

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

State of Arizona
House of Representatives
Fifty-sixth Legislature
First Regular Session
2023

HB 2179

Introduced by
Representatives Longdon: Gutierrez, Schwiebert, Seaman, Stahl Hamilton,
Terech, Travers, Senator Alston

AN ACT

AMENDING SECTIONS 12-284 AND 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, is amended to
 3 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
45	Authentication (per certification)	30.00

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

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

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

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

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

43 4. Issuing a certificate as to official capacity of a justice of
 44 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~~ \$65 fee. The monies from the additional fee
36 shall be used to carry out the purposes of the conciliation court pursuant
37 to 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.

1 3. For any contest relating to or any controversion of a
2 garnishment matter, unless the contesting party has paid an appearance fee
3 in that cause, the required appearance fee shall be paid, except that the
4 garnishee shall not pay a clerk's fee.

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

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

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

20 I. A person who files a registrar's order pursuant to section
21 32-1166.06 shall not be charged a fee.

22 J. The clerk of the court shall charge and collect a ~~forty-six~~
23 ~~dollar~~ \$46 filing fee for a petition for emancipation of a minor filed
24 pursuant to chapter 15 of this title. Each month the clerk shall transmit
25 the monies the clerk collects pursuant to this subsection to the county
26 treasurer for deposit in the emancipation administrative costs fund
27 established by section 12-2456.

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

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

38 Sec. 2. Section 13-3101, Arizona Revised Statutes, is amended to
39 read:

40 13-3101. Definitions

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

- 42 1. "Deadly weapon" means anything that is designed for lethal use.
43 The term includes a firearm.
- 44 2. "Deface" means to remove, alter or destroy the manufacturer's
45 serial number.

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

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

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

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

22 7. "Prohibited possessor" means any person:

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

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

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

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

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

42 (i) Nonimmigrant aliens who possess a valid hunting license or
43 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. 3. 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 SHALL 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 OF, STORING AND DISPOSING OF THE
23 FIREARM.

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

27 1. THE PERSON POSSESSES THE WRITTEN TRANSFER ORDER.

28 2. THE FIREARM IS UNLOADED.

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

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

42 G. FOR THE PURPOSES OF THIS SECTION, "DOMESTIC VIOLENCE OFFENSE"
43 MEANS AN OFFENSE INVOLVING DOMESTIC VIOLENCE AS DEFINED IN SECTION
44 13-3601.

1 Sec. 4. 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; definition

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

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

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

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

26 3. Against more than one defendant.

27 C. The petition shall state the:

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

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

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

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

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

1 6. Desired relief.

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

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

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

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

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

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

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

28 2. Grant one party the use and exclusive possession of the parties'
29 residence on a showing that there is reasonable cause to believe that
30 physical harm may otherwise result. If the other party is accompanied by
31 a law enforcement officer, the other party may return to the residence on
32 one occasion to retrieve belongings. A law enforcement officer is not
33 liable for any act or omission in the good faith exercise of the officer's
34 duties under this paragraph. While the order of protection is in effect,
35 if a party was granted the use and exclusive possession of the parties'
36 residence and subsequently moves out of the ~~house~~ RESIDENCE, the party
37 must file a notice in writing with the court within five days after moving
38 out of the residence. After receiving the notification from the
39 plaintiff, the court shall provide notice to the defendant that the
40 plaintiff has moved out of the residence and of the defendant's right to
41 request a hearing pursuant to subsection ~~←~~ N of this section.

42 3. Restrain the defendant from contacting the plaintiff or other
43 specifically designated persons and from coming near the residence, place
44 of employment or school of the plaintiff or other specifically designated

1 locations or persons on a showing that there is reasonable cause to
2 believe that physical harm may otherwise result.

3 4. If THE ORDER OF PROTECTION WAS ISSUED BEFORE NOTICE AND A
4 HEARING AT WHICH THE DEFENDANT HAD AN OPPORTUNITY TO PARTICIPATE AND the
5 court finds that the defendant is a credible threat to the physical safety
6 of the plaintiff or other specifically designated persons, prohibit the
7 defendant from possessing or purchasing a firearm for the duration of the
8 order. If the court prohibits the defendant from possessing a firearm,
9 the court shall also order the defendant to transfer any firearm owned or
10 possessed by the defendant immediately after service of the order to the
11 appropriate law enforcement agency OR A FEDERALLY LICENSED FIREARMS DEALER
12 for the duration of the order. If the defendant does not immediately
13 transfer the firearm, the defendant shall transfer the firearm within
14 twenty-four hours after service of the order IN ACCORDANCE WITH THE
15 REQUIREMENTS PRESCRIBED IN SUBSECTION I OF THIS SECTION.

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

21 6. Grant relief that is necessary for the protection of the alleged
22 victim and other specifically designated persons and that is proper under
23 the circumstances.

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

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

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

1 1. 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 DEFENDANT WHO SURRENDERED THE FIREARM. THE PROOF OF
4 TRANSFER SHALL INCLUDE THE NAME OF THE FIREARM OWNER OR POSSESSOR, THE
5 DATE OF THE TRANSFER AND THE SERIAL NUMBER AND MAKE AND MODEL OF THE
6 TRANSFERRED FIREARM.

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

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

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

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

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

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

30 (b) THE FIREARM IS UNLOADED.

31 (c) THE DEFENDANT IS TRANSPORTING THE FIREARM DIRECTLY TO THE
32 APPROPRIATE LAW ENFORCEMENT AGENCY OR A FEDERALLY LICENSED FIREARMS
33 DEALER.

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

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

6 ~~I~~. K. After granting an order of protection, the court shall
7 provide the order to a law enforcement agency or a constable as set forth
8 in subsection ~~J~~ L of this section for service or to an entity that is
9 authorized in subsection ~~K~~ M of this section to serve process. The
10 agency or entity serving the order shall provide confirmation of service
11 to the plaintiff as soon as practicable. If service of an order cannot be
12 completed within fifteen days after the agency or entity receives the
13 order, the agency or entity that is attempting service shall notify the
14 plaintiff and continue to attempt service. This notification may be
15 completed by a victim notification system, if available.

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

18 1. For each order of protection that is issued by a municipal
19 court, if the defendant can be served within that city or town, the order
20 shall be served by the law enforcement agency of that city or town. If
21 the order can be served in another city or town, the order shall be served
22 by the law enforcement agency of that city or town. If the order cannot
23 be served within a city or town, the order shall be served by the sheriff
24 or constable of the county in which the defendant can be served.

25 2. For each order of protection that is issued by a justice of the
26 peace, the order of protection shall be served by the sheriff or constable
27 of the county in which the defendant can be served or by a municipal law
28 enforcement agency.

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

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

39 ~~L~~. N. At any time during the period during which the order is in
40 effect, a party who is under an order of protection or who is restrained
41 from contacting the other party is entitled to one hearing on written
42 request. No fee may be charged for requesting a hearing. A hearing that
43 is requested by a party who is under an order of protection or who is
44 restrained from contacting the other party shall be held within ten days
45 from the date requested unless the court finds good cause to continue the

1 hearing. If exclusive use of the home is awarded, the hearing shall be
2 held within five days from the date requested. The hearing shall be held
3 at the earliest possible time. An ex parte order that is issued under
4 this section shall state on its face that the defendant is entitled to a
5 hearing on written request and shall include the name and address of the
6 judicial office where the request may be filed. After the hearing, the
7 court may modify, quash or continue the order. If the exclusive use of
8 the home is awarded to the party, the court, on written request of a
9 party, may hold additional hearings at any time if there is a change in
10 circumstances related to the primary residence.

11 ~~M.~~ O. The order shall include the following statement:

12 Warning

13 This is an official court order. If you disobey this
14 order, you will be subject to arrest and prosecution for the
15 crime of interfering with judicial proceedings and any other
16 crime you may have committed in disobeying this order.

17 ~~N.~~ P. An order of protection that is not served on the defendant
18 within one year after the date that the order is issued expires. An order
19 is effective on the defendant on service of a copy of the order and
20 petition. An order expires two years after service on the defendant. A
21 modified order is effective on service and expires two years after service
22 of the initial order and petition.

23 ~~O.~~ Q. A supplemental information form that is used by the court or
24 a law enforcement agency solely for the purposes of service of process on
25 the defendant and that contains information provided by the plaintiff is
26 confidential.

27 ~~P.~~ R. Each affidavit, declaration, acceptance or return of service
28 shall be filed as soon as practicable but not later than seventy-two
29 hours, excluding weekends and holidays, with the clerk of the issuing
30 court or as otherwise required by court rule. This filing shall be
31 completed in person, electronically or by fax.

32 ~~Q.~~ S. The supreme court shall maintain a central repository for
33 orders of protection. Within twenty-four hours after the affidavit,
34 declaration, acceptance or return of service has been filed, excluding
35 weekends and holidays, the court from which the order or any modified
36 order was issued shall enter the order and proof of service into the
37 supreme court's central repository for orders of protection. The supreme
38 court shall register the order with the national crime information center.
39 The effectiveness of an order does not depend on its registration, and for
40 enforcement purposes pursuant to section 13-2810, a copy of an order of
41 the court, whether or not registered, is presumed to be a valid existing
42 order of the court for a period of two years from the date of service of
43 the order on the defendant.

1 ~~R~~. T. A peace officer, with or without a warrant, may arrest a
2 person if the peace officer has probable cause to believe that the person
3 has violated section 13-2810 by disobeying or resisting an order that is
4 issued in any jurisdiction in this state pursuant to this section, whether
5 or not such violation occurred in the presence of the officer. Criminal
6 violations of an order issued pursuant to this section shall be referred
7 to an appropriate law enforcement agency. The provisions for release
8 under section 13-3883, subsection A, paragraph 4 and section 13-3903 do
9 not apply to an arrest made pursuant to this section. For the purposes of
10 this section, any court in this state has jurisdiction to enforce a valid
11 order of protection that is issued in this state and that has been
12 violated in any jurisdiction in this state.

13 ~~S~~. U. A person who is arrested pursuant to subsection ~~R~~ T of this
14 section may be released from custody in accordance with the Arizona rules
15 of criminal procedure or any other applicable statute. An order for
16 release, with or without an appearance bond, shall include pretrial
17 release conditions that are necessary to provide for the protection of the
18 alleged victim and other specifically designated persons and may provide
19 for any other additional conditions that the court deems appropriate,
20 including participation in any counseling programs available to the
21 defendant. The agency with custody of the defendant shall make reasonable
22 efforts to contact the victim and other specifically designated persons in
23 the order of protection, if known to the custodial agency, who requested
24 notification immediately on release of the arrested person from custody.

25 ~~F~~. V. The remedies provided in this section for enforcement of the
26 orders of the court are in addition to any other civil and criminal
27 remedies available. The superior court shall have exclusive jurisdiction
28 to issue orders of protection in all cases if it appears from the petition
29 that an action for maternity or paternity, annulment, legal separation or
30 dissolution of marriage is pending between the parties. A municipal court
31 or justice court shall not issue an order of protection if it appears from
32 the petition that an action for maternity or paternity, annulment, legal
33 separation or dissolution of marriage is pending between the parties.
34 After issuance of an order of protection, if the municipal court or
35 justice court determines that an action for maternity or paternity,
36 annulment, legal separation or dissolution of marriage is pending between
37 the parties, the municipal court or justice court shall stop further
38 proceedings in the action and forward all papers, together with a
39 certified copy of docket entries or any other record in the action, to the
40 superior court where they shall be docketed in the pending superior court
41 action and shall proceed as though the petition for an order of protection
42 had been originally brought in the superior court. Notwithstanding any
43 other law and unless prohibited by an order of the superior court, a
44 municipal court or justice court may hold a hearing on all matters
45 relating to its ex parte order of protection if the hearing was requested

1 before receiving written notice of the pending superior court action. No
2 order of protection shall be invalid or determined to be ineffective
3 merely because it was issued by a lower court at a time when an action for
4 maternity or paternity, annulment, legal separation or dissolution of
5 marriage was pending in a higher court. After a hearing with notice to
6 the affected party, the court may enter an order requiring any party to
7 pay the costs of the action, including reasonable attorney fees, if any.
8 An order that is entered by a justice court or municipal court after a
9 hearing pursuant to this section may be appealed to the superior court as
10 provided in title 22, chapter 2, article 4, section 22-425, subsection B
11 and the superior court rules of civil appellate procedure without regard
12 to an amount in controversy. No fee may be charged to either party for
13 filing an appeal. For the purposes of this subsection, "pending" means,
14 with respect to an action for annulment, legal separation or dissolution
15 of marriage or for maternity or paternity, either that:

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

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

20 ~~U.~~ W. A peace officer who makes an arrest pursuant to this section
21 or section 13-3601 is not civilly or criminally liable for the arrest if
22 the officer acts on probable cause and without malice.

23 ~~V.~~ X. A valid protection order that is related to domestic or
24 family violence and that is issued by a court in another state, a court of
25 a United States territory or a tribal court shall be accorded full faith
26 and credit and shall be enforced as if it were issued in this state for as
27 long as the order is effective in the issuing jurisdiction. For the
28 purposes of this subsection:

29 1. A protection order includes any injunction or other order that
30 is issued for the purpose of preventing violent or threatening acts or
31 harassment against, contact or communication with or physical proximity to
32 another person. A protection order includes temporary and final orders
33 other than support or child custody orders that are issued by civil and
34 criminal courts if the order is obtained by the filing of an independent
35 action or is a pendente lite order in another proceeding. The civil order
36 shall be issued in response to a complaint, petition or motion that was
37 filed by or on behalf of a person seeking protection.

38 2. A protection order is valid if the issuing court had
39 jurisdiction over the parties and the matter under the laws of the issuing
40 state, a United States territory or an Indian tribe and the person against
41 whom the order was issued had reasonable notice and an opportunity to be
42 heard. If the order is issued ex parte, the notice and opportunity to be
43 heard shall be provided within the time required by the laws of the
44 issuing state, a United States territory or an Indian tribe and within a
45 reasonable time after the order was issued.

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

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

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

10 4. A peace officer may presume the validity of and rely on a copy
11 of a protection order that is issued by another state, a United States
12 territory or an Indian tribe if the order was given to the officer by any
13 source. A peace officer may also rely on the statement of any person who
14 is protected by the order that the order remains in effect. A peace
15 officer who acts in good faith reliance on a protection order is not
16 civilly or criminally liable for enforcing the protection order pursuant
17 to this section.

18 ~~W.~~ Y. For the purposes of this section, "victim notification
19 system" means an automated system that may provide plaintiffs and crime
20 victims with an automated notification regarding the person's case.