

House Engrossed

domestic violence; definition; animal abuse

State of Arizona
House of Representatives
Fifty-sixth Legislature
Second Regular Session
2024

HOUSE BILL 2076

AN ACT

AMENDING SECTION 13-3601, 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 13-3601, Arizona Revised Statutes, is amended to
3 read:
4 13-3601. Domestic violence; definition; classification;
5 sentencing option; arrest and procedure for
6 violation; weapon seizure
7 A. "Domestic violence" means any act that is a dangerous crime
8 against children as defined in section 13-705 or an offense prescribed in
9 section 13-1102, 13-1103, 13-1104, 13-1105, 13-1201, 13-1202, 13-1203,
10 13-1204, 13-1302, 13-1303, 13-1304, 13-1406, 13-1425, 13-1502, 13-1503,
11 13-1504, 13-1602 or 13-2810, section 13-2904, subsection A, paragraph 1,
12 2, 3 or 6, section 13-2910, subsection A, paragraph 8, ~~9~~, 14 OR 15,
13 section 13-2915, subsection A, paragraph 3 or section 13-2916, 13-2921,
14 13-2921.01, 13-2923, 13-3019, 13-3601.02 or 13-3623, if any of the
15 following applies:
16 1. The relationship between the victim and the defendant is one of
17 marriage or former marriage or of persons residing or having resided in
18 the same household.
19 2. The victim and the defendant have a child in common.
20 3. The victim or the defendant is pregnant by the other party.
21 4. The victim is related to the defendant or the defendant's spouse
22 by blood or court order as a parent, grandparent, child, grandchild,
23 brother or sister or by marriage as a parent-in-law, grandparent-in-law,
24 stepparent, step-grandparent, stepchild, step-grandchild, brother-in-law
25 or sister-in-law.
26 5. The victim is a child who resides or has resided in the same
27 household as the defendant and is related by blood to a former spouse of
28 the defendant or to a person who resides or who has resided in the same
29 household as the defendant.
30 6. The relationship between the victim and the defendant is
31 currently or was previously a romantic or sexual relationship. The
32 following factors may be considered in determining whether the
33 relationship between the victim and the defendant is currently or was
34 previously a romantic or sexual relationship:
35 (a) The type of relationship.
36 (b) The length of the relationship.
37 (c) The frequency of the interaction between the victim and the
38 defendant.
39 (d) If the relationship has terminated, the length of time since
40 the termination.
41 B. A peace officer, with or without a warrant, may arrest a person
42 if the officer has probable cause to believe that domestic violence has
43 been committed and the officer has probable cause to believe that the
44 person to be arrested has committed the offense, whether the offense is a
45 felony or a misdemeanor and whether the offense was committed within or

1 without the presence of the peace officer. In cases of domestic violence
2 involving the infliction of physical injury or involving the discharge,
3 use or threatening exhibition of a deadly weapon or dangerous instrument,
4 the peace officer shall arrest a person who is at least fifteen years of
5 age, with or without a warrant, if the officer has probable cause to
6 believe that the offense has been committed and the officer has probable
7 cause to believe that the person to be arrested has committed the offense,
8 whether the offense was committed within or without the presence of the
9 peace officer, unless the officer has reasonable grounds to believe that
10 the circumstances at the time are such that the victim will be protected
11 from further injury. Failure to make an arrest does not give rise to
12 civil liability except pursuant to section 12-820.02. In order to arrest
13 both parties, the peace officer shall have probable cause to believe that
14 both parties independently have committed an act of domestic violence. An
15 act of self-defense that is justified under chapter 4 of this title is not
16 deemed to be an act of domestic violence. The release procedures
17 available under section 13-3883, subsection A, paragraph 4 and section
18 13-3903 are not applicable to arrests made pursuant to this subsection.

19 C. A peace officer may question the persons who are present to
20 determine if a firearm is present on the premises. On learning or
21 observing that a firearm is present on the premises, the peace officer may
22 temporarily seize the firearm if the firearm is in plain view or was found
23 pursuant to a consent to search and if the officer reasonably believes
24 that the firearm would expose the victim or another person in the
25 household to a risk of serious bodily injury or death. A firearm that is
26 owned or possessed by the victim shall not be seized unless there is
27 probable cause to believe that both parties independently have committed
28 an act of domestic violence.

29 D. If a firearm is seized pursuant to subsection C of this section,
30 the peace officer shall give the owner or possessor of the firearm a
31 receipt for each seized firearm. The receipt shall indicate the
32 identification or serial number or other identifying characteristic of
33 each seized firearm. Each seized firearm shall be held for at least
34 seventy-two hours by the law enforcement agency that seized the firearm.

35 E. If a firearm is seized pursuant to subsection C of this section,
36 the victim shall be notified by a peace officer before the firearm is
37 released from temporary custody.

38 F. If there is reasonable cause to believe that returning a firearm
39 to the owner or possessor may endanger the victim, the person who reported
40 the assault or threat or another person in the household, the prosecutor
41 shall file a notice of intent to retain the firearm in the appropriate
42 superior, justice or municipal court. The prosecutor shall serve notice
43 on the owner or possessor of the firearm by certified mail. The notice
44 shall state that the firearm will be retained for not more than six months
45 following the date of seizure. On receipt of the notice, the owner or

1 possessor may request a hearing for the return of the firearm, to dispute
2 the grounds for seizure or to request an earlier return date. The court
3 shall hold the hearing within ten days after receiving the owner's or
4 possessor's request for a hearing. At the hearing, unless the court
5 determines that the return of the firearm may endanger the victim, the
6 person who reported the assault or threat or another person in the
7 household, the court shall order the return of the firearm to the owner or
8 possessor.

9 G. A peace officer is not liable for any act or omission in the
10 good faith exercise of the officer's duties under subsections C, D, E and
11 F of this section.

12 H. Each indictment, information, complaint, summons or warrant that
13 is issued and that involves domestic violence shall state that the offense
14 involved domestic violence and shall be designated by the letters DV. A
15 domestic violence charge shall not be dismissed or a domestic violence
16 conviction shall not be set aside for failure to comply with this
17 subsection.

18 I. A person who is arrested pursuant to subsection B of this
19 section may be released from custody in accordance with the Arizona rules
20 of criminal procedure or any other applicable statute. Any order for
21 release, with or without an appearance bond, shall include pretrial
22 release conditions that are necessary to provide for the protection of the
23 alleged victim and other specifically designated persons and may provide
24 for additional conditions that the court deems appropriate, including
25 participation in any counseling programs available to the defendant.

26 J. When a peace officer responds to a call alleging that domestic
27 violence has been or may be committed, the officer shall inform in writing
28 any alleged or potential victim of the procedures and resources available
29 for the protection of the victim including:

30 1. An order of protection pursuant to section 13-3602, an
31 injunction pursuant to section 25-315 and an injunction against harassment
32 pursuant to section 12-1809.

33 2. The emergency telephone number for the local police agency.

34 3. Telephone numbers for emergency services in the local community.

35 4. Websites for local resources related to domestic violence.

36 K. A peace officer is not civilly liable for noncompliance with
37 subsection J of this section.

38 L. If a person is convicted of an offense involving domestic
39 violence and the victim was pregnant at the time of the commission of the
40 offense, at the time of sentencing the court shall take into consideration
41 the fact that the victim was pregnant and may increase the sentence.

42 M. An offense that is included in domestic violence carries the
43 classification prescribed in the section of this title in which the
44 offense is classified. If the defendant committed a felony offense listed
45 in subsection A of this section against a pregnant victim and knew that

1 the victim was pregnant or if the defendant committed a felony offense
2 causing physical injury to a pregnant victim and knew that the victim was
3 pregnant, the maximum sentence otherwise authorized for that violation
4 shall be increased by up to two years.

5 N. When a peace officer responds to a call alleging that domestic
6 violence has been or may be committed, the officer shall determine if a
7 minor is present. If a minor is present, the peace officer shall conduct
8 a child welfare check to determine if the child is safe and if the child
9 might be a victim of domestic violence or child abuse.