

House Engrossed

~~commission; review of laws~~

(now: judge; superior court; emergency orders)

State of Arizona
House of Representatives
Fifty-fifth Legislature
Second Regular Session
2022

HOUSE BILL 2604

AN ACT

AMENDING SECTION 13-3624, ARIZONA REVISED STATUTES; RELATING TO FAMILY OFFENSES.

(TEXT OF BILL BEGINS ON NEXT PAGE)

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

2 Section 1. Section 13-3624, Arizona Revised Statutes, is amended to
3 read:

4 13-3624. Emergency orders of protection

5 A. In counties with a population of one hundred fifty thousand
6 persons or more, the presiding judge of the superior court, during the
7 hours that the courts are closed, shall make available on a rotating basis
8 a JUDGE, JUSTICE OF THE PEACE, MAGISTRATE OR COMMISSIONER WHO SHALL ISSUE
9 EMERGENCY ORDERS OF PROTECTION BY TELEPHONE. IN COUNTIES WITH A
10 POPULATION OF LESS THAN ONE HUNDRED FIFTY THOUSAND PERSONS, ANY judge,
11 justice of the peace, magistrate or commissioner ~~who shall~~ MAY issue
12 emergency orders of protection by telephone DURING THE HOURS THAT THE
13 COURTS ARE CLOSED.

14 B. ~~In counties with a population of less than one hundred fifty~~
15 ~~thousand persons, a judge, justice of the peace, magistrate or~~
16 ~~commissioner may issue an emergency order by telephone.~~ The court, within
17 twenty-four hours after a defendant is arrested for an act of domestic
18 violence, shall register a certified copy of the release order with the
19 sheriff's office of the county in which the order was issued. The court
20 shall notify the sheriff's office of material changes in the release
21 order, if the conditions of the release order are no longer in effect and
22 when the charges are resolved. The sheriff in each county shall maintain
23 a central repository for release orders so that the existence and validity
24 of the orders can be easily verified. The law enforcement agency shall
25 advise domestic violence victims where the victim may verify the
26 registration and conditions of a release order.

27 C. The judge, justice of the peace, magistrate or commissioner who
28 is authorized to issue emergency orders of protection may issue a written
29 or oral ex parte emergency order of protection if a peace officer states
30 that the officer has reasonable grounds to believe that a person is in
31 immediate and present danger of domestic violence based on an allegation
32 of a recent incident of actual domestic violence pursuant to section
33 13-3601, subsection A.

34 D. An emergency order of protection may include any of the
35 following:

36 1. The defendant may be enjoined from committing a violation of one
37 or more of the offenses included in domestic violence.

38 2. One party may be granted the use and exclusive possession of the
39 parties' residence on a showing that there is reasonable cause to believe
40 that physical harm may otherwise result.

41 3. The defendant may be restrained from contacting the plaintiff
42 and coming near the residence, place of employment or school of the
43 plaintiff or other specifically designated locations or persons on a
44 showing that there is reasonable cause to believe that physical harm may
45 otherwise result.

1 4. If the court finds that the defendant may inflict bodily injury
2 or death on the plaintiff, the defendant may be prohibited from possessing
3 or purchasing a firearm for the duration of the order.

4 E. An emergency order of protection expires at the close of the
5 next day of judicial business following the day of issue or seventy-two
6 hours after issuance, whichever is longer, unless otherwise continued by
7 the court.

8 F. A judge, justice of the peace, magistrate or commissioner may
9 issue an oral emergency order of protection pursuant to subsection C of
10 this section on request of the alleged victim, if there is a finding that
11 a person's life or health is in imminent danger. If a person is either
12 temporarily or permanently unable to request an order, a third party may
13 request an order of protection on behalf of the plaintiff. After the
14 request, the judicial officer shall determine if the third party is an
15 appropriate requesting party for the plaintiff. The judicial officer who
16 issues an oral emergency order of protection shall document the issuance
17 of the order as soon as practicable. The officer who receives the verbal
18 order shall write and sign the order. The emergency order shall be served
19 on the defendant, and a copy shall be given to the protected party. The
20 emergency order shall be filed as soon as practicable after its issuance.
21 The law enforcement agency shall file a certificate of service with the
22 court and shall register the emergency order with the national crime
23 information center as soon as practicable. If a person who is named in
24 the order and who has not received personal service of the order but has
25 received actual notice of the existence and substance of the order commits
26 an act that violates the order, the person is subject to any penalty for
27 the violation.

28 G. The availability of an emergency order of protection is not
29 affected by either party leaving the residence.

30 H. A law enforcement agency that has jurisdiction to enforce an
31 emergency order of protection shall enforce the emergency order when it
32 has reasonable cause to believe that the order has been violated.

33 I. Failure of a law enforcement agency to enforce an emergency order of
34 protection pursuant to this section does not give rise to civil liability
35 except pursuant to section 12-820.02.