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**IN THE SUPREME COURT
STATE OF ARIZONA**

In the Matter of:

PETITION TO ABROGATE RULE
25(g) OF THE ARIZONA RULES OF
PROTECTIVE ORDER PROCEDURE

Supreme Court No. R-__-_____

**Petition to Abrogate ("Repeal")
Rule 25(g) of the Arizona Rules
of Protective Order Procedure
for being patently unlawful**

Pursuant to Rule 28 of the Supreme Court, Mike Palmer petitions this Court to abrogate Rule 25(g) of Protective Order Procedure because it unlawfully tells judges that they can issue unlawful orders to prohibit defendants in civil Injunctions against Harassment from possessing firearms.

I. Preface

This petition to repeal Rule 25(g) is another in a long line of petitions for same dating back to 2009. (I incorporate all the arguments in those petitions herein.) What's new this time? More evidence from the 2025 Legislature itself that our elected representatives never intended for – and so never provided for – defendants in civil IAH's to be prohibited from possessing firearms.

Specifically, during the 2025 Session of the Arizona Legislature, some representatives introduced HB 2512, an Act to, among other things, amend Sections

13-3101 and 13-3602 of the Arizona Revised Statutes as they relate to [the prohibited possession of] Firearms. (Full Text of the Bill in the Appendix.) Note that, as it relates to Legislative intent, this Bill died on *Sine Die*, failing to ever be voted on. This shows that the Legislature had no intention to add more to existing prohibitions than it has already said. I'll cite the failed amendments in my analysis next.

II. Analysis

Rule 25(g), a Rule of Procedure for civil Injunctions Against Harassment, is titled "Firearms." It says in full "The judicial officer **must** ask the plaintiff about the defendant's use of or access to **firearms**. If necessary to protect the plaintiff or any other specifically designated person, the judicial officer may **prohibit** the defendant from possessing, purchasing, or receiving **firearms** for the duration of the order." The Rule does not cite any authority for anything it says. In fact, even though the Rule is titled "Firearms," the word "firearm" is nowhere in the only statute governing civil IAH's. (A.R.S. §12-1809.)

Consistent with Rule 25(g)'s lack of statutory authority for its title, there is also nothing in the statute about prohibiting a defendant in a civil IAH from possessing firearms. Nor anything about requiring a judge to ask a plaintiff about a defendant's use of firearms. (Use the Search feature of your browser to search for these words on the legislature's website.) The judiciary's language for Rule 25(g) was created out of nothing, as shown at the end.

The fact that our elected representatives didn't say anything in civil IAH law about firearms, nor the prohibited possession thereof, is in stark contrast to what they said in their criminal Domestic Violence Order of Protection law, where our representatives specifically define "Firearm" and specifically say that a court can "prohibit the defendant from possessing or purchasing a firearm for the duration of the [DV] order." (A.R.S. §13-3101(A)(4), 13-3602(G)(4).)

Since our representatives specifically define Firearm in criminal DV law and provide for the prohibited possession of firearms therein, they could have, if it were their intent, similarly defined firearms and provided for the prohibited possession of firearms in their civil IAH statute. But they haven't. That's because that's not what they – and by extension, We, the People of Arizona – want.

Even though the Legislature doesn't provide for prohibiting firearms in civil IAH's as it did in crim DV OOP's, this Court tells its officers that, because the Legislature allowed judges to "grant relief necessary" in civil IAH's, judges can prohibit defendants in civil IAH's from possessing firearms. That "grant relief necessary" allows judges to deprive Arizonans our state and federal constitutional rights to bear arms.

Let's assume for now that it's true that, when our representatives wrote "grant relief necessary," they meant, in a very obtuse way, to prohibit defendants in civil IAH's from possessing firearms. That they really meant to suspend the constitutional rights of defendants to keep and bear arms.

If it were true that our elected representatives meant for “grant relief necessary” to allow judges to “prohibit the defendant from possessing, purchasing, or receiving firearms for the duration of the order” (so as “to protect the plaintiff”), then why did our representatives put the language above – plus scads of other language about prohibiting firearm possession – in DV law?

Asking because the phrase “grant relief [that is] necessary” is also in the crim DV statute! (See §13-3602(G)(6).) So if it were true that “grant relief necessary” were all that is needed to prohibit possession of firearms, then all the added language in crim DV OOP law is superfluous.

But our legislators did not waste their time writing unneeded superfluous language. (Especially with Leg Council looking over their shoulder.) They knew that “grant relief necessary” does not allow judges to violate an individual’s constitutional right to bear arms in defense of himself. To suspend that right, one has to trigger the federal Gun Control Act, which can only be triggered by meeting two prongs in orders of protection.

“A higher standard of review applies when a court's order implicates a defendant's right to possess firearms under the Second amendment to the United States Constitution or under Article 2, Section 26, of the Arizona Constitution. A firearm restriction under the federal Gun Control Act is triggered by an order of protection that the order includes a finding that [the] person represents a **credible threat** to the physical safety of [the] **intimate partner** or child.” (*Savord v. Morton*,

330 P. 3d 1013 - Ariz: Court of Appeals, 1st Div. 2014, internal quotes omitted.)

This is why the phrase “credible threat” appears in Crim DV OOP law. It is a necessary prong to prohibit possession of firearms in DV matters.

But the phrase “credible threat” is nowhere in civil IAH law. Nor is there anything about a “finding” of credible threat. Therefore, one of the prongs needed to deprive defendants their constitutional rights to bear arms – to make them a prohibited possessor – can never be met in a civil IAH.

But even if “grant relief necessary” did allow the deprivation of constitutional rights, it would still be unconstitutional to use it to make defendants civil IAH’s prohibited possessors because there is no “intimate partner” relationship in civil IAH’s. (Else they would be domestic violence matters.) Therefore the second prong can never be met in a civil IAH to make a defendant a prohibited possessor.

Also, if our representatives had meant to prohibit firearms in civil IAH’s, then they would have had to define “Firearm” in the civil statute as they had in the criminal statute. And if they had meant to prohibit firearms in civil IAH’s, then they also would have had to codify the conditions for when a judge can do that. And how it’s done. Etc. But our representatives didn’t do any of this because they never meant to prohibit firearm possession in civil IAH’s.

As it goes to this instant petition, if it were true that the Arizona Legislature meant to prohibit firearms in civil IAH’s, then the individual legislators who introduced HB 2512 to amend criminal DV law to further strengthen those

prohibitions would have also acted to amend A.R.S. §12-1809 with the same language. Specifically, those legislators sought to add an entirely new section to the criminal code, §13-3601.03, to ensure that a prohibited possessor transfer his/her firearms to an outside agent when so ordered by a judge. They even wanted Search Warrants to seize firearms if law enforcement suspected that a defendant had firearms but hadn't transferred them!

But they didn't offer to add this language to civil IAH law because they knew that civil IAH law does not allow prohibiting possession in the first place.

That they knew this is shown in HB 2512 itself, where they wanted to add language that smeared domestic firearm prohibition law over onto civil IAH's. Specifically, the legislators wanted to enlarge the definition of domestic violence to include the accusation of "seriously disruptive behavior." (Defined in A.R.S. § 13-2904(A)(1), the catch-all known as "Disorderly conduct.") This would have effectively opened the door to make all defendants in civil IAH's potential prohibited possessors via criminal DV law, since a finding of "harassment" implies seriously disruptive behavior!

Nice try. But the majority of our representatives rejected all of this because it was still not their intent to, among other things, make defendants in civil IAH's prohibited possessors.

So how did we get this lawless Rule of Procedure?

Well, Thurgood Marshall said "You do what you think is right and let the law

catch up.”

While it might sound noble on its face to substitute what you think is right versus what our elected representatives say is right, at best it is lawlessness. (By definition.) At worst it is traitorous because a judge is setting himself up as King, demanding that we obey his “law” instead of our elected representatives’ law.

But as some remind us, we have No Kings. Still, a majority of the CIDVC thinks they are kings, since they made up their own law in Marshall-ish fashion, expecting our law to catch up. (Which HB 2512 would have done.)

We see this evidenced in the Domestic Violence Benchbook. (See the last three pages in the Appendix.) Twenty years ago, a majority of the CIDVC felt that the Legislature hadn’t gone far enough to protect plaintiffs in civil Injunctions Against Harassment. (And/or they hated gun ownership and used whatever they could to undermine it.) So even though the Committee acknowledged that a judge could only prohibit defendants from possessing firearms if the “intimate partner” test had been met (in which case, a matter would automatically be a criminal DV OOP matter, not a civil IAH), the Committee, nevertheless, wrote “In an IAH, the JO may have discretion to prohibit firearms.”

As shown above, there was no basis in law for this Note. It was just the CIDVC’s Personal Policy. But their Note eventually became part of the Rules of Procedure.

So here we are, years later, still trying to right this constitutional wrong. (No

thanks to the CIDVC who's been fighting the electorate the whole time.)

Now, a US Senator for Arizona is in the news for correctly reminding Military service members that they only have to obey lawful orders.

This is also true for Arizona Peace Officers who are only required to carry out lawful orders. (See AZ POST Rule R13-4-105(E).) And it's also true for us. (Civilians.) For example, we only have to obey "lawful orders" given by law enforcement in emergency situations. (See Disorderly conduct, A.R.S. 13-2904(1)(5).)

Arizonans can read A.R.S. § 12-1809 for themselves. We can see that there's nothing in the law – which our two coequal branches of government (our Legislature and our Governor) – passed on to us about prohibiting possession of our firearms in civil IAH law.

So any Arizonan can see that Rule 25(g) is a patently unlawful order because the judiciary made up "law." And as our U.S. senator reminds us, we do not have to obey unlawful orders.

Furthermore, Arizonans are lately seeing a lot of judges nationally disregard laws that they don't like, then being overruled by the US Supreme Court because the judges ruled according to their own personal Policies/beliefs – what THEY thought was right – not according to the law. This is undermining public confidence in the judiciary and breaking down society. We are already seeing "restlessness" in the streets in the more lawless states.

So, for the sake of public confidence in the Arizona judiciary, for the sake of public confidence in our three coequal branches of government, and for our society in general, it would be good if you all would also obey the law here.

Last, in the Bible, God warned His people “Do not add to what I command you and do not subtract from it ... ” (Deuteronomy 4:2.) He warned them because it IS man’s propensity to rebel by adding and subtracting from the Law as we see fit. (As evidenced in Judges 21:25.) Repent by repealing Rule 25(g)!

III. Contents of the Proposed Rule Amendment

Delete all of Rule 25(g).

~~(g) Firearms. The judicial officer must ask the plaintiff about the defendant's use of or access to firearms. If necessary to protect the plaintiff or any other specifically designated person, the judicial officer may prohibit the defendant from possessing, purchasing, or receiving firearms for the duration of the order.~~

IV. Disclosure

To the best of my knowledge I am the only one who filed a similar petition within the previous five years.

SUBMITTED this 12th day of January 2026.

By /s/ Mike Palmer

APPENDIX

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

State of Arizona
House of Representatives
Fifty-seventh Legislature
First Regular Session
2025

HB 2512

Introduced by
Representatives Hernandez L, Contreras L, Garcia, Hernandez A, Liguori,
Márquez, Sandoval, Villegas

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

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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 ~~L~~ 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 (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 (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 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 ~~4~~ 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 DEFENDANT 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 ~~T~~ 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:

Warning

23
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 ~~O~~ 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 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.

31 Sec. 5. Short title

32 This act may be cited as "Jordin's Law".

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 ~~F~~ 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

**DOMESTIC VIOLENCE
BENCHBOOK
(CIVIL)**

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



Prepared by
**The Committee on the Impact of
Domestic Violence and the Courts (CIDVC)
and
The Domestic Violence Benchbook Workgroup**

**For All Arizona Courts
November 2006**

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.