

REFERENCE TITLE: **severe threat order of protection**

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

HB 2238

Introduced by
Representatives Longdon: Austin, Contreras P, Gutierrez, Hernandez M,
Schwiebert, Stahl Hamilton

AN ACT

AMENDING SECTIONS 8-202 AND 8-208, ARIZONA REVISED STATUTES; AMENDING
TITLE 12, CHAPTER 10, ARIZONA REVISED STATUTES, BY ADDING ARTICLE 5;
AMENDING SECTIONS 13-2703 AND 13-3101, ARIZONA REVISED STATUTES; RELATING
TO ORDERS OF PROTECTION.

(TEXT OF BILL BEGINS ON NEXT PAGE)

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

2 Section 1. Section 8-202, Arizona Revised Statutes, is amended to
3 read:

4 8-202. Jurisdiction of juvenile court

5 A. The juvenile court has original jurisdiction over all
6 delinquency proceedings brought under the authority of this title.

7 B. The juvenile court has exclusive original jurisdiction over all
8 proceedings:

9 1. Brought under the authority of this title except for delinquency
10 proceedings.

11 2. IN WHICH THE RESPONDENT TO A REQUEST FOR A SEVERE THREAT ORDER
12 OF PROTECTION IS UNDER EIGHTEEN YEARS OF AGE.

13 C. The juvenile court may consolidate any matter, except that the
14 juvenile court shall not consolidate any of the following:

15 1. A criminal proceeding that is filed in another division of
16 superior court and that involves a child who is subject to the
17 jurisdiction of the juvenile court.

18 2. A delinquency proceeding with any other proceeding that does not
19 involve delinquency, unless the juvenile delinquency adjudication
20 proceeding is not heard at the same time or in the same hearing as a
21 nondelinquency proceeding.

22 D. The juvenile court has jurisdiction of proceedings to:

23 1. Obtain judicial consent to the marriage, employment or
24 enlistment in the armed services of a child, if consent is required by
25 law.

26 2. In an action in which parental rights are terminated pursuant to
27 chapter 4, article 5 or 11 of this title, change the name of a minor child
28 who is the subject of the action. If the minor child who is the subject
29 of the action is twelve years of age or older, the court shall consider
30 the wishes of the child with respect to the name change.

31 E. The juvenile court has jurisdiction over civil traffic
32 violations, civil marijuana violations and offenses listed in section
33 8-323, subsection B that are committed within the county by persons who
34 are under eighteen years of age unless the presiding judge of the county
35 declines jurisdiction of these cases. The presiding judge of the county
36 may decline jurisdiction of civil traffic violations and civil marijuana
37 violations committed within the county by juveniles if the presiding judge
38 finds that the declination would promote the more efficient use of limited
39 judicial and law enforcement resources located within the county. If the
40 presiding judge declines jurisdiction, juvenile civil traffic violations
41 and civil marijuana violations shall be processed, heard and disposed of
42 in the same manner and with the same penalties as adult civil traffic
43 violations.

1 F. The orders of the juvenile court under the authority of this
2 chapter or chapter 3 or 4 of this title take precedence over any order of
3 any other court of this state except for the following:

4 1. An order entered in the criminal court concerning an ongoing
5 case that governs a criminal defendant's ability to contact the victim,
6 the family of the victim or other minor children if the criminal court
7 makes a finding that contact with other minor children would pose a risk
8 of harm to those children.

9 2. ~~An order~~ **ORDERS** by the court of appeals and the supreme court to
10 the extent they are inconsistent with orders of other courts.

11 G. Except as provided in subsection H of this section, jurisdiction
12 of a child that is obtained by the juvenile court in a proceeding under
13 this chapter or chapter 3 or 4 of this title shall be retained by it, for
14 the purposes of implementing the orders made and filed in that proceeding,
15 until the child becomes eighteen years of age, unless terminated by order
16 of the court before the child's eighteenth birthday.

17 H. At any time before an adjudication hearing or a proceeding in
18 which a juvenile is admitting to an allegation in a petition that alleges
19 the juvenile is delinquent, the state may file a notice of intent to
20 retain jurisdiction over a juvenile who is seventeen years of age. If the
21 state files a notice of intent to retain jurisdiction, the juvenile
22 court's jurisdiction over a juvenile is retained on the filing of the
23 notice and the court shall retain jurisdiction over the juvenile until the
24 juvenile reaches nineteen years of age, unless before the juvenile's
25 nineteenth birthday either:

26 1. Jurisdiction is terminated by order of the court.

27 2. The juvenile is discharged from the jurisdiction of the
28 department of juvenile corrections pursuant to section 41-2820.

29 I. Persons who are under eighteen years of age shall be prosecuted
30 in the same manner as adults if either:

31 1. The juvenile court transfers jurisdiction pursuant to section
32 8-327.

33 2. The juvenile is charged as an adult with an offense listed in
34 section 13-501.

35 J. The juvenile court shall retain jurisdiction after a juvenile's
36 eighteenth birthday for the purpose of:

37 1. Designating an undesignated felony offense as a misdemeanor or
38 felony, including after an adjudication is set aside pursuant to section
39 8-348.

40 2. Modifying an outstanding monetary obligation imposed by the
41 court except for victim restitution.

42 3. Implementing section 36-2862.

1 K. The juvenile court has jurisdiction to make the initial
2 determination prescribed in section 8-829 whether the voluntary
3 participation of a qualified young adult in an extended foster care
4 program pursuant to section 8-521.02 is in the young adult's best
5 interests.

6 Sec. 2. Section 8-208, Arizona Revised Statutes, is amended to
7 read:

8 8-208. Juvenile court records; public inspection; exceptions

9 A. The following records relating to a juvenile who is referred to
10 juvenile court are open to public inspection:

11 1. Referrals involving delinquent acts, after the referrals have
12 been made to the juvenile court or the county attorney has diverted the
13 matter according to section 8-321.

14 2. Arrest records, after the juvenile is an accused as defined by
15 section 13-501.

16 3. Delinquency hearings.

17 4. Disposition hearings.

18 5. A summary of delinquency, disposition and transfer hearings.

19 6. Revocation of probation hearings.

20 7. Appellate review.

21 8. Diversion proceedings involving delinquent acts.

22 B. On the request of an adult probation officer or state or local
23 prosecutor, the juvenile court shall release to an adult probation
24 department or prosecutor all information in its possession concerning a
25 person who is charged with a criminal offense.

26 C. The juvenile court shall release all information in its
27 possession concerning a person who is arrested for a criminal offense to
28 superior court programs or departments, other court divisions or judges or
29 as authorized by the superior court for the purpose of assisting in the
30 determination of release from custody, bond and pretrial supervision.

31 D. On request by the appropriate jail authorities for the purpose
32 of determining classification, treatment and security, the juvenile court
33 shall release all information in its possession concerning persons who are
34 under eighteen years of age, who have been transferred from juvenile court
35 for criminal prosecution and who are being held in a county jail pending
36 trial.

37 E. The court shall edit the records to protect the identity of the
38 victim or the immediate family of the victim if the victim has died as a
39 result of the alleged offense.

40 F. Except as otherwise provided by law, the records of an adoption,
41 severance or dependency proceeding shall not be open to public inspection.

42 G. The court may order that the records be kept confidential and
43 withheld from public inspection if the court determines that the subject
44 matter of any record involves a clear public interest in confidentiality.

1 H. The disclosure of educational records received pursuant to
2 section 15-141 shall comply with the family educational RIGHTS and privacy
3 ~~rights~~ act of 1974 (20 United States Code section 1232g).

4 I. A PETITION FOR A SEVERE THREAT ORDER OF PROTECTION AND THE ORDER
5 ISSUED MAY BE DISCLOSED ONLY IF THE COURT ISSUES THE SEVERE THREAT ORDER
6 OF PROTECTION. AFTER A SHOWING OF THE NEED FOR THE INFORMATION AND THAT
7 APPROPRIATE MEASURES WILL BE TAKEN TO LIMIT FURTHER DISCLOSURE OF THE
8 INFORMATION, THE PETITION AND THE ORDER MAY BE PROVIDED ONLY TO THE PARENT
9 OR LEGAL GUARDIAN OF THE MINOR RESPONDENT, LAW ENFORCEMENT, A JUVENILE
10 PROBATION OFFICER, A BEHAVIORAL HEALTH PROFESSIONAL, A SCHOOL OR SCHOOL
11 DISTRICT THAT THE MINOR RESPONDENT IS ATTENDING OR HAS ATTENDED IN THE
12 YEAR PRECEDING THE DATE OF THE ORDER AND A PERSON WHO HAS BEEN THE NAMED
13 TARGET OF THREATS OR ACTS COMMITTED BY THE MINOR RESPONDENT.

14 Sec. 3. Title 12, chapter 10, Arizona Revised Statutes, is amended
15 by adding article 5, to read:

16 ARTICLE 5. SEVERE THREAT ORDER OF PROTECTION

17 12-1881. Definitions

18 IN THIS ARTICLE, UNLESS THE CONTEXT OTHERWISE REQUIRES:

19 1. "CRUEL MISTREATMENT OF AN ANIMAL":

20 (a) MEANS TO TORTURE OR OTHERWISE INFLICT UNNECESSARY SERIOUS
21 PHYSICAL INJURY ON OR DEATH TO AN ANIMAL OR TO KILL AN ANIMAL IN A MANNER
22 THAT CAUSES PROTRACTED SUFFERING TO THE ANIMAL.

23 (b) DOES NOT INCLUDE ACTIVITIES THAT ARE REGULATED BY THE ARIZONA
24 GAME AND FISH DEPARTMENT OR THE ARIZONA DEPARTMENT OF AGRICULTURE.

25 2. "FAMILY MEMBER" MEANS, WITH RESPECT TO AN INDIVIDUAL, A SPOUSE,
26 CHILD, STEPCHILD, PARENT, STEPPARENT, SIBLING, GRANDCHILD OR GRANDPARENT
27 OF THE INDIVIDUAL, A PERSON WITH WHOM THE INDIVIDUAL SHARES A CHILD IN
28 COMMON OR THE LEGAL GUARDIAN OF THE INDIVIDUAL.

29 3. "FIREARM" INCLUDES AMMUNITION FOR A FIREARM.

30 4. "HOUSEHOLD MEMBER" MEANS, WITH RESPECT TO AN INDIVIDUAL, A
31 PERSON WHO COHABITATES OR HAS COHABITATED WITH THE INDIVIDUAL WITHIN THE
32 PREVIOUS YEAR.

33 5. "PETITIONER" MEANS A PERSON WHO IS AT LEAST EIGHTEEN YEARS OF
34 AGE AND WHO IS A FAMILY MEMBER, HOUSEHOLD MEMBER, SIGNIFICANT OTHER,
35 PROBATION OFFICER, BEHAVIORAL HEALTH PROFESSIONAL OR PEACE OFFICER.

36 6. "RESPONSIBLE CUSTODIAN" MEANS A PERSON WHO MAY LAWFULLY POSSESS
37 A FIREARM, WHO DOES NOT COHABITATE WITH A PERSON WHO IS SUBJECT TO A
38 SEVERE THREAT ORDER OF PROTECTION AND WHO IS APPROVED BY A COURT TO TAKE
39 POSSESSION OF A FIREARM THAT IS SURRENDERED BY A PERSON WHO IS SUBJECT TO
40 A SEVERE THREAT ORDER OF PROTECTION.

41 7. "SERIOUS PHYSICAL INJURY" HAS THE SAME MEANING PRESCRIBED IN
42 SECTION 13-105.

43 8. "SIGNIFICANT OTHER" MEANS, WITH RESPECT TO AN INDIVIDUAL, A
44 PERSON WITH WHOM THE INDIVIDUAL HAS BEEN INVOLVED IN A SUBSTANTIAL AND
45 ONGOING ROMANTIC RELATIONSHIP WITHIN THE PREVIOUS YEAR.

1 12-1882. Severe threat order of protection; ex parte
2 temporary severe threat order of protection;
3 requirements; service; request for hearing;
4 notice; law enforcement notification; civil
5 liability

6 A. A PETITIONER MAY FILE A VERIFIED PETITION IN THE SUPERIOR COURT
7 OR A MUNICIPAL COURT REQUESTING THE COURT TO ISSUE A SEVERE THREAT ORDER
8 OF PROTECTION. AN EX PARTE TEMPORARY SEVERE THREAT ORDER OF PROTECTION
9 AND A SEVERE THREAT ORDER OF PROTECTION PROHIBIT A RESPONDENT FROM
10 POSSESSING A FIREARM BASED ON THE RESPONDENT MAKING A CREDIBLE THREAT OF
11 DEATH OR SERIOUS PHYSICAL INJURY OR COMMITTING OR ATTEMPTING TO COMMIT AN
12 ACT OF VIOLENCE THAT RESULTED IN OR WAS INTENDED TO RESULT IN DEATH OR
13 SERIOUS PHYSICAL INJURY TO SELF OR OTHERS OR CRUEL MISTREATMENT OF AN
14 ANIMAL.

15 B. THE PETITION FOR A SEVERE THREAT ORDER OF PROTECTION MUST
16 INCLUDE ALL OF THE FOLLOWING:

17 1. THE PETITIONER'S NAME. THE PETITIONER'S ADDRESS SHALL BE
18 DISCLOSED TO THE COURT FOR PURPOSES OF SERVICE. IF THE ADDRESS OF THE
19 PETITIONER IS UNKNOWN TO THE RESPONDENT, THE PETITIONER MAY REQUEST THAT
20 THE ADDRESS BE PROTECTED. ON THE PETITIONER'S REQUEST, THE ADDRESS SHALL
21 NOT BE LISTED ON THE PETITION. WHETHER OR NOT THE COURT ISSUES A SEVERE
22 THREAT ORDER OF PROTECTION, THE PROTECTED ADDRESS SHALL BE MAINTAINED IN A
23 SEPARATE DOCUMENT OR ELECTRONICALLY AND IS NOT SUBJECT TO RELEASE OR
24 DISCLOSURE BY THE COURT OR TO ANY FORM OF PUBLIC ACCESS EXCEPT AS ORDERED
25 BY THE COURT.

26 2. THE RESPONDENT'S NAME AND ADDRESS, IF KNOWN, OR, IF THE
27 RESPONDENT IS BELIEVED TO BE HOMELESS, THE CROSS STREETS OF THE AREA WHERE
28 THE RESPONDENT MAY BE LOCATED.

29 3. A SPECIFIC STATEMENT, INCLUDING DATES, LOCATIONS AND APPROXIMATE
30 TIMES, OF ANY OF THE FOLLOWING ACTS:

31 (a) A CREDIBLE THREAT OF DEATH OR SERIOUS PHYSICAL INJURY, AN ACT
32 OF VIOLENCE THAT RESULTED IN DEATH OR SERIOUS PHYSICAL INJURY OR AN
33 ATTEMPTED ACT OF VIOLENCE THAT WAS INTENDED TO CAUSE DEATH OR SERIOUS
34 PHYSICAL INJURY AGAINST SELF OR OTHERS OR CRUEL MISTREATMENT OF AN ANIMAL
35 THAT OCCURRED WITHIN THE PRECEDING SIX MONTHS.

36 (b) A SPECIFIC BEHAVIOR OR ACT THAT JUSTIFIES THE REASONABLE BELIEF
37 THAT THE RESPONDENT IS A DANGER TO SELF OR OTHERS.

38 4. THE RELATIONSHIP BETWEEN THE PARTIES AND WHETHER THERE IS OR HAS
39 BEEN A SEVERE THREAT ORDER OF PROTECTION, A DOMESTIC VIOLENCE ORDER OF
40 PROTECTION, AN INJUNCTION AGAINST HARASSMENT OR AN INJUNCTION AGAINST
41 WORKPLACE HARASSMENT IN PLACE BETWEEN THE PARTIES.

42 5. WHETHER THE PETITIONER KNOWS IF THE RESPONDENT IS CURRENTLY OR
43 WAS PREVIOUSLY THE SUBJECT OF A SEVERE THREAT ORDER OF PROTECTION, A
44 DOMESTIC VIOLENCE ORDER OF PROTECTION, AN INJUNCTION AGAINST HARASSMENT OR
45 AN INJUNCTION AGAINST WORKPLACE HARASSMENT.

1 6. THE NAME OF THE COURT IN WHICH ANY PREVIOUS OR PENDING
2 PROCEEDING OR ORDER WAS SOUGHT OR ISSUED CONCERNING THE RESPONDENT OR OF
3 WHICH THE PETITIONER IS AWARE.

4 7. A STATEMENT THAT, BASED ON THE INFORMATION REQUIRED IN THE
5 PETITION, THE PETITIONER REASONABLY BELIEVES A SEVERE THREAT ORDER OF
6 PROTECTION IS NECESSARY BECAUSE THE RESPONDENT POSES A SIGNIFICANT DANGER
7 OF IMMINENTLY CAUSING DEATH OR SERIOUS PHYSICAL INJURY TO SELF OR OTHERS.

8 C. THE COURT SHALL REVIEW THE PETITION, ANY OTHER PLEADINGS ON FILE
9 AND ANY EVIDENCE OFFERED BY THE PETITIONER, INCLUDING ANY EVIDENCE OF:

10 1. A RECENT CREDIBLE THREAT TO CAUSE DEATH OR SERIOUS PHYSICAL
11 INJURY OR AN ACT OR ATTEMPTED ACT CAUSING DEATH OR SERIOUS PHYSICAL INJURY
12 BY THE RESPONDENT AGAINST SELF OR OTHERS.

13 2. A PATTERN OF THREATS TO CAUSE DEATH OR SERIOUS PHYSICAL INJURY
14 OR ACTS OR ATTEMPTED ACTS CAUSING DEATH OR SERIOUS PHYSICAL INJURY BY THE
15 RESPONDENT WITHIN THE PRECEDING SIX MONTHS. EVIDENCE THAT THE RESPONDENT
16 HAS VIOLATED AN ORDER OF PROTECTION OR AN INJUNCTION AGAINST HARASSMENT
17 MAY BE USED TO DEMONSTRATE A PATTERN FOR THE PURPOSES OF THIS PARAGRAPH.

18 3. THE RESPONDENT'S CRUEL MISTREATMENT OF AN ANIMAL.

19 4. KNOWN DANGEROUS MENTAL HEALTH ISSUES OF THE RESPONDENT.

20 5. THE RESPONDENT'S HAVING PREVIOUSLY BEEN SUBJECT TO OR CURRENTLY
21 BEING SUBJECT TO A SEVERE THREAT ORDER OF PROTECTION.

22 6. A CONVICTION FOR A VIOLENT CRIME COMMITTED BY THE RESPONDENT.

23 7. A CONVICTION FOR AN OFFENSE INVOLVING UNLAWFUL USE, THREATENING
24 DISPLAY OR BRANDISHING OF A FIREARM BY THE RESPONDENT IN VIOLATION OF
25 TITLE 13, CHAPTER 31 OR A CONVICTION FOR AN OFFENSE IN ANOTHER
26 JURISDICTION THAT IF COMMITTED IN THIS STATE WOULD BE A VIOLATION OF TITLE
27 13, CHAPTER 31.

28 8. THE RESPONDENT'S HISTORY OF USE, ATTEMPTED USE OR THREATENED USE
29 OF PHYSICAL FORCE AGAINST ANOTHER PERSON OR STALKING ANOTHER PERSON.

30 9. THE RESPONDENT'S RECURRING ABUSE OF CONTROLLED SUBSTANCES OR
31 ALCOHOL IF THE EVIDENCE DEMONSTRATES THAT THE ABUSE IS A CONTRIBUTING
32 FACTOR TO THE RESPONDENT'S DANGEROUSNESS OR VIOLENCE.

33 D. THE COURT SHALL EITHER ISSUE AN EX PARTE TEMPORARY SEVERE THREAT
34 ORDER OF PROTECTION ON THE DAY THE COURT RECEIVES THE PETITION OR THE DAY
35 AFTER THE COURT RECEIVES THE PETITION, OR THE COURT MAY SCHEDULE A HEARING
36 ON THE PETITION WITHIN FOURTEEN DAYS AFTER THE COURT RECEIVES THE PETITION
37 AND PROVIDE NOTICE TO THE RESPONDENT OF THE HEARING DATE. THE COURT MAY
38 ORDER A MENTAL HEALTH EVALUATION OF THE RESPONDENT AT NO COST TO THE
39 RESPONDENT. THE EVALUATION AGENCY SHALL PROVIDE THE EVALUATION RESULTS TO
40 THE COURT BEFORE THE HEARING DATE. THE COURT SHALL ISSUE AN EX PARTE
41 TEMPORARY SEVERE THREAT ORDER OF PROTECTION IF THE COURT DETERMINES THAT,
42 BASED ON THE FACTORS ENUMERATED IN THIS SECTION, THERE IS PROBABLE CAUSE
43 TO BELIEVE THAT THE RESPONDENT POSES A DANGER TO SELF OR OTHERS AND THAT,
44 FOR THE SAFETY OF THE RESPONDENT AND OTHERS, THE RESPONDENT SHOULD NOT
45 POSSESS A FIREARM FOR THE DURATION OF THE ORDER. AN EX PARTE TEMPORARY

1 SEVERE THREAT ORDER OF PROTECTION AND A SEVERE THREAT ORDER OF PROTECTION
2 REQUIRE THE RESPONDENT TO SURRENDER ALL FIREARMS THAT ARE OWNED OR
3 POSSESSED BY THE RESPONDENT TO A SPECIFIC LAW ENFORCEMENT AGENCY.

4 E. THE COURT SHALL IMMEDIATELY TRANSMIT THE PETITION AND THE EX
5 PARTE TEMPORARY SEVERE THREAT ORDER OF PROTECTION OR THE SEVERE THREAT
6 ORDER OF PROTECTION TO THE COUNTY SHERIFF OR LOCAL LAW ENFORCEMENT AGENCY
7 FOR THE JURISDICTION IN WHICH THE PERSON WHO IS SUBJECT TO THE ORDER
8 RESIDES. THE PERSON WHO IS SUBJECT TO THE ORDER SHALL BE SERVED WITH A
9 COPY OF THE PETITION AND THE EX PARTE TEMPORARY SEVERE THREAT ORDER OF
10 PROTECTION. THE RETURN OF SERVICE MUST BE FILED WITHIN TWENTY-FOUR HOURS
11 AFTER SERVICE WITH THE CLERK OF THE ISSUING COURT.

12 F. AN EX PARTE TEMPORARY SEVERE THREAT ORDER OF PROTECTION EXPIRES
13 IN FOURTEEN DAYS. THE COURT SHALL HOLD A HEARING WITHIN FOURTEEN DAYS
14 EITHER AFTER ISSUING AN EX PARTE TEMPORARY SEVERE THREAT ORDER OF
15 PROTECTION OR RECEIVING THE PETITION IF THE COURT DID NOT ISSUE AN EX
16 PARTE TEMPORARY SEVERE THREAT ORDER OF PROTECTION.

17 G. AT THE HEARING, THE RESPONDENT MAY PRESENT EVIDENCE AND, IF A
18 MENTAL HEALTH EVALUATION WAS CONDUCTED, THE COURT SHALL CONSIDER THE
19 EVALUATION RESULTS. THE COURT SHALL ISSUE A SEVERE THREAT ORDER OF
20 PROTECTION IF THE COURT DETERMINES AFTER THE HEARING THAT, BASED ON THE
21 FACTORS ENUMERATED IN THIS SECTION, CLEAR AND CONVINCING EVIDENCE EXISTS
22 TO BELIEVE THE RESPONDENT POSES A DANGER TO SELF OR OTHERS AND THAT, FOR
23 THE SAFETY OF THE RESPONDENT AND OTHERS, THE RESPONDENT SHOULD NOT POSSESS
24 A FIREARM FOR THE DURATION OF THE ORDER. A SEVERE THREAT ORDER OF
25 PROTECTION EXPIRES ONE YEAR AFTER THE DATE THE ORDER IS SERVED ON THE
26 RESPONDENT.

27 H. THE RESPONDENT TO AN EX PARTE TEMPORARY SEVERE THREAT ORDER OF
28 PROTECTION AND A SEVERE THREAT ORDER OF PROTECTION MAY CONSULT AN ATTORNEY
29 BEFORE A HEARING IS CONDUCTED PURSUANT TO THIS SECTION AND MAY HAVE AN
30 ATTORNEY PRESENT AT ANY HEARING HELD PURSUANT TO THIS ARTICLE. IF THE
31 PERSON WHO IS SUBJECT TO THE ORDER IS A MINOR, THE PARENT OR LEGAL
32 GUARDIAN OF THE MINOR SHALL BE IMMEDIATELY NOTIFIED THAT THE MINOR MAY
33 CONSULT AND HAVE AN ATTORNEY PRESENT AT ANY HEARING THAT IS HELD PURSUANT
34 TO THIS ARTICLE. IF THE RESPONDENT IS A MINOR, THE MINOR SHALL BE
35 APPOINTED A GUARDIAN AD LITEM FOR THE PENDENCY OF THE PROCEEDINGS.

36 I. WITHIN NINETY DAYS AFTER A SEVERE THREAT ORDER OF PROTECTION IS
37 ISSUED, THE RESPONDENT WHO IS SUBJECT TO THE ORDER IS ENTITLED TO ONE
38 HEARING ON WRITTEN REQUEST IN ORDER TO QUASH THE ORDER. AT THE HEARING,
39 THE RESPONDENT HAS THE BURDEN OF PROVING BY CLEAR AND CONVINCING EVIDENCE
40 THAT THE RESPONDENT NO LONGER POSES A DANGER TO SELF OR OTHERS. A FEE MAY
41 NOT BE CHARGED FOR REQUESTING A HEARING. A HEARING THAT IS REQUESTED BY
42 THE RESPONDENT WHO IS SUBJECT TO A SEVERE THREAT ORDER OF PROTECTION SHALL
43 BE HELD AT THE EARLIEST POSSIBLE TIME BUT NOT LATER THAN TEN DAYS AFTER
44 THE DATE OF THE REQUEST UNLESS THE COURT FINDS GOOD CAUSE TO CONTINUE THE
45 HEARING. AN ORDER THAT IS ISSUED PURSUANT TO THIS SECTION SHALL STATE

1 THAT THE RESPONDENT WHO IS SUBJECT TO THE ORDER IS ENTITLED TO A HEARING
2 ON WRITTEN REQUEST AND THAT THE RESPONDENT MAY CONSULT WITH AND HAVE AN
3 ATTORNEY PRESENT AT THE HEARING. THE ORDER SHALL INCLUDE THE NAME AND
4 ADDRESS OF THE CLERK OF THE COURT WHERE THE REQUEST MAY BE FILED AND THE
5 NAME OF THE JUDICIAL OFFICER WHO ISSUED THE ORDER.

6 J. WITHIN TWENTY-FOUR HOURS AFTER A COURT ISSUES AN EX PARTE
7 TEMPORARY SEVERE THREAT ORDER OF PROTECTION OR A SEVERE THREAT ORDER OF
8 PROTECTION THE COURT MUST FORWARD A COPY OF THE ORDER AND PROOF OF
9 SERVICE, IF APPLICABLE, TO THE SHERIFF'S OFFICE IN THE COUNTY IN WHICH THE
10 ORDER WAS ISSUED FOR REGISTRATION BY THE SHERIFF IN A CENTRAL REPOSITORY.
11 THE SHERIFF SHALL REGISTER THE ORDER WITH THE NATIONAL CRIME INFORMATION
12 CENTER AND SHALL INDICATE ON THE FILE THAT THE RESPONDENT IS SUBJECT TO
13 FIREARM RESTRICTIONS. EACH COUNTY SHERIFF SHALL MAINTAIN A CENTRAL
14 REPOSITORY TO VERIFY THE EXISTENCE AND VALIDITY OF A SEVERE THREAT ORDER
15 OF PROTECTION.

16 K. WITHIN TWENTY-FOUR HOURS AFTER A COURT MODIFIES, EXTENDS OR
17 QUASHES AN EX PARTE TEMPORARY SEVERE THREAT ORDER OF PROTECTION OR A
18 SEVERE THREAT ORDER OF PROTECTION, THE COURT SHALL SEND A WRITTEN ORDER
19 THAT MODIFIES, EXTENDS OR QUASHES THE EX PARTE TEMPORARY SEVERE THREAT
20 ORDER OF PROTECTION OR SEVERE THREAT ORDER OF PROTECTION TO THE SHERIFF IN
21 THE COUNTY WHERE THE ORIGINAL ORDER WAS REGISTERED. THE SHERIFF SHALL
22 ENSURE THAT THE NATIONAL CRIME INFORMATION CENTER IS UPDATED WITH THIS
23 INFORMATION.

24 L. A PERSON WHO ACTS PURSUANT TO THIS ARTICLE IN GOOD FAITH ON
25 EITHER ACTUAL KNOWLEDGE OR RELIABLE INFORMATION IS NOT SUBJECT TO CIVIL
26 LIABILITY FOR THAT ACT.

27 M. IF THE COURT DOES NOT FIND THE PERSON WHO IS SUBJECT TO AN EX
28 PARTE TEMPORARY SEVERE THREAT ORDER OF PROTECTION TO BE AN IMMEDIATE
29 DANGER TO SELF OR OTHERS, THE COURT SHALL NOTIFY THE PETITIONER WITHIN
30 TWENTY-FOUR HOURS AFTER THAT DETERMINATION IS MADE.

31 12-1883. Severe threat order of protection extension

32 A. WITHIN FORTY-FIVE DAYS BEFORE A SEVERE THREAT ORDER OF
33 PROTECTION EXPIRES, A PETITIONER MAY FILE A VERIFIED PETITION IN THE
34 SUPERIOR COURT OR A MUNICIPAL COURT REQUESTING THAT THE ORDER BE EXTENDED
35 FOR ONE YEAR UNLESS THE PERSON WHO IS SUBJECT TO THE ORDER PROVIDES CLEAR
36 AND CONVINCING EVIDENCE THAT THE PERSON IS NOT A DANGER TO SELF OR OTHERS
37 BASED ON THE FACTORS PRESCRIBED IN SECTION 12-1882.

38 B. IF THE COURT DETERMINES THAT THE PERSON WHO IS SUBJECT TO THE
39 ORDER HAS FAILED TO APPEAR OR RESPOND TO A PETITION TO EXTEND A SEVERE
40 THREAT ORDER OF PROTECTION AFTER BEING PERSONALLY SERVED AND GIVEN THE
41 OPPORTUNITY FOR A HEARING ON THE REQUESTED EXTENSION AND UNLESS THE PERSON
42 WHO IS SUBJECT TO THE ORDER HAS PROVIDED CLEAR AND CONVINCING EVIDENCE
43 THAT THE PERSON WHO IS SUBJECT TO THE ORDER IS NOT A DANGER TO SELF OR
44 OTHERS BASED ON THE FACTORS PRESCRIBED IN SECTION 12-1882, THE COURT SHALL
45 EXTEND THE SEVERE THREAT ORDER OF PROTECTION FOR ONE YEAR.

1 C. IF THE COURT DETERMINES THAT THE PERSON WHO IS SUBJECT TO THE
2 ORDER IS NOT A DANGER TO SELF OR OTHERS AFTER REVIEWING ANY EVALUATION
3 RESULTS AND THE FACTORS PRESCRIBED IN SECTION 12-1882, THE COURT SHALL
4 ALLOW THE SEVERE THREAT ORDER OF PROTECTION TO EXPIRE AND FOLLOW THE
5 PROCEDURES PRESCRIBED IN SECTIONS 12-1882 AND 12-1885.

6 12-1884. Applicability to minors; juvenile court transfer

7 IF THE RESPONDENT TO A PETITION FOR A SEVERE THREAT ORDER OF
8 PROTECTION IS A MINOR, THE PETITION SHALL BE TRANSFERRED TO THE JUVENILE
9 COURT.

10 12-1885. Prohibited possession of a firearm; firearm seizure;
11 violation; classification

12 A. A PERSON WHO IS SUBJECT TO AN EX PARTE TEMPORARY SEVERE THREAT
13 ORDER OF PROTECTION OR A SEVERE THREAT ORDER OF PROTECTION MAY NOT POSSESS
14 OR PURCHASE A FIREARM AFTER THE ORDER HAS BEEN SERVED. A PERSON WHO
15 VIOLATES THIS SUBSECTION IS GUILTY OF A CLASS 4 FELONY.

16 B. IF THE PERSON WHO IS SUBJECT TO AN EX PARTE TEMPORARY SEVERE
17 THREAT ORDER OF PROTECTION OR A SEVERE THREAT ORDER OF PROTECTION IS A
18 MINOR AND A PARENT, LEGAL GUARDIAN OR HOUSEHOLD MEMBER OWNS A FIREARM, THE
19 PARENT OR LEGAL GUARDIAN SHALL ATTEST TO THE COURT UNDER OATH AS PART OF
20 THE SEVERE THREAT ORDER OF PROTECTION PROCEEDINGS THAT THE FIREARM IS
21 SECURED AND THAT THE MINOR WHO IS SUBJECT TO THE ORDER CANNOT ACCESS THE
22 FIREARM.

23 C. A LAW ENFORCEMENT OFFICER WHO IS SERVING AN EX PARTE TEMPORARY
24 SEVERE THREAT ORDER OF PROTECTION OR A SEVERE THREAT ORDER OF PROTECTION
25 SHALL ORDER THE PERSON WHO IS SUBJECT TO THE ORDER TO TURN OVER ANY
26 FIREARMS THAT ARE OWNED OR POSSESSED BY THE PERSON TO THE LAW ENFORCEMENT
27 OFFICER AND THE LAW ENFORCEMENT OFFICER MAY TAKE TEMPORARY CUSTODY OF ANY
28 FIREARM THAT IS IN PLAIN SIGHT OR DISCOVERED PURSUANT TO A CONSENSUAL OR
29 OTHER LAWFUL SEARCH AND THAT IS NECESSARY FOR THE PROTECTION OF THE LAW
30 ENFORCEMENT OFFICER OR OTHER PERSONS PRESENT AS PROVIDED IN SECTION
31 13-3102, SUBSECTION L.

32 D. IF A FIREARM IS SEIZED AND REMOVED FROM THE LOCATION PURSUANT TO
33 THIS SECTION, THE LAW ENFORCEMENT OFFICER SHALL PROVIDE THE OWNER OR
34 POSSESSOR OF THE FIREARM WITH A RECEIPT FOR EACH SEIZED FIREARM. THE
35 RECEIPT MUST INCLUDE THE IDENTIFICATION OR SERIAL NUMBER OR ANOTHER
36 IDENTIFYING CHARACTERISTIC OF EACH SEIZED FIREARM. EACH SEIZED FIREARM
37 SHALL BE HELD SAFELY AND WITHOUT BEING DAMAGED FOR THE DURATION OF THE
38 SEVERE THREAT ORDER OF PROTECTION OR UNTIL THE FIREARM IS TRANSFERRED TO A
39 RESPONSIBLE CUSTODIAN PURSUANT TO SUBSECTION F OF THIS SECTION. THE
40 FIREARM MAY BE DISPOSED OF ONLY IN ACCORDANCE WITH SECTION 12-941.

41 E. IF A FIREARM IS SEIZED AND REMOVED FROM THE LOCATION PURSUANT TO
42 THIS SECTION, THE PETITIONER SHALL BE NOTIFIED BY THE LAW ENFORCEMENT
43 AGENCY THAT SEIZED THE FIREARM BEFORE THE FIREARM IS RELEASED.

1 F. IF A PERSON IS SUBJECT TO AN EX PARTE TEMPORARY SEVERE THREAT
2 ORDER OF PROTECTION OR A SEVERE THREAT ORDER OF PROTECTION, THE COURT
3 SHALL ORDER THE PERSON TO TURN OVER ANY FIREARMS THAT ARE OWNED OR
4 POSSESSED BY THE PERSON TO A LAW ENFORCEMENT AGENCY. THE LAW ENFORCEMENT
5 AGENCY SHALL NOTIFY THE COURT OF THE PERSON'S COMPLIANCE WITH THIS
6 SUBSECTION WITHIN TWENTY-FOUR HOURS AFTER THE ORDER IS SERVED. AT ANY
7 TIME AFTER THE LAW ENFORCEMENT AGENCY NOTIFIES THE COURT OF THE PERSON'S
8 COMPLIANCE WITH THIS SUBSECTION, THE PERSON WHO IS SUBJECT TO THE ORDER
9 MAY SUBMIT THE NAME OF A FEDERALLY LICENSED FIREARMS DEALER WHO WILL
10 EITHER PURCHASE THE PERSON'S FIREARMS OR STORE THEM FOR THE DURATION OF
11 THE ORDER. A FEDERALLY LICENSED FIREARMS DEALER MAY CHARGE A REASONABLE
12 FEE FOR STORAGE. THE FEDERALLY LICENSED FIREARMS DEALER SHALL TAKE
13 POSSESSION OF THE PERSON'S FIREARMS AFTER PROVIDING THE LAW ENFORCEMENT
14 AGENCY AN AFFIRMATION STATING THAT THE PERSON WHO IS SUBJECT TO THE ORDER
15 WILL NOT HAVE ACCESS TO THE FIREARM FOR THE DURATION OF THE ORDER AND THAT
16 THE FIREARM WILL BE SAFELY HELD AND NOT DAMAGED. IF A PERSON WHO IS
17 SUBJECT TO A SEVERE THREAT ORDER OF PROTECTION DOES NOT OWN OR POSSESS A
18 FIREARM, THE PERSON SHALL ATTEST TO THE COURT UNDER OATH WITHIN
19 TWENTY-FOUR HOURS AFTER BEING SERVED WITH THE ORDER THAT THE PERSON DOES
20 NOT OWN OR POSSESS A FIREARM.

21 G. A LAW ENFORCEMENT AGENCY OR RESPONSIBLE CUSTODIAN WHO KNOWINGLY
22 OR NEGLIGENTLY FAILS TO MAINTAIN THE SURRENDERED FIREARM IN THE SAME
23 CONDITION THAT THE FIREARM WAS IN WHEN SURRENDERED IS LIABLE FOR ANY
24 DAMAGES TO THE FIREARM.

25 H. IF A PERSON WHO IS SUBJECT TO A SEVERE THREAT ORDER OF
26 PROTECTION DOES NOT SUBMIT EVIDENCE OF THE PERSON'S COMPLIANCE WITH
27 SUBSECTION F OF THIS SECTION TO A LAW ENFORCEMENT AGENCY WITHIN
28 TWENTY-FOUR HOURS AFTER THE ORDER, THE PETITIONER OR A LAW ENFORCEMENT
29 OFFICER MAY REQUEST THAT THE COURT ISSUE A SEARCH WARRANT TO ALLOW A LAW
30 ENFORCEMENT OFFICER TO SEARCH FOR AND SEIZE ANY FIREARM THAT IS IN THE
31 PERSON'S POSSESSION.

32 I. AFTER AN ORDER EXPIRES OR IS QUASHED, THE COURT SHALL PROVIDE
33 THE PERSON WHO IS SUBJECT TO THE ORDER WITH DOCUMENTATION THAT STATES THAT
34 THE ORDER HAS EXPIRED OR HAS BEEN QUASHED AND IS NO LONGER IN EFFECT. A
35 LAW ENFORCEMENT AGENCY THAT HAS CUSTODY OF A FIREARM SHALL RELEASE THE
36 FIREARM WITHIN FORTY-EIGHT HOURS, EXCLUDING WEEKENDS AND HOLIDAYS, AFTER
37 THE RECEIPT OF THE EVIDENCE THAT THE ORDER HAS EXPIRED OR BEEN QUASHED OR
38 RECEIPT OF A COURT DOCUMENT EVIDENCING THAT THE PERSON IS NOT PROHIBITED
39 FROM POSSESSING A FIREARM.

40 J. IF A FIREARM IS NOT OWNED OR POSSESSED BY THE PERSON WHO IS
41 SUBJECT TO THE ORDER BUT IS OWNED OR POSSESSED BY A MINOR OR HOUSEHOLD
42 MEMBER, THE PARENT OR LEGAL GUARDIAN SHALL SUBMIT AN AFFIDAVIT TO THE
43 COURT STATING THAT APPROPRIATE MEASURES HAVE BEEN TAKEN TO ENSURE THAT THE
44 PERSON WHO IS SUBJECT TO THE ORDER WILL NOT HAVE ACCESS TO THE FIREARM.
45 APPROPRIATE MEASURES INCLUDE SECURING THE FIREARM AT ANOTHER LOCATION,

1 SECURING THE FIREARM IN AN APPROPRIATE SAFE OR OTHER MEASURES THAT WILL
2 ENSURE THE PERSON WHO IS SUBJECT TO THE ORDER CANNOT ACCESS THE FIREARM.

3 K. IF A PERSON HAS BEEN FOUND TO CONSTITUTE A DANGER TO SELF OR
4 OTHERS AND THE COURT ENTERS A SEVERE THREAT ORDER OF PROTECTION PURSUANT
5 TO SECTION 12-1882 OR 12-1883, THE COURT SHALL FOLLOW THE PROCEDURES
6 PRESCRIBED IN SECTION 12-1882. THE SUPERIOR COURT MAY ACCESS THE
7 INFORMATION OF A PERSON WHO IS SUBJECT TO A SEVERE THREAT ORDER OF
8 PROTECTION TO ENFORCE OR FACILITATE AN ORDER.

9 L. ON REQUEST, THE CLERK OF THE COURT SHALL PROVIDE CERTIFIED
10 COPIES OF THE ORDER TO A LAW ENFORCEMENT OR PROSECUTING AGENCY THAT IS
11 INVESTIGATING OR PROSECUTING A PROHIBITED POSSESSOR AS DEFINED IN SECTION
12 13-3101.

13 M. A PERSON IS GUILTY OF A CLASS 4 FELONY IF THE PERSON BOTH:

14 1. INTENTIONALLY OR KNOWINGLY ALLOWS ACCESS TO A FIREARM BY A
15 PERSON WHO IS SUBJECT TO AN EX PARTE TEMPORARY SEVERE THREAT ORDER OF
16 PROTECTION OR A SEVERE THREAT ORDER OF PROTECTION.

17 2. KNOWS THE PERSON IS PROHIBITED FROM POSSESSING A FIREARM.

18 Sec. 4. Section 13-2703, Arizona Revised Statutes, is amended to
19 read:

20 13-2703. False swearing; classification

21 A. A person commits false swearing by making a false sworn
22 statement, believing it to be false.

23 B. False swearing is a class 6 felony, EXCEPT THAT IT IS A CLASS 5
24 FELONY IF THE PERSON MAKES THE FALSE SWORN STATEMENT FOR THE PURPOSE OF
25 OBTAINING A SEVERE THREAT ORDER OF PROTECTION.

26 Sec. 5. Section 13-3101, Arizona Revised Statutes, is amended to
27 read:

28 13-3101. Definitions

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

30 1. "Deadly weapon" means anything that is designed for lethal use.
31 The term includes a firearm.

32 2. "Deface" means to remove, alter or destroy the manufacturer's
33 serial number.

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

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

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

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

12 7. "Prohibited possessor" means any person:

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

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

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

22 (d) Who is at the time of possession serving a term of probation
23 pursuant to a conviction for a domestic violence offense as defined in
24 section 13-3601 or a felony offense, parole, community supervision, work
25 furlough, home arrest or release on any other basis or who is serving a
26 term of probation or parole pursuant to the interstate compact under title
27 31, chapter 3, article 4.1.

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

32 (i) Nonimmigrant aliens who possess a valid hunting license or
33 permit that is lawfully issued by a state in the United States.

34 (ii) Nonimmigrant aliens who enter the United States to participate
35 in a competitive target shooting event or to display firearms at a sports
36 or hunting trade show that is sponsored by a national, state or local
37 firearms trade organization devoted to the competitive use or other
38 sporting use of firearms.

39 (iii) Certain diplomats.

40 (iv) Officials of foreign governments or distinguished foreign
41 visitors who are designated by the United States department of state.

42 (v) Persons who have received a waiver from the United States
43 attorney general.

1 (f) Who has been found incompetent pursuant to rule 11, Arizona
2 rules of criminal procedure, and who subsequently has not been found
3 competent.

4 (g) Who is found guilty except insane.

5 (h) WHO IS SUBJECT TO A VALID EX PARTE TEMPORARY SEVERE THREAT
6 ORDER OF PROTECTION OR A SEVERE THREAT ORDER OF PROTECTION IF THE PERSON
7 WAS PERSONALLY SERVED WITH THE ORDER.

8 8. "Prohibited weapon":

9 (a) Includes the following:

10 (i) An item that is a bomb, grenade, rocket having a propellant
11 charge of more than four ounces or mine and that is explosive, incendiary
12 or poison gas.

13 (ii) A device that is designed, made or adapted to muffle the
14 report of a firearm.

15 (iii) A firearm that is capable of shooting more than one shot
16 automatically, without manual reloading, by a single function of the
17 trigger.

18 (iv) A rifle with a barrel length of less than sixteen inches, or
19 shotgun with a barrel length of less than eighteen inches, or any firearm
20 that is made from a rifle or shotgun and that, as modified, has an overall
21 length of less than twenty-six inches.

22 (v) A breakable container that contains a flammable liquid with a
23 flash point of one hundred fifty degrees Fahrenheit or less and that has a
24 wick or similar device capable of being ignited.

25 (vi) A chemical or combination of chemicals, compounds or
26 materials, including dry ice, that is possessed or manufactured for the
27 purpose of generating a gas to cause a mechanical failure, rupture or
28 bursting or an explosion or detonation of the chemical or combination of
29 chemicals, compounds or materials.

30 (vii) An improvised explosive device.

31 (viii) Any combination of parts or materials that is designed and
32 intended for use in making or converting a device into an item set forth
33 in item (i), (v) or (vii) of this subdivision.

34 (b) Does not include:

35 (i) Any fireworks that are imported, distributed or used in
36 compliance with state laws or local ordinances.

37 (ii) Any propellant, propellant actuated devices or propellant
38 actuated industrial tools that are manufactured, imported or distributed
39 for their intended purposes.

40 (iii) A device that is commercially manufactured primarily for the
41 purpose of illumination.

1 9. "Trafficking" means to sell, transfer, distribute, dispense or
2 otherwise dispose of a weapon or explosive to another person, or to buy,
3 receive, possess or obtain control of a weapon or explosive, with the
4 intent to sell, transfer, distribute, dispense or otherwise dispose of the
5 weapon or explosive to another person.

6 B. The items set forth in subsection A, paragraph 8, subdivision
7 (a), items (i), (ii), (iii) and (iv) of this section do not include any
8 firearms or devices that are possessed, manufactured or transferred in
9 compliance with federal law.