

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

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

## **HB 2234**

Introduced by  
Representatives Longdon: Austin, Crews, Schwiebert

### **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

1 THE ORDER OR, IF THE PERSON IS IN CUSTODY, WITHIN TWENTY-FOUR HOURS AFTER  
2 BEING RELEASED FROM CUSTODY.

3 B. A LAW ENFORCEMENT AGENCY OR FEDERALLY LICENSED FIREARMS DEALER  
4 THAT TAKES POSSESSION OF A TRANSFERRED FIREARM SHALL PROVIDE A PROOF OF  
5 TRANSFER TO THE PERSON WHO SURRENDERED THE FIREARM. THE PROOF OF TRANSFER  
6 SHALL INCLUDE THE NAME OF THE FIREARM OWNER OR POSSESSOR, THE DATE OF THE  
7 TRANSFER AND THE SERIAL NUMBER, MAKE AND MODEL OF THE TRANSFERRED FIREARM.

8 C. THE COURT SHALL SET A COMPLIANCE HEARING TO CONFIRM THAT THE  
9 TRANSFER HAS OCCURRED. IF THE PROOF OF TRANSFER HAS BEEN FILED, THE COURT  
10 MAY CANCEL THE HEARING.

11 D. WITHIN FORTY-EIGHT HOURS AFTER THE PERSON IS SERVED WITH A  
12 TRANSFER ORDER, THE PERSON SHALL EITHER:

13 1. ATTEST TO THE COURT THAT THE PERSON DID NOT OWN OR POSSESS ANY  
14 FIREARM AT THE TIME OF CONVICTION AND DOES NOT CURRENTLY OWN OR POSSESS  
15 ANY FIREARM.

16 2. ATTEST TO THE COURT THAT ALL FIREARMS OWNED OR POSSESSED BY THE  
17 PERSON WERE TRANSFERRED TO THE APPROPRIATE LAW ENFORCEMENT AGENCY OR A  
18 FEDERALLY LICENSED FIREARMS DEALER AND RETURN THE PROOF OF TRANSFER TO THE  
19 LAW ENFORCEMENT AGENCY OR FEDERALLY LICENSED FIREARMS DEALER TO FILE WITH  
20 THE SENTENCING COURT.

21 E. AFTER PROVIDING NOTICE TO THE OWNER OF A TRANSFERRED FIREARM,  
22 THE LAW ENFORCEMENT AGENCY OR FEDERALLY LICENSED FIREARMS DEALER THAT  
23 RECEIVES A TRANSFERRED FIREARM MAY DISPOSE OF THE FIREARM IN ACCORDANCE  
24 WITH STATE AND FEDERAL LAW. THE LAW ENFORCEMENT AGENCY OR FEDERALLY  
25 LICENSED FIREARMS DEALER SHALL PROVIDE ALL MONIES RECEIVED FROM THE  
26 DISPOSAL OF THE FIREARM TO THE ORIGINAL FIREARM OWNER EXCEPT FOR ANY COSTS  
27 ASSOCIATED WITH TAKING POSSESSION OF, STORING AND DISPOSING OF THE  
28 FIREARM.

29 F. A PERSON WHO IS SUBJECT TO A TRANSFER ORDER MAY NOT BE  
30 PROSECUTED FOR POSSESSING, CARRYING OR TRANSPORTING A FIREARM IF ALL OF  
31 THE FOLLOWING APPLY:

32 1. THE PERSON POSSESSES THE WRITTEN TRANSFER ORDER.

33 2. THE FIREARM IS UNLOADED.

34 3. THE PERSON IS TRANSPORTING THE FIREARM DIRECTLY TO THE  
35 APPROPRIATE LAW ENFORCEMENT AGENCY OR A FEDERALLY LICENSED FIREARMS  
36 DEALER.

37 G. IF THE PLAINTIFF OR A PEACE OFFICER FILES AN AFFIDAVIT ALLEGING  
38 THAT THE PERSON HAS FAILED TO TRANSFER A FIREARM THAT THE PERSON OWNS OR  
39 POSSESSES, THE COURT SHALL DETERMINE WHETHER PROBABLE CAUSE EXISTS TO  
40 BELIEVE THAT THE PERSON HAS FAILED TO TRANSFER THAT FIREARM. IF THE COURT  
41 FINDS THAT PROBABLE CAUSE EXISTS, THE COURT SHALL ISSUE A WARRANT THAT  
42 DESCRIBES THE FIREARM OWNED OR POSSESSED BY THE PERSON AND THAT AUTHORIZES  
43 A SEARCH OF THE LOCATION WHERE THE FIREARM IS REASONABLY BELIEVED TO BE  
44 AND THE SEIZURE OF ANY FIREARM THAT IS OWNED OR POSSESSED BY THE PERSON

1 AND DISCOVERED PURSUANT TO THE SEARCH. THE FAILURE TO COMPLY WITH THE  
2 SURRENDER OF A FIREARM IS GROUNDS FOR THE ISSUANCE OF A SEARCH WARRANT.

3 H. FOR THE PURPOSES OF THIS SECTION, "DOMESTIC VIOLENCE OFFENSE"  
4 MEANS AN OFFENSE INVOLVING DOMESTIC VIOLENCE AS DEFINED IN SECTION  
5 13-3601.

6 Sec. 4. Section 13-3602, Arizona Revised Statutes, is amended to  
7 read:

8 13-3602. Order of protection; procedure; contents; arrest for  
9 violation; penalty; protection order from another  
10 jurisdiction; definition

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

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

27 1. Unless the party who requests the order files a written verified  
28 petition for an order.

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

31 3. Against more than one defendant.

32 C. The petition shall state the:

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

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

42 3. Specific statement, including dates, of the domestic violence  
43 alleged.

44 4. Relationship between the parties pursuant to section 13-3601,  
45 subsection A and whether there is pending between the parties an action

1 for maternity or paternity, annulment, legal separation or dissolution of  
2 marriage.

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

6 6. Desired relief.

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

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

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

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

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

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

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

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

1 plaintiff has moved out of the residence and of the defendant's right to  
2 request a hearing pursuant to subsection ~~←~~ N of this section.

3 3. Restrain the defendant from contacting the plaintiff or other  
4 specifically designated persons and from coming near the residence, place  
5 of employment or school of the plaintiff or other specifically designated  
6 locations or persons on a showing that there is reasonable cause to  
7 believe that physical harm may otherwise result.

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

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

27 6. Grant relief that is necessary for the protection of the alleged  
28 victim and other specifically designated persons and that is proper under  
29 the circumstances.

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

38 H. IF THE COURT ISSUES AN ORDER OF PROTECTION AFTER NOTICE AND A  
39 HEARING AT WHICH THE DEFENDANT HAD AN OPPORTUNITY TO PARTICIPATE, THE  
40 COURT SHALL PROHIBIT THE DEFENDANT FROM POSSESSING OR PURCHASING A FIREARM  
41 AND SHALL ORDER THE DEFENDANT TO IMMEDIATELY TRANSFER AFTER SERVICE OF THE  
42 ORDER ANY FIREARM OWNED OR POSSESSED BY THE DEFENDANT TO THE APPROPRIATE  
43 LAW ENFORCEMENT AGENCY OR A FEDERALLY LICENSED FIREARMS DEALER FOR THE  
44 DURATION OF THE ORDER. IF THE DEFENDANT DOES NOT IMMEDIATELY TRANSFER THE

1 FIREARM, THE DEFENDANT SHALL TRANSFER THE FIREARM WITHIN TWENTY-FOUR HOURS  
2 AFTER SERVICE OF THE TRANSFER ORDER.

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

7 1. THE LAW ENFORCEMENT AGENCY OR FEDERALLY LICENSED FIREARMS DEALER  
8 THAT TAKES POSSESSION OF A TRANSFERRED FIREARM SHALL PROVIDE A PROOF OF  
9 TRANSFER TO THE DEFENDANT WHO SURRENDERED THE FIREARM. THE PROOF OF  
10 TRANSFER SHALL INCLUDE THE NAME OF THE FIREARM OWNER OR POSSESSOR, THE  
11 DATE OF THE TRANSFER AND THE SERIAL NUMBER, MAKE AND MODEL OF THE  
12 TRANSFERRED FIREARM.

13 2. THE COURT SHALL SET A COMPLIANCE HEARING TO CONFIRM THAT THE  
14 TRANSFER HAS OCCURRED. IF THE PROOF OF TRANSFER HAS BEEN FILED, THE COURT  
15 MAY CANCEL THE HEARING.

16 3. WITHIN FORTY-EIGHT HOURS AFTER SERVICE OF THE TRANSFER ORDER,  
17 THE DEFENDANT SHALL EITHER:

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

21 (b) ATTEST TO THE COURT THAT ALL FIREARMS OWNED OR POSSESSED BY THE  
22 PERSON WERE TRANSFERRED TO THE APPROPRIATE LAW ENFORCEMENT AGENCY OR A  
23 FEDERALLY LICENSED FIREARMS DEALER AND RETURN THE PROOF OF TRANSFER TO THE  
24 LAW ENFORCEMENT AGENCY OR FEDERALLY LICENSED FIREARMS DEALER TO FILE WITH  
25 THE SENTENCING COURT.

26 4. AFTER THE ORDER OF PROTECTION EXPIRES AND ON THE DEFENDANT'S  
27 REQUEST, THE LAW ENFORCEMENT AGENCY OR FEDERALLY LICENSED FIREARMS DEALER  
28 SHALL RETURN ANY TEMPORARILY TRANSFERRED FIREARM TO THE DEFENDANT UNLESS  
29 THE ORDER IS EXTENDED OR THE DEFENDANT IS OTHERWISE PROHIBITED FROM  
30 POSSESSING A FIREARM PURSUANT TO FEDERAL OR STATE LAW. BEFORE RETURNING A  
31 FIREARM TO THE DEFENDANT, THE LAW ENFORCEMENT AGENCY OR FEDERALLY LICENSED  
32 FIREARMS DEALER MUST CONDUCT A CHECK OF AVAILABLE RECORDS AND CONTACT THE  
33 NATIONAL INSTANT CRIMINAL BACKGROUND CHECK SYSTEM TO ENSURE THAT THE  
34 DEFENDANT IS NO LONGER PROHIBITED FROM POSSESSING A FIREARM PURSUANT TO  
35 FEDERAL OR STATE LAW.

36 5. A DEFENDANT WHO IS SUBJECT TO A TRANSFER ORDER MAY NOT BE  
37 PROSECUTED FOR POSSESSING, CARRYING OR TRANSPORTING A FIREARM IF ALL OF  
38 THE FOLLOWING APPLY:

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

40 (b) THE FIREARM IS UNLOADED.

41 (c) THE DEFENDANT IS TRANSPORTING THE FIREARM DIRECTLY TO THE  
42 APPROPRIATE LAW ENFORCEMENT AGENCY OR A FEDERALLY LICENSED FIREARMS  
43 DEALER.

1           6. IF THE PLAINTIFF OR A PEACE OFFICER FILES AN AFFIDAVIT ALLEGING  
2 THAT THE DEFENDANT HAS FAILED TO TRANSFER A FIREARM THAT THE DEFENDANT  
3 OWNS OR POSSESSES, THE COURT SHALL DETERMINE WHETHER PROBABLE CAUSE EXISTS  
4 TO BELIEVE THAT THE DEFENDANT HAS FAILED TO TRANSFER THAT FIREARM. IF THE  
5 COURT FINDS THAT PROBABLE CAUSE EXISTS, THE COURT SHALL ISSUE A WARRANT  
6 THAT DESCRIBES THE FIREARM OWNED OR POSSESSED BY THE DEFENDANT AND THAT  
7 AUTHORIZES A SEARCH OF THE LOCATION WHERE THE FIREARM IS REASONABLY  
8 BELIEVED TO BE AND THE SEIZURE OF ANY FIREARM THAT IS OWNED OR POSSESSED  
9 BY THE DEFENDANT AND DISCOVERED PURSUANT TO THE SEARCH. THE FAILURE TO  
10 COMPLY WITH THE SURRENDER OF A FIREARM IS GROUNDS FOR THE ISSUANCE OF A  
11 SEARCH WARRANT.

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

17           ~~I.~~ K. After granting an order of protection, the court shall  
18 provide the order to a law enforcement agency or a constable as set forth  
19 in subsection ~~J.~~ L of this section for service or to an entity that is  
20 authorized in subsection ~~K.~~ M of this section to serve process. The  
21 agency or entity serving the order shall provide confirmation of service  
22 to the plaintiff as soon as practicable. If service of an order cannot be  
23 completed within fifteen days after the agency or entity receives the  
24 order, the agency or entity that is attempting service shall notify the  
25 plaintiff and continue to attempt service. This notification may be  
26 completed by a victim notification system, if available.

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

29           1. For each order of protection that is issued by a municipal  
30 court, if the defendant can be served within that city or town, the order  
31 shall be served by the law enforcement agency of that city or town. If  
32 the order can be served in another city or town, the order shall be served  
33 by the law enforcement agency of that city or town. If the order cannot  
34 be served within a city or town, the order shall be served by the sheriff  
35 or constable of the county in which the defendant can be served.

36           2. For each order of protection that is issued by a justice of the  
37 peace, the order of protection shall be served by the sheriff or constable  
38 of the county in which the defendant can be served or by a municipal law  
39 enforcement agency.

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

43           ~~K.~~ M. In addition to persons authorized to serve process pursuant  
44 to rule 4(d) of the Arizona rules of civil procedure, a peace officer or a  
45 correctional officer as defined in section 41-1661 who is acting in the

1 officer's official capacity may serve an order of protection that is  
2 issued pursuant to this section. Service of the order of protection has  
3 priority over other service of process that does not involve an immediate  
4 threat to the safety of a person.

5 ~~L.~~ N. At any time during the period during which the order is in  
6 effect, a party who is under an order of protection or who is restrained  
7 from contacting the other party is entitled to one hearing on written  
8 request. No fee may be charged for requesting a hearing. A hearing that  
9 is requested by a party who is under an order of protection or who is  
10 restrained from contacting the other party shall be held within ten days  
11 from the date requested unless the court finds good cause to continue the  
12 hearing. If exclusive use of the home is awarded, the hearing shall be  
13 held within five days from the date requested. The hearing shall be held  
14 at the earliest possible time. An ex parte order that is issued under  
15 this section shall state on its face that the defendant is entitled to a  
16 hearing on written request and shall include the name and address of the  
17 judicial office where the request may be filed. After the hearing, the  
18 court may modify, quash or continue the order. If the exclusive use of  
19 the home is awarded to the party, the court, on written request of a  
20 party, may hold additional hearings at any time if there is a change in  
21 circumstances related to the primary residence.

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

23 Warning

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

28 ~~N.~~ P. An order of protection that is not served on the defendant  
29 within one year after the date that the order is issued expires. An order  
30 is effective on the defendant on service of a copy of the order and  
31 petition. An order expires two years after service on the defendant. A  
32 modified order is effective on service and expires two years after service  
33 of the initial order and petition.

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

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

43 ~~Q.~~ S. The supreme court shall maintain a central repository for  
44 orders of protection. Within twenty-four hours after the affidavit,  
45 declaration, acceptance or return of service has been filed, excluding



1 weekends and holidays, the court from which the order or any modified  
 2 order was issued shall enter the order and proof of service into the  
 3 supreme court's central repository for orders of protection. The supreme  
 4 court shall register the order with the national crime information center.  
 5 The effectiveness of an order does not depend on its registration, and for  
 6 enforcement purposes pursuant to section 13-2810, a copy of an order of  
 7 the court, whether or not registered, is presumed to be a valid existing  
 8 order of the court for a period of two years from the date of service of  
 9 the order on the defendant.

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

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

34 ~~T~~ V. The remedies provided in this section for enforcement of the  
 35 orders of the court are in addition to any other civil and criminal  
 36 remedies available. The superior court shall have exclusive jurisdiction  
 37 to issue orders of protection in all cases if it appears from the petition  
 38 that an action for maternity or paternity, annulment, legal separation or  
 39 dissolution of marriage is pending between the parties. A municipal court  
 40 or justice court shall not issue an order of protection if it appears from  
 41 the petition that an action for maternity or paternity, annulment, legal  
 42 separation or dissolution of marriage is pending between the parties.  
 43 After issuance of an order of protection, if the municipal court or  
 44 justice court determines that an action for maternity or paternity,  
 45 annulment, legal separation or dissolution of marriage is pending between

1 the parties, the municipal court or justice court shall stop further  
2 proceedings in the action and forward all papers, together with a  
3 certified copy of docket entries or any other record in the action, to the  
4 superior court where they shall be docketed in the pending superior court  
5 action and shall proceed as though the petition for an order of protection  
6 had been originally brought in the superior court. Notwithstanding any  
7 other law and unless prohibited by an order of the superior court, a  
8 municipal court or justice court may hold a hearing on all matters  
9 relating to its ex parte order of protection if the hearing was requested  
10 before receiving written notice of the pending superior court action. No  
11 order of protection shall be invalid or determined to be ineffective  
12 merely because it was issued by a lower court at a time when an action for  
13 maternity or paternity, annulment, legal separation or dissolution of  
14 marriage was pending in a higher court. After a hearing with notice to  
15 the affected party, the court may enter an order requiring any party to  
16 pay the costs of the action, including reasonable attorney fees, if any.  
17 An order that is entered by a justice court or municipal court after a  
18 hearing pursuant to this section may be appealed to the superior court as  
19 provided in title 22, chapter 2, article 4, section 22-425, subsection B  
20 and the superior court rules of civil appellate procedure without regard  
21 to an amount in controversy. No fee may be charged to either party for  
22 filing an appeal. For the purposes of this subsection, "pending" means,  
23 with respect to an action for annulment, legal separation or dissolution  
24 of marriage or for maternity or paternity, either that:

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

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

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

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

38 1. A protection order includes any injunction or other order that  
39 is issued for the purpose of preventing violent or threatening acts or  
40 harassment against, contact or communication with or physical proximity to  
41 another person. A protection order includes temporary and final orders  
42 other than support or child custody orders that are issued by civil and  
43 criminal courts if the order is obtained by the filing of an independent  
44 action or is a pendente lite order in another proceeding. The civil order

1 shall be issued in response to a complaint, petition or motion that was  
2 filed by or on behalf of a person seeking protection.

3 2. A protection order is valid if the issuing court had  
4 jurisdiction over the parties and the matter under the laws of the issuing  
5 state, a United States territory or an Indian tribe and the person against  
6 whom the order was issued had reasonable notice and an opportunity to be  
7 heard. If the order is issued ex parte, the notice and opportunity to be  
8 heard shall be provided within the time required by the laws of the  
9 issuing state, a United States territory or an Indian tribe and within a  
10 reasonable time after the order was issued.

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

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

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

20 4. A peace officer may presume the validity of and rely on a copy  
21 of a protection order that is issued by another state, a United States  
22 territory or an Indian tribe if the order was given to the officer by any  
23 source. A peace officer may also rely on the statement of any person who  
24 is protected by the order that the order remains in effect. A peace  
25 officer who acts in good faith reliance on a protection order is not  
26 civilly or criminally liable for enforcing the protection order pursuant  
27 to this section.

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