

REFERENCE TITLE: education protection orders; definitions

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

HB 2791

Introduced by
Representatives Travers: Payne, Terech

AN ACT

AMENDING SECTIONS 8-202 AND 8-208, ARIZONA REVISED STATUTES; AMENDING TITLE 12, CHAPTER 10, ARTICLE 1, ARIZONA REVISED STATUTES, BY ADDING SECTIONS 12-1811 AND 12-1812; AMENDING SECTIONS 12-2101 AND 13-3101, ARIZONA REVISED STATUTES; RELATING TO PROTECTION ORDERS.

(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. FOR AN EX PARTE EMERGENCY EDUCATION PROTECTION ORDER PURSUANT TO
12 SECTION 12-1811 OR AN EDUCATION PROTECTION ORDER PURSUANT TO SECTION
13 12-1812 IF THE DEFENDANT IS UNDER EIGHTEEN YEARS OF AGE.
14 C. The juvenile court may consolidate any matter, except that the
15 juvenile court shall not consolidate any of the following:
16 1. A criminal proceeding that is filed in another division of
17 superior court and that involves a child who is subject to the
18 jurisdiction of the juvenile court.
19 2. A delinquency proceeding with any other proceeding that does not
20 involve delinquency, unless the juvenile delinquency adjudication
21 proceeding is not heard at the same time or in the same hearing as a
22 nondelinquency proceeding.
23 D. The juvenile court has jurisdiction of proceedings to:
24 1. Obtain judicial consent to the marriage, employment or
25 enlistment in the armed services of a child, if consent is required by
26 law.
27 2. In an action in which parental rights are terminated pursuant to
28 chapter 4, article 5 or 11 of this title, change the name of a minor child
29 who is the subject of the action. If the minor child who is the subject
30 of the action is twelve years of age or older, the court shall consider
31 the wishes of the child with respect to the name change.
32 E. The juvenile court has jurisdiction over civil traffic
33 violations, civil marijuana violations and offenses listed in section
34 8-323, subsection B that are committed within the county by persons who
35 are under eighteen years of age unless the presiding judge of the county
36 declines jurisdiction of these cases. The presiding judge of the county
37 may decline jurisdiction of civil traffic violations and civil marijuana
38 violations committed within the county by juveniles if the presiding judge
39 finds that the declination would promote the more efficient use of limited
40 judicial and law enforcement resources located within the county. If the
41 presiding judge declines jurisdiction, juvenile civil traffic violations
42 and civil marijuana violations shall be processed, heard and disposed of
43 in the same manner and with the same penalties as adult civil traffic
44 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.

43 K. The juvenile court has jurisdiction to make the initial
44 determination prescribed in section 8-829 whether the voluntary
45 participation of a qualified young adult in an extended foster care

1 program pursuant to section 8-521.02 is in the young adult's best
2 interests.

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

5 8-208. Juvenile court records; public inspection; exceptions

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

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

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

13 3. Delinquency hearings.

14 4. Disposition hearings.

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

16 6. Revocation of probation hearings.

17 7. Appellate review.

18 8. Diversion proceedings involving delinquent acts.

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

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

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

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

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

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

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

1 I. A PETITION FOR AN EDUCATION PROTECTION ORDER AND THE ORDER
2 ISSUED MAY BE DISCLOSED ONLY IF THE COURT ISSUES THE EDUCATION PROTECTION
3 ORDER PURSUANT TO SECTION 12-1812.

4 Sec. 3. Title 12, chapter 10, article 1, Arizona Revised Statutes,
5 is amended by adding sections 12-1811 and 12-1812, to read:

6 12-1811. Ex parte emergency education protection order;
7 definitions

8 A. IN A COUNTY WITH A POPULATION OF ONE HUNDRED FIFTY THOUSAND
9 PERSONS OR MORE, THE PRESIDING JUDGE OF THE SUPERIOR COURT, DURING THE
10 HOURS THAT THE COURTS ARE CLOSED, SHALL MAKE AVAILABLE ON A ROTATING BASIS
11 A JUDGE, JUSTICE OF THE PEACE, MAGISTRATE OR COMMISSIONER WHO SHALL ISSUE
12 EX PARTE EMERGENCY EDUCATION PROTECTION ORDERS BY TELEPHONE. IN A COUNTY
13 WITH A POPULATION OF LESS THAN ONE HUNDRED FIFTY THOUSAND PERSONS, ANY
14 JUDGE, JUSTICE OF THE PEACE, MAGISTRATE OR COMMISSIONER MAY ISSUE EX PARTE
15 EMERGENCY EDUCATION PROTECTION ORDERS BY TELEPHONE DURING THE HOURS THAT
16 THE COURTS ARE CLOSED.

17 B. THE JUDGE, JUSTICE OF THE PEACE, MAGISTRATE OR COMMISSIONER WHO
18 IS AUTHORIZED TO ISSUE EX PARTE EMERGENCY EDUCATION PROTECTION ORDERS
19 SHALL ISSUE AN EX PARTE EMERGENCY EDUCATION PROTECTION ORDER IF THE
20 PETITION, SUPPORTED BY AN AFFIDAVIT OR SWORN ORAL STATEMENT OF THE
21 PETITIONER OR OTHER WITNESS, PROVIDES SPECIFIC FACTS ESTABLISHING BY
22 EITHER REASONABLE CAUSE OR A PREPONDERANCE OF THE EVIDENCE THAT THE
23 DEFENDANT'S POSSESSION OR RECEIPT OF A FIREARM WILL POSE AN IMMEDIATE AND
24 PRESENT DANGER OF SERIOUS PHYSICAL INJURY OR DEATH TO ANY PERSON AT AN
25 EDUCATIONAL INSTITUTION.

26 C. AN EX PARTE EMERGENCY EDUCATION PROTECTION ORDER SHALL RESTRAIN
27 THE DEFENDANT FROM COMING NEAR AN EDUCATIONAL INSTITUTION.

28 D. AN EX PARTE EMERGENCY EDUCATION PROTECTION ORDER THAT IS ISSUED
29 ON A SHOWING OF REASONABLE CAUSE MAY EITHER:

30 1. PROHIBIT THE DEFENDANT FROM POSSESSING, CONTROLLING, USING,
31 PURCHASING, MANUFACTURING OR RECEIVING A FIREARM FOR THE DURATION OF THE
32 ORDER.

33 2. ORDER THE TRANSFER OF ANY FIREARM IN THE DEFENDANT'S POSSESSION
34 OR CONTROL, INCLUDING ANY LICENSE OR PERMIT THAT ALLOWS THE DEFENDANT TO
35 POSSESS OR ACQUIRE A FIREARM, TO THE APPROPRIATE LAW ENFORCEMENT AGENCY
36 FOR THE DURATION OF THE ORDER.

37 E. AN EX PARTE EMERGENCY EDUCATION PROTECTION ORDER THAT IS ISSUED
38 ON A SHOWING OF A PREPONDERANCE OF THE EVIDENCE SHALL BOTH:

39 1. PROHIBIT THE DEFENDANT FROM POSSESSING, CONTROLLING, USING,
40 PURCHASING, MANUFACTURING OR RECEIVING A FIREARM FOR THE DURATION OF THE
41 ORDER.

42 2. ORDER THE TRANSFER OF ANY FIREARM IN THE DEFENDANT'S POSSESSION
43 OR CONTROL, INCLUDING ANY LICENSE OR PERMIT THAT ALLOWS THE DEFENDANT TO
44 POSSESS OR ACQUIRE A FIREARM, TO THE APPROPRIATE LAW ENFORCEMENT AGENCY
45 FOR THE DURATION OF THE ORDER.

1 F. IF THE COURT FINDS THAT PROBABLE CAUSE EXISTS TO BELIEVE THAT
2 THE DEFENDANT HAS ACCESS TO A FIREARM, THE COURT MAY ISSUE A WARRANT
3 AUTHORIZING A PEACE OFFICER TO SEARCH THE DEFENDANT OR THE DEFENDANT'S
4 HOME FOR FIREARMS AND TO SEIZE ANY FIREARM THAT THE DEFENDANT COULD
5 ACCESS.

6 G. IF THE COURT GRANTS AN EX PARTE EMERGENCY EDUCATION PROTECTION
7 ORDER, THE COURT SHALL ORDER A HEARING PURSUANT TO SECTION 12-1812 AND
8 PROVIDE NOTICE OF THE TIME AND PLACE OF THE HEARING.

9 H. AN EX PARTE EMERGENCY EDUCATION PROTECTION ORDER IS EFFECTIVE ON
10 THE DATE OF SERVICE AND EXPIRES FOURTEEN DAYS AFTER SERVICE OF THE ORDER.
11 AN EX PARTE EMERGENCY EDUCATION PROTECTION ORDER EXPIRES IF IT IS NOT
12 SERVED ON THE DEFENDANT WITHIN THIRTY DAYS AFTER IT IS ISSUED.

13 I. THE COURT MAY SUBSEQUENTLY ISSUE ADDITIONAL SEARCH WARRANTS
14 BASED ON PROBABLE CAUSE THAT THE DEFENDANT HAS RETAINED, ACQUIRED OR
15 GAINED ACCESS TO A FIREARM WHILE AN ORDER UNDER THIS SECTION REMAINS IN
16 EFFECT.

17 J. IF THE OWNER OF A FIREARM SEIZED PURSUANT TO THIS SECTION IS A
18 PERSON OTHER THAN THE DEFENDANT, THE OWNER MAY SECURE THE RETURN OF THE
19 FIREARM AS PROVIDED IN SECTION 12-1812.

20 K. A PEACE OFFICER IN THIS STATE SHALL SERVE AN EX PARTE EMERGENCY
21 EDUCATION PROTECTION ORDER ON THE DEFENDANT AND CARRY OUT ANY SEARCH
22 AUTHORIZED UNDER THIS SECTION WITHOUT DELAY FOLLOWING ISSUANCE OF THE
23 ORDER. IF A SEARCH IS AUTHORIZED PURSUANT TO THIS SECTION, THE PEACE
24 OFFICER MAY SERVE THE EX PARTE EMERGENCY EDUCATION PROTECTION ORDER ON THE
25 DEFENDANT AFTER THE EXECUTION OF THE SEARCH.

26 L. AFTER AN EX PARTE EMERGENCY EDUCATION PROTECTION ORDER EXPIRES
27 OR IS QUASHED, THE COURT SHALL PROVIDE THE DEFENDANT WITH DOCUMENTATION
28 THAT STATES THAT THE ORDER IS NO LONGER IN EFFECT.

29 M. A LAW ENFORCEMENT AGENCY THAT HAS CUSTODY OF A FIREARM SHALL
30 RELEASE THE FIREARM WITHIN FORTY-EIGHT HOURS, EXCLUDING WEEKENDS AND
31 HOLIDAYS, AFTER RECEIPT OF A COURT DOCUMENT STATING THAT THE EX PARTE
32 EMERGENCY EDUCATION PROTECTION ORDER IS NO LONGER IN EFFECT.

33 N. FOR THE PURPOSES OF THIS SECTION:

34 1. "DEFENDANT" MEANS THE PERSON AGAINST WHOM AN EX PARTE EMERGENCY
35 EDUCATION PROTECTION ORDER UNDER THIS SECTION OR AN EDUCATION PROTECTION
36 ORDER UNDER SECTION 12-1812 HAS BEEN SOUGHT OR GRANTED.

37 2. "EDUCATIONAL INSTITUTION" MEANS ANY OF THE FOLLOWING:

38 (a) A PUBLIC SCHOOL AS DEFINED IN SECTION 15-101.

39 (b) A COMMUNITY COLLEGE AS DEFINED IN SECTION 15-1401.

40 (c) A UNIVERSITY UNDER THE JURISDICTION OF THE ARIZONA BOARD OF
41 REGENTS.

42 (d) ANY OTHER POLITICAL SUBDIVISION OF THIS STATE THAT IS
43 RESPONSIBLE FOR PROVIDING EDUCATION TO STUDENTS IN KINDERGARTEN PROGRAMS
44 AND GRADES ONE THROUGH TWELVE.

45 (e) A PRIVATE SCHOOL AS DEFINED IN SECTION 15-101.

1 (f) AN ACCREDITED PRIVATE POSTSECONDARY INSTITUTION THAT IS
2 LICENSED BY THIS STATE.

3 (g) ANY OTHER ACCREDITED INSTITUTION THAT IS ELIGIBLE UNDER
4 TITLE IV OF THE HIGHER EDUCATION ACT OF 1965, THAT OFFERS POSTSECONDARY
5 EDUCATION OR COURSES, WHETHER LOCATED WITHIN OR OUTSIDE OF THE BOUNDARIES
6 OF THIS STATE, AND THAT AWARDS ANY DEGREE IN THIS STATE.

7 3. "FIREARM" HAS THE SAME MEANING PRESCRIBED IN SECTION 13-3101 AND
8 INCLUDES AMMUNITION.

9 4. "PETITIONER" MEANS ANY OF THE FOLLOWING:

10 (a) A PEACE OFFICER.

11 (b) A PERSON WHO IS RELATED TO THE DEFENDANT BY BLOOD OR COURT
12 ORDER AS A PARENT, GRANDPARENT, CHILD, GRANDCHILD, BROTHER OR SISTER OR BY
13 MARRIAGE AS A PARENT-IN-LAW, GRANDPARENT-IN-LAW, STEPPARENT,
14 STEPGRANDPARENT, STEPCHILD, STEPGRANDCHILD, BROTHER-IN-LAW OR
15 SISTER-IN-LAW.

16 (c) A PERSON WHO CURRENTLY RESIDES, OR WHO DURING THE LAST SIX
17 MONTHS RESIDED, IN THE SAME HOUSEHOLD AS THE DEFENDANT.

18 (d) A PERSON WHO IS CURRENTLY, OR WHO DURING THE LAST SIX MONTHS
19 WAS, INVOLVED IN A ROMANTIC OR SEXUAL RELATIONSHIP WITH THE DEFENDANT.

20 (e) A HEALTH CARE PROVIDER AS DEFINED IN SECTION 36-3201 WHO HAS
21 PROVIDED SERVICES TO THE DEFENDANT WITHIN THE LAST SIX MONTHS.

22 (f) ANY PERSON WHO IS EMPLOYED BY AN EDUCATIONAL INSTITUTION WHERE
23 THE DEFENDANT IS CURRENTLY ENROLLED OR HAS BEEN ENROLLED WITHIN THE LAST
24 SIX MONTHS OR ANY PERSON WHO IS EMPLOYED BY AN EDUCATIONAL INSTITUTION
25 THAT THE DEFENDANT HAS THREATENED WITHIN THE LAST SIX MONTHS.

26 (g) ANY PERSON WHO ATTENDS AN EDUCATIONAL INSTITUTION WHERE THE
27 DEFENDANT IS CURRENTLY ENROLLED OR HAS BEEN ENROLLED WITHIN THE LAST SIX
28 MONTHS OR ANY PERSON WHO ATTENDS AN EDUCATIONAL INSTITUTION THAT THE
29 DEFENDANT HAS THREATENED WITHIN THE LAST SIX MONTHS.

30 5. "SERIOUS PHYSICAL INJURY" HAS THE SAME MEANING PRESCRIBED IN
31 SECTION 13-105.

32 12-1812. Education protection order; hearing; definitions

33 A. A PETITIONER MAY FILE A PETITION, SUPPORTED BY AN AFFIDAVIT OR
34 SWORN ORAL STATEMENT OF THE PETITIONER OR ANOTHER WITNESS, FOR THE PURPOSE
35 OF RESTRAINING THE DEFENDANT FROM CAUSING SERIOUS PHYSICAL INJURY OR DEATH
36 TO ANY PERSON AT AN EDUCATIONAL INSTITUTION. UNLESS THE COURT DETERMINES
37 OTHERWISE, IF THE PETITIONER IS A MINOR, THE PARENT OR LEGAL GUARDIAN OF
38 THE MINOR OR A PEACE OFFICER SHALL FILE THE PETITION. FOR THE PURPOSES OF
39 THIS SECTION, ANY COURT IN THIS STATE MAY ISSUE OR ENFORCE AN EDUCATION
40 PROTECTION ORDER, UNLESS THE DEFENDANT IS UNDER EIGHTEEN YEARS OF AGE, IN
41 WHICH CASE THE PETITION SHALL BE TRANSFERRED TO THE JUVENILE COURT.

42 B. A PETITIONER IS NOT REQUIRED TO FILE A PETITION UNDER THIS
43 SECTION IF THE COURT HAS GRANTED AN EX PARTE EMERGENCY EDUCATION
44 PROTECTION ORDER PURSUANT TO SECTION 12-1811 AND ORDERED A HEARING AS
45 PROVIDED IN THIS SECTION.

1 C. A PETITION FOR AN EDUCATION PROTECTION ORDER SHALL INCLUDE ALL
2 OF THE FOLLOWING:

3 1. THE NAME OF THE PETITIONER. THE PETITIONER SHALL DISCLOSE THE
4 PETITIONER'S ADDRESS TO THE COURT FOR PURPOSES OF SERVICE. THE
5 PETITIONER'S ADDRESS SHALL NOT BE LISTED ON THE PETITION. WHETHER OR NOT
6 THE COURT ISSUES AN EDUCATION PROTECTION ORDER, THE PROTECTED ADDRESS
7 SHALL BE MAINTAINED IN A SEPARATE DOCUMENT OR AUTOMATED DATABASE AND IS
8 NOT SUBJECT TO RELEASE OR DISCLOSURE BY THE COURT OR ANY FORM OF PUBLIC
9 ACCESS EXCEPT AS ORDERED BY THE COURT.

10 2. THE DEFENDANT'S NAME AND ADDRESS, IF KNOWN.

11 3. A SPECIFIC STATEMENT SETTING FORTH THE GROUNDS FOR ISSUING THE
12 EDUCATION PROTECTION ORDER, INCLUDING SPECIFIC FACTS ESTABLISHING THAT THE
13 DEFENDANT'S POSSESSION OR RECEIPT OF A FIREARM WILL POSE AN IMMEDIATE AND
14 PRESENT DANGER OF SERIOUS PHYSICAL INJURY OR DEATH TO ANY PERSON AT AN
15 EDUCATIONAL INSTITUTION.

16 4. THE NAME OF THE COURT IN WHICH ANY PRIOR OR PENDING PROCEEDING
17 OR EX PARTE EMERGENCY EDUCATION PROTECTION ORDER WAS SOUGHT OR ISSUED
18 AGAINST THE DEFENDANT.

19 D. IF A PETITION SATISFIES THE REQUIREMENTS OF THIS SECTION, THE
20 COURT SHALL HOLD A HEARING ON THE PETITION FOR AN EDUCATION PROTECTION
21 ORDER WITHIN FOURTEEN DAYS AFTER THE FILING OF THE PETITION. THE
22 DEFENDANT MAY AGREE TO WAIVE THE HEARING.

23 E. AFTER GRANTING A HEARING, THE COURT SHALL PROVIDE NOTICE AS
24 PROVIDED IN THIS SECTION. THE DEFENDANT SHALL BE ENTITLED TO ONE
25 CONTINUANCE OF UP TO TEN DAYS ON REQUEST. THE COURT MAY THEREAFTER GRANT
26 AN ADDITIONAL CONTINUANCE FOR GOOD CAUSE. AN EX PARTE EMERGENCY EDUCATION
27 PROTECTION ORDER ISSUED PURSUANT TO SECTION 12-1811 SHALL REMAIN IN EFFECT
28 UNTIL THE HEARING IS HELD. PENDING A FINAL ORDER, THE COURT MAY
29 TEMPORARILY EXTEND THE EX PARTE EMERGENCY EDUCATION PROTECTION ORDER AT
30 THE HEARING.

31 F. THE COURT SHALL ISSUE AN EDUCATION PROTECTION ORDER IF, AFTER
32 CONSIDERING THE PETITION, ANY OTHER PLEADINGS AND ANY EVIDENCE OR
33 INFORMATION OFFERED AT THE HEARING, THE COURT FINDS BY EITHER A
34 PREPONDERANCE OF THE EVIDENCE OR CLEAR AND CONVINCING EVIDENCE THAT THE
35 DEFENDANT'S POSSESSION OR RECEIPT OF A FIREARM WILL POSE A CREDIBLE THREAT
36 OF SERIOUS PHYSICAL INJURY OR DEATH TO ANY PERSON AT AN EDUCATIONAL
37 INSTITUTION.

38 G. AN EDUCATION PROTECTION ORDER SHALL:

39 1. RESTRAIN THE DEFENDANT FROM COMING NEAR AN EDUCATIONAL
40 INSTITUTION. IF THE DEFENDANT IS A STUDENT AT AN EDUCATIONAL INSTITUTION,
41 THE COURT SHOULD CONSIDER WHETHER ANY LESS RESTRICTIVE MEANS EXIST THAT
42 WILL ALLOW THE DEFENDANT TO ATTEND THE EDUCATIONAL INSTITUTION, WHILE
43 ENSURING THAT THE EDUCATIONAL INSTITUTION IS PROTECTED.

1 2. INCLUDE THE FOLLOWING WARNING:
2 THIS IS AN OFFICIAL COURT ORDER. IF YOU DISOBEY THIS ORDER,
3 YOU WILL BE SUBJECT TO ARREST AND PROSECUTION FOR THE CRIME OF
4 INTERFERING WITH JUDICIAL PROCEEDINGS AND ANY OTHER CRIME YOU
5 MAY HAVE COMMITTED IN DISOBEYING THIS ORDER.
6 H. AN EDUCATION PROTECTION ORDER THAT IS ISSUED ON A SHOWING OF A
7 PREPONDERANCE OF THE EVIDENCE MAY EITHER:
8 1. PROHIBIT THE DEFENDANT FROM POSSESSING, CONTROLLING, USING,
9 PURCHASING, MANUFACTURING OR RECEIVING A FIREARM FOR THE DURATION OF THE
10 ORDER.
11 2. ORDER THE TRANSFER OF ANY FIREARM IN THE DEFENDANT'S POSSESSION
12 OR CONTROL, INCLUDING ANY LICENSE OR PERMIT THAT ALLOWS THE DEFENDANT TO
13 POSSESS OR ACQUIRE A FIREARM, TO THE APPROPRIATE LAW ENFORCEMENT AGENCY
14 FOR THE DURATION OF THE ORDER.
15 I. AN EDUCATION PROTECTION ORDER THAT IS ISSUED ON A SHOWING OF
16 CLEAR AND CONVINCING EVIDENCE SHALL BOTH:
17 1. PROHIBIT THE DEFENDANT FROM POSSESSING, CONTROLLING, USING,
18 PURCHASING, MANUFACTURING OR RECEIVING A FIREARM FOR THE DURATION OF THE
19 ORDER.
20 2. ORDER THE TRANSFER OF ANY FIREARM IN THE DEFENDANT'S POSSESSION
21 OR CONTROL, INCLUDING ANY LICENSE OR PERMIT THAT ALLOWS THE DEFENDANT TO
22 POSSESS OR ACQUIRE A FIREARM, TO THE APPROPRIATE LAW ENFORCEMENT AGENCY
23 FOR THE DURATION OF THE ORDER.
24 J. TO THE EXTENT AUTHORIZED BY LAW, THE COURT MAY ORDER A
25 PSYCHOLOGICAL EVALUATION OF THE DEFENDANT AT NO COST TO THE DEFENDANT,
26 INCLUDING VOLUNTARY OR INVOLUNTARY COMMITMENT OF THE DEFENDANT FOR THE
27 PURPOSES OF SUCH AN EVALUATION.
28 K. IF THE COURT GRANTS AN EDUCATION PROTECTION ORDER ON A SHOWING
29 OF A PREPONDERANCE OF THE EVIDENCE AND FINDS PROBABLE CAUSE THAT THE
30 DEFENDANT HAS ACCESS TO A FIREARM, THE COURT MAY ISSUE A WARRANT
31 AUTHORIZING A PEACE OFFICER TO SEARCH THE DEFENDANT AND THE DEFENDANT'S
32 HOME FOR THOSE FIREARMS AND TO SEIZE ANY FIREARM THAT THE DEFENDANT COULD
33 ACCESS. IF THE COURT GRANTS AN EDUCATION PROTECTION ORDER ON A SHOWING OF
34 CLEAR AND CONVINCING EVIDENCE AND FINDS PROBABLE CAUSE THAT THE DEFENDANT
35 HAS ACCESS TO A FIREARM, THE COURT SHALL ISSUE A WARRANT AUTHORIZING A
36 PEACE OFFICER TO SEARCH THE DEFENDANT AND THE DEFENDANT'S HOME FOR THOSE
37 FIREARMS AND TO SEIZE ANY FIREARM THAT THE DEFENDANT COULD ACCESS. THE
38 COURT MAY SUBSEQUENTLY ISSUE ADDITIONAL SEARCH WARRANTS BASED ON PROBABLE
39 CAUSE THAT THE DEFENDANT HAS RETAINED, ACQUIRED OR GAINED ACCESS TO A
40 FIREARM WHILE AN EDUCATION PROTECTION ORDER REMAINS IN EFFECT. A PEACE
41 OFFICER SHALL CARRY OUT ANY SEARCH AUTHORIZED BY THIS SECTION WITHOUT
42 DELAY. IF THE OWNER OF A FIREARM IS A PERSON OTHER THAN THE DEFENDANT,
43 THE OWNER MAY SECURE RETURN OF THE FIREARM BY PROVIDING AN AFFIDAVIT TO
44 THE APPROPRIATE LAW ENFORCEMENT AGENCY AFFIRMING OWNERSHIP OF THE FIREARM
45 AND ASSURING THAT THE OWNER WILL SAFEGUARD THE FIREARM AGAINST ACCESS BY

1 THE DEFENDANT. THE LAW ENFORCEMENT AGENCY SHALL RETURN THE FIREARM TO THE
2 OWNER AFTER CONFIRMING, INCLUDING BY A CHECK OF THE NATIONAL INSTANT
3 CRIMINAL BACKGROUND CHECK SYSTEM, THAT THE OWNER IS NOT LEGALLY
4 DISQUALIFIED FROM POSSESSING OR RECEIVING THE FIREARM.

5 L. AN EDUCATION PROTECTION ORDER IS EFFECTIVE ON SERVICE AND
6 EXPIRES ONE YEAR AFTER SERVICE OF THE ORDER. AN EDUCATION PROTECTION
7 ORDER EXPIRES IF IT IS NOT SERVED ON THE DEFENDANT WITHIN ONE YEAR AFTER
8 IT IS ISSUED.

9 M. SERVICE OF A NOTICE OF HEARING OR AN EDUCATION PROTECTION ORDER
10 SHALL BE IN OPEN COURT FOLLOWING THE HEARING, EXCEPT IF THE EDUCATION
11 PROTECTION ORDER IS PROVIDED TO A LAW ENFORCEMENT AGENCY OR A CONSTABLE,
12 SERVICE OF AN EDUCATION PROTECTION ORDER IS AS FOLLOWS:

13 1. FOR AN EDUCATION PROTECTION ORDER THAT IS ISSUED BY A MUNICIPAL
14 COURT, IF THE DEFENDANT CAN BE SERVED WITHIN THAT CITY OR TOWN, THE ORDER
15 SHALL BE SERVED BY THE LAW ENFORCEMENT AGENCY OF THAT CITY OR TOWN. IF
16 THE ORDER CAN BE SERVED IN ANOTHER CITY OR TOWN, THE ORDER SHALL BE SERVED
17 BY THE LAW ENFORCEMENT AGENCY OF THAT CITY OR TOWN. IF THE ORDER CANNOT
18 BE SERVED WITHIN A CITY OR TOWN, THE ORDER SHALL BE SERVED BY THE SHERIFF
19 OR CONSTABLE OF THE COUNTY IN WHICH THE DEFENDANT CAN BE SERVED.

20 2. FOR AN EDUCATION PROTECTION ORDER THAT IS ISSUED BY A JUSTICE OF
21 THE PEACE, THE EDUCATION PROTECTION ORDER SHALL BE SERVED BY THE SHERIFF
22 OR CONSTABLE OF THE COUNTY IN WHICH THE DEFENDANT CAN BE SERVED OR BY A
23 MUNICIPAL LAW ENFORCEMENT AGENCY.

24 3. FOR AN EDUCATION PROTECTION ORDER THAT IS ISSUED BY A SUPERIOR
25 COURT JUDGE OR COMMISSIONER, THE EDUCATION PROTECTION ORDER SHALL BY
26 SERVED BY THE SHERIFF OR CONSTABLE OF THE COUNTY WHERE THE DEFENDANT CAN
27 BE SERVED.

28 N. IN ADDITION TO PERSONS AUTHORIZED TO SERVE PROCESS PURSUANT TO
29 RULE 4(d) OF THE ARIZONA RULES OF CIVIL PROCEDURE, A PEACE OFFICER OR A
30 CORRECTIONAL OFFICER AS DEFINED IN SECTION 41-1661 WHO IS ACTING IN THE
31 CORRECTIONAL OFFICER'S OFFICIAL CAPACITY MAY SERVE AN EDUCATION PROTECTION
32 ORDER THAT IS ISSUED PURSUANT TO THIS SECTION. SERVICE OF THE EDUCATION
33 PROTECTION ORDER HAS PRIORITY OVER OTHER SERVICE OF PROCESS THAT DOES NOT
34 INVOLVE AN IMMEDIATE THREAT TO THE SAFETY OF A PERSON. IF THE DEFENDANT
35 CANNOT BE PERSONALLY SERVED, A LAW ENFORCEMENT AGENCY MAY PROVIDE THE
36 DEFENDANT NOTICE OF A HEARING BY PUBLICATION OR MAIL. IF A SEARCH IS
37 AUTHORIZED, AN EDUCATION PROTECTION ORDER MAY BE SERVED ON THE DEFENDANT
38 AFTER THE EXECUTION OF THE SEARCH.

39 O. THE DEFENDANT MAY FILE A MOTION TO TERMINATE AN ORDER DURING THE
40 EFFECTIVE PERIOD OF THAT ORDER. THE DEFENDANT HAS THE BURDEN OF PROVING,
41 BY CLEAR AND CONVINCING EVIDENCE, THAT THE DEFENDANT DOES NOT POSE A
42 CREDIBLE THREAT OF SERIOUS PHYSICAL INJURY TO ANY PERSON AT AN EDUCATIONAL
43 INSTITUTION.

44 P. THE PETITIONER MAY RENEW AN EDUCATION PROTECTION ORDER FOR AN
45 ADDITIONAL SIX MONTHS AT ANY TIME AFTER IT EXPIRES BY FILING A SUBSEQUENT

1 PETITION THAT COMPLIES WITH THIS SECTION. AN EXISTING EDUCATION
2 PROTECTION ORDER SHALL REMAIN IN EFFECT UNTIL THE HEARING IS HELD AND THE
3 COURT GRANTS OR DENIES A RENEWED ORDER. THE COURT SHALL GRANT A
4 SUBSEQUENT PETITION AFTER THE INITIAL EDUCATION PROTECTION ORDER IF EITHER
5 OF THE FOLLOWING APPLIES:

6 1. THE DEFENDANT DOES NOT CONTEST THE SUBSEQUENT PETITION.

7 2. AFTER HOLDING A HEARING, THE COURT FINDS THAT BY EITHER A
8 PREPONDERANCE OF THE EVIDENCE OR CLEAR AND CONVINCING EVIDENCE, THE
9 DEFENDANT'S POSSESSION OR RECEIPT OF A FIREARM WILL POSE A CREDIBLE THREAT
10 OF SERIOUS PHYSICAL INJURY OR DEATH TO ANY PERSON AT AN EDUCATIONAL
11 INSTITUTION.

12 Q. IF THE DEFENDANT CANNOT BE PERSONALLY SERVED OR FAILS TO APPEAR
13 AT ANY HEARING FOR AN EDUCATION PROTECTION ORDER, THE DEFAULT DOES NOT
14 AFFECT THE COURT'S AUTHORITY TO ISSUE AN EDUCATION PROTECTION ORDER OR
15 ENTITLE THE DEFENDANT TO CHALLENGE THE EDUCATION PROTECTION ORDER BEFORE
16 THE ORDER EXPIRES.

17 R. AN EDUCATION PROTECTION ORDER THAT IS ENTERED BY A JUSTICE COURT
18 OR MUNICIPAL COURT AFTER A HEARING PURSUANT TO THIS SECTION MAY BE
19 APPEALED TO THE SUPERIOR COURT AS PROVIDED IN SECTION 22-425 AND THE
20 SUPERIOR COURT RULES OF CIVIL APPELLATE PROCEDURE. AN EDUCATION
21 PROTECTION ORDER ENTERED BY THE SUPERIOR COURT MAY BE APPEALED PURSUANT TO
22 SECTION 12-2101.

23 S. A FEE MAY NOT BE CHARGED FOR FILING A PETITION UNDER THIS
24 SECTION, FOR SERVICE OF PROCESS OR FOR FILING AN APPEAL. EACH COURT SHALL
25 PROVIDE, WITHOUT CHARGE, FORMS FOR THE PURPOSES OF THIS SECTION TO ASSIST
26 PARTIES WITHOUT COUNSEL.

27 T. THE SUPREME COURT SHALL MAINTAIN A CENTRAL REPOSITORY FOR
28 EDUCATION PROTECTION ORDERS. WITHIN TWENTY-FOUR HOURS AFTER THE
29 AFFIDAVIT, DECLARATION, ACCEPTANCE OR RETURN OF SERVICE HAS BEEN FILED,
30 EXCLUDING WEEKENDS AND HOLIDAYS, THE COURT FROM WHICH THE EDUCATION
31 PROTECTION ORDER OR ANY MODIFIED EDUCATION PROTECTION ORDER WAS ISSUED
32 SHALL ENTER THE EDUCATION PROTECTION ORDER AND PROOF OF SERVICE INTO THE
33 SUPREME COURT'S CENTRAL REPOSITORY FOR EDUCATION PROTECTION ORDERS. THE
34 SUPREME COURT SHALL REGISTER THE EDUCATION PROTECTION ORDER WITH THE
35 NATIONAL CRIME INFORMATION CENTER. THE EFFECTIVENESS OF AN EDUCATION
36 PROTECTION ORDER DOES NOT DEPEND ON ITS REGISTRATION, AND FOR ENFORCEMENT
37 PURPOSES PURSUANT TO SECTION 13-2810, A COPY OF AN EDUCATION PROTECTION
38 ORDER OF THE COURT, WHETHER OR NOT REGISTERED, IS PRESUMED TO BE A VALID
39 EXISTING EDUCATION PROTECTION ORDER OF THE COURT FOR A PERIOD OF TWO YEARS
40 FROM THE DATE OF SERVICE OF THE EDUCATION PROTECTION ORDER ON THE
41 DEFENDANT.

42 U. ANY SUPPLEMENTAL INFORMATION FORM THAT IS USED BY THE COURT OR A
43 LAW ENFORCEMENT AGENCY SOLELY FOR THE PURPOSES OF SERVICE OF PROCESS ON
44 THE DEFENDANT AND THAT CONTAINS INFORMATION PROVIDED BY THE PETITION IS
45 CONFIDENTIAL.

1 V. A PEACE OFFICER WHO MAKES AN ARREST PURSUANT TO THIS SECTION OR
2 SECTION 12-1811 IS NOT CIVILLY OR CRIMINALLY LIABLE FOR THE ARREST IF THE
3 OFFICER ACTS ON PROBABLE CAUSE AND WITHOUT MALICE.

4 W. A PEACE OFFICER, WITH OR WITHOUT A WARRANT, MAY ARREST A PERSON
5 IF THE PEACE OFFICER HAS PROBABLE CAUSE TO BELIEVE THAT THE PERSON HAS
6 VIOLATED SECTION 13-2810 BY DISOBEYING OR RESISTING AN EDUCATION
7 PROTECTION ORDER THAT IS ISSUED IN ANY JURISDICTION IN THIS STATE PURSUANT
8 TO THIS SECTION, WHETHER OR NOT SUCH VIOLATION OCCURRED IN THE PRESENCE OF
9 THE PEACE OFFICER. CRIMINAL VIOLATIONS OF AN EDUCATION PROTECTION ORDER
10 ISSUED PURSUANT TO THIS SECTION SHALL BE REFERRED TO AN APPROPRIATE LAW
11 ENFORCEMENT AGENCY. THE PROVISIONS FOR RELEASE UNDER SECTION 13-3883,
12 SUBSECTION A, PARAGRAPH 4 AND SECTION 13-3903 DO NOT APPLY TO AN ARREST
13 MADE PURSUANT TO THIS SECTION. FOR THE PURPOSES OF THIS SECTION, ANY
14 COURT IN THIS STATE HAS JURISDICTION TO ENFORCE A VALID EDUCATION
15 PROTECTION ORDER THAT IS ISSUED IN THIS STATE AND THAT HAS BEEN VIOLATED
16 IN ANY JURISDICTION IN THIS STATE.

17 X. A PERSON WHO IS ARRESTED PURSUANT TO SUBSECTION U OF THIS
18 SECTION MAY BE RELEASED FROM CUSTODY IN ACCORDANCE WITH THE ARIZONA RULES
19 OF CRIMINAL PROCEDURE OR ANY OTHER APPLICABLE STATUTE. AN ORDER FOR
20 RELEASE, WITH OR WITHOUT AN APPEARANCE BOND, SHALL INCLUDE PRETRIAL
21 RELEASE CONDITIONS THAT ARE NECESSARY TO PROVIDE FOR THE PROTECTION OF THE
22 ALLEGED EDUCATIONAL INSTITUTION VICTIM AND OTHER SPECIFICALLY DESIGNATED
23 PERSONS AND MAY PROVIDE FOR ANY OTHER ADDITIONAL CONDITIONS THAT THE COURT
24 DEEMS APPROPRIATE, INCLUDING PARTICIPATION IN ANY COUNSELING PROGRAMS
25 AVAILABLE TO THE DEFENDANT. THE AGENCY WITH CUSTODY OF THE DEFENDANT
26 SHALL MAKE REASONABLE EFFORTS TO CONTACT THE EDUCATIONAL INSTITUTION
27 VICTIM AND OTHER SPECIFICALLY DESIGNATED PERSONS IN THE EDUCATION
28 PROTECTION ORDER, IF KNOWN TO THE CUSTODIAL AGENCY, WHO REQUESTED
29 NOTIFICATION IMMEDIATELY ON RELEASE OF THE ARRESTED PERSON FROM CUSTODY.

30 Y. AFTER AN EDUCATION PROTECTION ORDER EXPIRES OR IS QUASHED, THE
31 COURT SHALL PROVIDE THE DEFENDANT WITH DOCUMENTATION THAT STATES THAT THE
32 EDUCATION PROTECTION ORDER IS NO LONGER IN EFFECT.

33 Z. A LAW ENFORCEMENT AGENCY THAT HAS CUSTODY OF A FIREARM SHALL
34 RELEASE THE FIREARM WITHIN FORTY-EIGHT HOURS, EXCLUDING WEEKENDS AND
35 HOLIDAYS, AFTER RECEIPT OF A COURT DOCUMENT STATING THAT THE EDUCATION
36 PROTECTION ORDER IS NO LONGER IN EFFECT.

37 AA. FOR THE PURPOSES OF THIS SECTION:

38 1. "DEFENDANT" MEANS THE PERSON AGAINST WHOM AN EDUCATION
39 PROTECTION ORDER UNDER THIS SECTION OR AN EX PARTE EMERGENCY EDUCATION
40 PROTECTION ORDER UNDER SECTION 12-1811 HAS BEEN SOUGHT OR GRANTED.

41 2. "EDUCATIONAL INSTITUTION" MEANS ANY OF THE FOLLOWING:

42 (a) A PUBLIC SCHOOL AS DEFINED IN SECTION 15-101.

43 (b) A COMMUNITY COLLEGE AS DEFINED IN SECTION 15-1401.

44 (c) A UNIVERSITY UNDER THE JURISDICTION OF THE ARIZONA BOARD OF
45 REGENTS.

1 (d) ANY OTHER POLITICAL SUBDIVISION OF THIS STATE THAT IS
2 RESPONSIBLE FOR PROVIDING EDUCATION TO STUDENTS IN KINDERGARTEN PROGRAMS
3 AND GRADES ONE THROUGH TWELVE.

4 (e) A PRIVATE SCHOOL AS DEFINED IN SECTION 15-101.

5 (f) AN ACCREDITED PRIVATE POSTSECONDARY INSTITUTION THAT IS
6 LICENSED BY THIS STATE.

7 (g) ANY OTHER ACCREDITED INSTITUTION THAT IS ELIGIBLE UNDER TITLE
8 IV OF THE HIGHER EDUCATION ACT OF 1965, THAT OFFERS POSTSECONDARY
9 EDUCATION OR COURSES, WHETHER LOCATED WITHIN OR OUTSIDE OF THE BOUNDARIES
10 OF THIS STATE, AND THAT AWARDS ANY DEGREE IN THIS STATE.

11 3. "FIREARM" HAS THE SAME MEANING PRESCRIBED IN SECTION 13-3101 AND
12 INCLUDES AMMUNITION.

13 4. "PETITIONER" MEANS ANY OF THE FOLLOWING:

14 (a) A PEACE OFFICER.

15 (b) A PERSON WHO IS RELATED TO THE DEFENDANT BY BLOOD OR COURT
16 ORDER AS A PARENT, GRANDPARENT, CHILD, GRANDCHILD, BROTHER OR SISTER OR BY
17 MARRIAGE AS A PARENT-IN-LAW, GRANDPARENT-IN-LAW, STEPPARENT,
18 STEPGRANDPARENT, STEPCHILD, STEPGRANDCHILD, BROTHER-IN-LAW OR
19 SISTER-IN-LAW.

20 (c) A PERSON WHO CURRENTLY RESIDES, OR WHO DURING THE LAST SIX
21 MONTHS RESIDED, IN THE SAME HOUSEHOLD AS THE DEFENDANT.

22 (d) A PERSON WHO IS CURRENTLY, OR WHO DURING THE LAST SIX MONTHS
23 WAS, INVOLVED IN A ROMANTIC OR SEXUAL RELATIONSHIP WITH THE DEFENDANT.

24 (e) A HEALTH CARE PROVIDER AS DEFINED IN SECTION 36-3201 WHO HAS
25 PROVIDED SERVICES TO THE DEFENDANT WITHIN THE LAST SIX MONTHS.

26 (f) ANY PERSON WHO IS EMPLOYED BY AN EDUCATIONAL INSTITUTION WHERE
27 THE DEFENDANT IS CURRENTLY ENROLLED OR HAS BEEN ENROLLED WITHIN THE LAST
28 SIX MONTHS OR ANY PERSON WHO IS EMPLOYED BY AN EDUCATIONAL INSTITUTION
29 THAT THE DEFENDANT HAS THREATENED WITHIN THE LAST SIX MONTHS.

30 (g) ANY PERSON WHO ATTENDS AN EDUCATIONAL INSTITUTION WHERE THE
31 DEFENDANT IS CURRENTLY ENROLLED OR HAS BEEN ENROLLED WITHIN THE LAST SIX
32 MONTHS OR ANY PERSON WHO ATTENDS AN EDUCATIONAL INSTITUTION THAT THE
33 DEFENDANT HAS THREATENED WITHIN THE LAST SIX MONTHS.

34 5. "SERIOUS PHYSICAL INJURY" HAS THE SAME MEANING PRESCRIBED IN
35 SECTION 13-105.

36 Sec. 4. Section 12-2101, Arizona Revised Statutes, is amended to
37 read:

38 12-2101. Judgments and orders that may be appealed

39 A. An appeal may be taken to the court of appeals from the superior
40 court in the following instances:

41 1. From a final judgment entered in an action or special proceeding
42 commenced in a superior court, or brought into a superior court from any
43 other court, except in actions of forcible entry and detainer when the
44 annual rental value of the property is less than \$300.

45 2. From any special order made after final judgment.

- 1 3. From any order affecting a substantial right made in any action
2 when the order in effect determines the action and prevents judgment from
3 which an appeal might be taken.
- 4 4. From a final order affecting a substantial right made in a
5 special proceeding or on a summary application in an action after
6 judgment.
- 7 5. From an order:
- 8 (a) Granting or refusing a new trial or granting a motion in arrest
9 of judgment.
- 10 (b) Granting or dissolving an injunction or refusing to grant or
11 dissolve an injunction or appointing a receiver.
- 12 (c) Dissolving or refusing to dissolve an attachment or
13 garnishment.
- 14 (d) Granting or denying a petition to restore a person's right to
15 possess a firearm pursuant to section 13-925.
- 16 (e) Granting or denying a motion to dismiss or quash pursuant to
17 section 12-751, unless the court did not find that the moving party
18 established prima facie proof as prescribed in section 12-751,
19 subsection B. The court of appeals shall expedite any appeal filed
20 pursuant to this subdivision unless the court for good cause finds that
21 expedited review is not feasible under the circumstances or a court rule
22 specifically provides otherwise.
- 23 (f) GRANTING OR DENYING AN EDUCATION PROTECTION ORDER PURSUANT TO
24 SECTION 12-1812.
- 25 6. From an interlocutory judgment that determines the rights of the
26 parties and directs an accounting or other proceeding to determine the
27 amount of the recovery.
- 28 7. From an interlocutory judgment in any action for partition that
29 determines the rights and interests of the respective parties and THAT
30 directs partition to be made.
- 31 8. From any interlocutory judgment, decree or order made or entered
32 in actions to redeem real or personal property from a mortgage thereof or
33 lien thereon, determining such right to redeem and directing an
34 accounting.
- 35 9. From a judgment, decree or order entered in any formal
36 proceedings under title 14.
- 37 10. From an order or judgment:
- 38 (a) Adjudging a person insane or incompetent or committing a person
39 to the state hospital.
- 40 (b) Revoking or refusing to revoke an order or judgment adjudging a
41 person insane or incompetent or restoring or refusing to restore to
42 competency any person who has been declared insane or incompetent.
- 43 11. From an order or judgment made and entered on habeas corpus
44 proceedings:

1 (a) The petitioner may appeal from an order or judgment refusing
2 the petitioner's discharge.

3 (b) The officer having the custody of the petitioner, or the county
4 attorney on behalf of the state, from an order or judgment discharging the
5 petitioner whereupon the court may admit the petitioner to bail pending
6 the appeal.

7 B. If any order or judgment referred to in this section is made or
8 rendered by a judge it is appealable as if made by the court.

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

11 13-3101. Definitions

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

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

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

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

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

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

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

38 7. "Prohibited possessor" means any person:

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

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

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

3 (d) Who is at the time of possession serving a term of probation
4 pursuant to a conviction for a domestic violence offense as defined in
5 section 13-3601 or a felony offense, parole, community supervision, work
6 furlough, home arrest or release on any other basis or who is serving a
7 term of probation or parole pursuant to the interstate compact under title
8 31, chapter 3, article 4.1.

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

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

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

20 (iii) Certain diplomats.

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

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

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

28 (g) Who is found guilty except insane.

29 (h) WHO IS SUBJECT TO A VALID EX PARTE EMERGENCY EDUCATION
30 PROTECTION ORDER ISSUED PURSUANT TO SECTION 12-1811 THAT PROHIBITS THE
31 PERSON FROM POSSESSING A FIREARM OR AN EDUCATION PROTECTION ORDER ISSUED
32 PURSUANT TO SECTION 12-1812 THAT PROHIBITS THE PERSON FROM POSSESSING A
33 FIREARM IF THE PERSON WAS PERSONALLY SERVED WITH THE ORDER.

34 8. "Prohibited weapon":

35 (a) Includes the following:

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

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

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

44 (iv) A rifle with a barrel length of less than sixteen inches, or
45 shotgun with a barrel length of less than eighteen inches, or any firearm

1 that is made from a rifle or shotgun and that, as modified, has an overall
2 length of less than twenty-six inches.

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

6 (vi) A chemical or combination of chemicals, compounds or
7 materials, including dry ice, that is possessed or manufactured for the
8 purpose of generating a gas to cause a mechanical failure, rupture or
9 bursting or an explosion or detonation of the chemical or combination of
10 chemicals, compounds or materials.

11 (vii) An improvised explosive device.

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

15 (b) Does not include:

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

18 (ii) Any propellant, propellant actuated devices or propellant
19 actuated industrial tools that are manufactured, imported or distributed
20 for their intended purposes.

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

23 9. "Trafficking" means to sell, transfer, distribute, dispense or
24 otherwise dispose of a weapon or explosive to another person, or to buy,
25 receive, possess or obtain control of a weapon or explosive, with the
26 intent to sell, transfer, distribute, dispense or otherwise dispose of the
27 weapon or explosive to another person.

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