13-2917, Arizona Revised Statutes, is amended to
2 read:

3 13-2917. Public nuisance; abatement; classification

4 A. It is a public nuisance, and is no less a nuisance because the
5 extent of the annoyance or damage inflicted is unequal, for anything:

6 1. To be injurious to health, indecent, offensive to the senses or
7 an obstruction to the free use of property that interferes with the
8 comfortable enjoyment of life or property by an entire community or
9 neighborhood or by a considerable number of persons.

10 2. To unlawfully obstruct the free passage or use, in the customary
11 manner, of any navigable lake, river, bay, stream, canal or basin, or any
12 public park, square, street or highway.

13 B. It is a public nuisance for any person to sell, offer to sell,
14 transfer, trade or disseminate any **OBSCENE** item ~~which is obscene~~ as
15 defined in section 13-3501, within two thousand feet, measured in a
16 straight line, of the nearest boundary line of any of the following:

17 1. Any building used as a private or public elementary or high
18 school.

19 2. Any public park.

20 3. Any residence district as defined in section 28-101.

21 C. The county attorney, the attorney general or the city attorney
22 may bring an action in superior court to abate, enjoin and prevent the
23 activity described in subsections A and B of this section.

24 D. Any person who knowingly maintains or commits a public nuisance
25 or who knowingly fails or refuses to perform any legal duty relating to
26 the removal of a public nuisance is guilty of a class 2 misdemeanor **UNLESS**
27 **THE PERSON COMMITS THE OFFENSE IN THE COURSE OF COMMITTING VIOLENT OR**
28 **DISORDERLY ASSEMBLY IN WHICH CASE IT IS A CLASS 6 FELONY.**

29 Sec. 6. Title 13, chapter 29, Arizona Revised Statutes, is amended
30 by adding section 13-2925, to read:

31 13-2925. Violent or disorderly assembly; release procedures;
32 prohibited _____ benefits _____ and _____ employment;
33 classification; definition

34 A. A PERSON COMMITS VIOLENT OR DISORDERLY ASSEMBLY IF, WITH SEVEN
35 OR MORE OTHER PERSONS ACTING TOGETHER, THE PERSON, WITH THE INTENT TO
36 ENGAGE IN CONDUCT CONSTITUTING A RIOT OR AN UNLAWFUL ASSEMBLY, CAUSES
37 DAMAGE TO PROPERTY OR INJURY TO ANOTHER PERSON.

38 B. A PERSON WHO IS ARRESTED FOR A VIOLATION OF THIS SECTION MAY NOT
39 BE RELEASED FROM CUSTODY FOR TWELVE HOURS AFTER THE TIME OF THE ARREST
40 UNLESS A MAGISTRATE FINDS THAT THE PERSON IS NOT LIKELY TO IMMEDIATELY
41 RESUME THE CRIMINAL BEHAVIOR BASED ON THE CIRCUMSTANCES OF THE ARREST AND
42 THE PERSON'S PREVIOUS CRIMINAL HISTORY, IF ANY. THE ARRESTING OFFICER
43 SHALL OFFICIALLY NOTE THE TIME OF THE ARREST IN ORDER TO ESTABLISH THE
44 BEGINNING OF THE TWELVE-HOUR TIME PERIOD.

1 C. NOTWITHSTANDING ANY OTHER STATE LAW AND TO THE EXTENT ALLOWED BY
2 FEDERAL LAW, A PERSON WHO IS CONVICTED OF A VIOLATION OF THIS SECTION IS
3 PROHIBITED FROM BOTH OF THE FOLLOWING:

- 4 1. OBTAINING ANY STATE OR LOCAL PUBLIC BENEFITS.
- 5 2. BEING EMPLOYED BY THIS STATE OR A COUNTY, CITY, TOWN OR
6 POLITICAL SUBDIVISION OF THIS STATE.

7 D. VIOLENT OR DISORDERLY ASSEMBLY IS A CLASS 6 FELONY.

8 E. FOR THE PURPOSES OF THIS SECTION, "PUBLIC BENEFITS" INCLUDES ANY
9 MONEY OR SERVICES PROVIDED BY THIS STATE FOR SCHOLARSHIPS OR TUITION
10 WAIVERS GRANTED FOR STATE FUNDED UNIVERSITIES OR COMMUNITY COLLEGES,
11 WELFARE BENEFITS, PUBLIC HOUSING OR OTHER SUBSIDIES BUT DOES NOT INCLUDE
12 BENEFITS AVAILABLE FOR DRUG ABUSE TREATMENT, REHABILITATION OR COUNSELING
13 PROGRAMS.

14 Sec. 7. Section 13-3703, Arizona Revised Statutes, is amended to
15 read:

16 13-3703. Abuse of venerated objects; classification;
17 definitions

18 A. A person commits abuse of venerated objects by intentionally:

19 1. Desecrating any public monument, memorial or property of a
20 public park; or

21 2. In any manner likely to provoke immediate physical retaliation:

22 (a) Exhibiting or displaying, placing or causing to be placed any
23 word, figure, mark, picture, design, drawing or advertisement of any
24 nature ~~upon~~ ON a flag or exposing or causing to be exposed to public view
25 a flag ~~upon~~ ON which there is printed, painted or otherwise produced or to
26 which there is attached, appended or annexed any word, figure, mark,
27 picture, design, drawing or advertisement; or

28 (b) Exposing to public view, manufacturing, selling, offering to
29 sell, giving or having in possession for any purpose any article of
30 merchandise or receptacle for holding or carrying merchandise ~~upon~~ ON or
31 to which there is printed, painted, placed or attached any flag in order
32 to advertise, call attention to, decorate, mark or distinguish the article
33 or substance; or

34 (c) Casting contempt ~~upon~~ ON, mutilating, defacing, defiling,
35 burning, trampling or otherwise dishonoring or causing to bring dishonor
36 ~~upon~~ ON a flag.

37 B. ~~The provisions of~~ This section ~~shall~~ DOES not apply to:

38 1. Any act ~~permitted~~ ALLOWED by a statute of the United States; or

39 2. Any act ~~permitted~~ ALLOWED by United States military regulations;

40 or

41 3. Any act where the United States government has granted
42 permission for the use of such flag; or

43 4. A newspaper, periodical, book, pamphlet, circular, certificate,
44 diploma, warrant, commission of appointment to office, ornament, picture,
45 badge or stationery on which shall be printed, painted or placed such flag

1 and which is disconnected from any advertisement for the purpose of sale,
2 barter or trade.

3 ~~C.~~ C. Abuse of venerated objects is a class 2 misdemeanor UNLESS
4 THE ABUSE OCCURS IN THE COURSE OF COMMITTING VIOLENT OR DISORDERLY
5 ASSEMBLY IN WHICH CASE IT IS A CLASS 6 FELONY.

6 ~~D.~~ D. For the purposes of this section:

7 1. "Desecrate" means defacing, damaging, polluting or otherwise
8 doing a physical act in a manner likely to provoke immediate physical
9 retaliation.

10 2. "Flag" means any emblem, banner or other symbol, of any size,
11 composed of any substance or represented on any substance that evidently
12 purports to be the flag of the United States or of this state.

13 Sec. 8. Section 36-1608, Arizona Revised Statutes, is amended to
14 read:

15 36-1608. Violation; civil penalty; classification

16 A. A person ~~violating~~ WHO VIOLATES a provision of this article is
17 subject to a civil penalty of ~~one thousand dollars~~ \$1,000.

18 B. A person who uses fireworks or permissible consumer fireworks on
19 preservation lands owned by a city or town that has purchased more than
20 fifteen thousand acres of land for preservation purposes is guilty of a
21 class 1 misdemeanor and shall pay a fine of at least ~~one thousand dollars~~
22 \$1,000.

23 C. A PERSON WHO USES FIREWORKS OR PERMISSIBLE CONSUMER FIREWORKS IN
24 THE COURSE OF COMMITTING VIOLENT OR DISORDERLY ASSEMBLY IS GUILTY OF A
25 CLASS 6 FELONY.