

REFERENCE TITLE: duration; emergency orders of protection

State of Arizona
Senate
Fifty-fifth Legislature
Second Regular Session
2022

SB 1217

Introduced by
Senator Steele

AN ACT

AMENDING SECTION 13-3624, ARIZONA REVISED STATUTES; RELATING TO EMERGENCY
ORDERS OF PROTECTION.

(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.

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

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

30 D. An emergency order of protection may include any of the
31 following:

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

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

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

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

1 E. An emergency order of protection expires ~~at the close of the~~
2 ~~next day of judicial business following the day of issue or seventy-two~~
3 ~~hours~~ FIVE CALENDAR DAYS after issuance, ~~whichever is longer,~~ unless
4 otherwise continued by the court.

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

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

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

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