

**DOMESTIC VIOLENCE
BENCHBOOK
(CIVIL)**

- **ORDERS OF PROTECTION**
- **INJUNCTIONS AGAINST HARASSMENT**
- **INJUNCTIONS AGAINST WORKPLACE HARASSMENT**



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**The Committee on the Impact of
Domestic Violence and the Courts (CIDVC)
and
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**For All Arizona Courts
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C. Injunction Against Harassment (IAH)

An IAH is similar procedurally to an OP but is governed by a different statute (A.R.S. § 12-1809) and is different in scope. (See **Appendices A and J** for form).

1. A JO may issue an IAH upon a finding by reasonable evidence, at an *ex parte* hearing or after a hearing in which the defendant is present.

Harassment is defined as:

“ . . . that there exists a series of acts over any period of time directed at a specific person that would cause a reasonable person to be seriously alarmed, annoyed or harassed and that in fact seriously alarms, annoys or harasses the person and serves no legitimate purpose.” (A.R.S. § 12-1809(R)).

2. An IAH is not limited to domestic violence cases.

Note: An IAH often involves disputes between neighbors, friends, landlords and tenants, and persons not residing together (e.g. persons in a dating relationship).

3. Unlike an OP, a JO does not need to find a “relationship” in order to issue an IAH.

4. An IAH may:

- a. Enjoin the defendant from committing harassment.
- b. Restrain the defendant from contacting the plaintiff or other specifically designated persons and from coming near the residence, place of employment or school of the plaintiff or other specifically designated locations or persons.

Nothing about firearms here

- c. Grant other relief necessary to protect the plaintiff and other specifically designated persons.

B. Federal Firearms Prohibition/ Transfer

1. The Brady firearms prohibition (*See* The Gun Control Act of 1968, Title 18 U.S.C. § 921 et seq.) applies only if:
 - a. A JO issues, affirms or modifies an OP after a hearing in which the defendant received actual notice and the defendant had an opportunity to participate, and
 - b. The relationship “intimate partner” test is met. An intimate partner is defined as either: (18 U.S.C. § 921(a)(32)).
 - i. The spouse or former spouse of the defendant, or
 - ii. An individual who is a parent of a child of the defendant, or
 - iii. An individual who cohabitates or has cohabited with the defendant.

Note: The Arizona relationship test is far broader than the Brady Law relationship “intimate partner” test. (*See* A.R.S. § 13-3601(A)).

2. The Brady Law makes it unlawful for defendants to ship, transport, possess or receive firearms or ammunition in interstate or foreign commerce. (18 U.S.C. § 922(g)).

If a JO issues or modifies an OP after a hearing in which the defendant received
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actual notice and the defendant had an opportunity to participate and the Brady Law “intimate partner” relationship test is satisfied, then the Brady Law prohibitions apply.

Note: In an IAH, the JO may have discretion to prohibit firearms.

If there was no change at the hearing, the Notice to Sheriff of Brady Disqualification should be generated with a copy to the defendant. If the Hearing Order contains a box which can be checked to indicate that Brady applies, the JO may check the box, provide a copy of the hearing order to the defendant, and need not complete a separate Notice to Sheriff.