House Engrossed Senate Bill

FILED

KEN BENNETT
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CHAPTER 276

SENATE BILL 1266

AN ACT

AMENDING TITLE 8, CHAPTER 3, ARTICLE 1, ARIZONA REVISED STATUTES, BY ADDING SECTION 8-309; AMENDING SECTIONS 13-1204, 13-3601 AND 13-3602, ARIZONA REVISED STATUTES; RELATING TO CRIMES AND OFFENSES.

(TEXT OF BILL BEGINS ON NEXT PAGE)

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

Section 1. Title 8, chapter 3, article 1, Arizona Revised Statutes, is amended by adding section 8-309, to read:

8-309. Unlawful use of an electronic communication device by a minor; classification; definitions

A. IT IS UNLAWFUL FOR A JUVENILE TO INTENTIONALLY OR KNOWINGLY USE AN ELECTRONIC COMMUNICATION DEVICE TO TRANSMIT OR DISPLAY A VISUAL DEPICTION OF A MINOR THAT DEPICTS EXPLICIT SEXUAL MATERIAL.

B. IT IS UNLAWFUL FOR A JUVENILE TO INTENTIONALLY OR KNOWINGLY POSSESS A VISUAL DEPICTION OF A MINOR THAT DEPICTS EXPLICIT SEXUAL MATERIAL AND THAT WAS TRANSMITTED TO THE JUVENILE THROUGH THE USE OF AN ELECTRONIC COMMUNICATION DEVICE.

C. IT IS NOT A VIOLATION OF SUBSECTION B OF THIS SECTION IF ALL OF THE FOLLOWING APPLY:

1. THE JUVENILE DID NOT SOLICIT THE VISUAL DEPICTION.

2. THE JUVENILE TOOK REASONABLE STEPS TO DESTROY OR ELIMINATE THE VISUAL DEPICTION OR REPORT THE VISUAL DEPICTION TO THE JUVENILE'S PARENT, GUARDIAN, SCHOOL OFFICIAL OR LAW ENFORCEMENT OFFICIAL.

D. A VIOLATION OF SUBSECTION A OF THIS SECTION IS A PETTY OFFENSE IF THE JUVENILE TRANSMITS OR DISPLAYS THE VISUAL DEPICTION TO ONE OTHER PERSON. A VIOLATION OF SUBSECTION A OF THIS SECTION IS A CLASS 3 MISDEMEANOR IF THE JUVENILE TRANSMITS OR DISPLAYS THE VISUAL DEPICTION TO MORE THAN ONE OTHER PERSON.

E. A VIOLATION OF SUBSECTION B OF THIS SECTION IS A PETTY OFFENSE.

F. ANY VIOLATION OF THIS SECTION THAT OCCURS AFTER ADJUDICATION FOR A PRIOR VIOLATION OF THIS SECTION OR AFTER COMPLETION OF A DIVERSION PROGRAM AS A RESULT OF A REFERRAL OR PETITION CHARGING A VIOLATION OF THIS SECTION IS A CLASS 2 MISDEMEANOR.

G. FOR THE PURPOSES OF THIS SECTION:

1. "ELECTRONIC COMMUNICATION DEVICE" HAS THE SAME MEANING PRESCRIBED IN SECTION 13-3560.

2. "EXPLICIT SEXUAL MATERIAL" MEANS MATERIAL THAT DEPICTS HUMAN GENITALIA OR THAT DEPICTS NUDITY, SEXUAL ACTIVITY, SEXUAL CONDUCT, SEXUAL EXCITEMENT OR SADOMASOCHISTIC ABUSE AS DEFINED IN SECTION 13-3501.

3. "VISUAL DEPICTION" HAS THE SAME MEANING PRESCRIBED IN SECTION 13-3551.

Sec. 2. Section 13-1204, Arizona Revised Statutes, is amended to read:

13-1204. Aggravated assault; classification; definition

A. A person commits aggravated assault if the person commits assault as prescribed by section 13-1203 under any of the following circumstances:

1. If the person causes serious physical injury to another.

2. If the person uses a deadly weapon or dangerous instrument.

3. If the person commits the assault by any means of force that causes temporary but substantial disfigurement, temporary but substantial loss or impairment of any body organ or part or a fracture of any body part.

4. If the person commits the assault while the victim is bound or otherwise physically restrained or while the victim's capacity to resist is substantially impaired.

5. If the person commits the assault after entering the private home of another with the intent to commit the assault.

6. If the person is eighteen years of age or older and commits the assault on a child who is fifteen years of age or under.

7. If the person commits assault as prescribed by section 13-1203, subsection A, paragraph 1 or 3 and the person is in violation of an order of protection issued against the person pursuant to section 13-3602 or 13-3624.

8. If the person commits the assault knowing or having reason to know that the victim is any of the following:

(a) A peace officer, or a person summoned and directed by the officer while engaged in the execution of any official duties.

(b) A constable, or a person summoned and directed by the constable while engaged in the execution of any official duties.

(c) A firefighter, fire investigator, fire inspector, emergency medical technician or paramedic engaged in the execution of any official duties, or a person summoned and directed by such individual while engaged in the execution of any official duties.

(d) A teacher or other person employed by any school and the teacher or other employee is on the grounds of a school or grounds adjacent to the school or is in any part of a building or vehicle used for school purposes, any teacher or school nurse visiting a private home in the course of the teacher's or nurse's professional duties or any teacher engaged in any authorized and organized classroom activity held on other than school grounds.

(e) A health care practitioner who is certified or licensed pursuant to title 32, chapter 13, 15, 17 or 25, or a person summoned and directed by the licensed health care practitioner while engaged in the person's professional duties. This subdivision does not apply if the person who commits the assault is seriously mentally ill, as defined in section 36-550, or is afflicted with alzheimer's disease or related dementia.

(f) A prosecutor.

9. If the person knowingly takes or attempts to exercise control over any of the following:

(a) A peace officer's or other officer's firearm and the person knows or has reason to know that the victim is a peace officer or other officer employed by one of the agencies listed in paragraph 10, subdivision (a), item (i), (ii), (iii), (iv) or (v) of this subsection and is engaged in the execution of any official duties.

(b) Any weapon other than a firearm that is being used by a peace officer or other officer or that the officer is attempting to use, and the person knows or has reason to know that the victim is a peace officer or other officer employed by one of the agencies listed in paragraph 10,

subdivision (a), item (i), (ii), (iii), (iv) or (v) of this subsection and is engaged in the execution of any official duties.

(c) Any implement that is being used by a peace officer or other officer or that the officer is attempting to use, and the person knows or has reason to know that the victim is a peace officer or other officer employed by one of the agencies listed in paragraph 10, subdivision (a), item (i), (ii), (iii), (iv) or (v) of this subsection and is engaged in the execution of any official duties. For the purposes of this subdivision, "implement" means an object that is designed for or that is capable of restraining or injuring an individual. Implement does not include handcuffs.

10. If the person meets both of the following conditions:

(a) Is imprisoned or otherwise subject to the custody of any of the following:

(i) The state department of corrections.

(ii) The department of juvenile corrections.

(iii) A law enforcement agency.

(iv) A county or city jail or an adult or juvenile detention facility of a city or county.

(v) Any other entity that is contracting with the state department of corrections, the department of juvenile corrections, a law enforcement agency, another state, any private correctional facility, a county, a city or the federal bureau of prisons or other federal agency that has responsibility for sentenced or unsentenced prisoners.

(b) Commits an assault knowing or having reason to know that the victim is acting in an official capacity as an employee of any of the entities listed in subdivision (a) of this paragraph.

B. A PERSON COMMITS AGGRAVATED ASSAULT IF THE PERSON COMMITS ASSAULT BY EITHER INTENTIONALLY, KNOWINGLY OR RECKLESSLY CAUSING ANY PHYSICAL INJURY TO ANOTHER PERSON, INTENTIONALLY PLACING ANOTHER PERSON IN REASONABLE APPREHENSION OF IMMINENT PHYSICAL INJURY OR KNOWINGLY TOUCHING ANOTHER PERSON WITH THE INTENT TO INJURE THE PERSON, AND BOTH OF THE FOLLOWING OCCUR:

1. THE PERSON INTENTIONALLY OR KNOWINGLY IMPEDES THE NORMAL BREATHING OR CIRCULATION OF BLOOD OF ANOTHER PERSON BY APPLYING PRESSURE TO THE THROAT OR NECK OR BY OBSTRUCTING THE NOSE AND MOUTH EITHER MANUALLY OR THROUGH THE USE OF AN INSTRUMENT.

2. ANY OF THE CIRCUMSTANCES EXISTS THAT ARE SET FORTH IN SECTION 13-3601, SUBSECTION A, PARAGRAPH 1, 2, 3, 4, 5 OR 6.

~~B.~~ C. Except pursuant to subsections ~~C and~~ D AND E of this section, aggravated assault pursuant to subsection A, paragraph 1 or 2 or paragraph 9, subdivision (a) of this section is a class 3 felony except if the victim is under fifteen years of age in which case it is a class 2 felony punishable pursuant to section 13-705. Aggravated assault pursuant to subsection A, paragraph 3 OR SUBSECTION B of this section is a class 4 felony. Aggravated assault pursuant to subsection A, paragraph 9, subdivision (b) or paragraph 10 of this section is a class 5 felony. Aggravated assault pursuant to

subsection A, paragraph 4, 5, 6, 7 or 8 or paragraph 9, subdivision (c) of this section is a class 6 felony.

~~C.~~ D. Aggravated assault pursuant to subsection A, paragraph 1 or 2 of this section committed on a peace officer while the officer is engaged in the execution of any official duties is a class 2 felony. Aggravated assault pursuant to subsection A, paragraph 3 of this section committed on a peace officer while the officer is engaged in the execution of any official duties is a class 3 felony. Aggravated assault pursuant to subsection A, paragraph 8, subdivision (a) of this section resulting in any physical injury to a peace officer while the officer is engaged in the execution of any official duties is a class 5 felony.

~~D.~~ E. Aggravated assault pursuant to:

1. Subsection A, paragraph 1 or 2 of this section is a class 2 felony if committed on a prosecutor.

2. Subsection A, paragraph 3 of this section is a class 3 felony if committed on a prosecutor.

3. Subsection A, paragraph 8, subdivision (f) of this section is a class 5 felony if the assault results in physical injury to a prosecutor.

~~E.~~ F. For the purposes of this section, "prosecutor" means a county attorney, a municipal prosecutor or the attorney general and includes an assistant or deputy county attorney, municipal prosecutor or attorney general.

Sec. 3. Section 13-3601, Arizona Revised Statutes, is amended to read:

13-3601. Domestic violence; definition; classification; sentencing option; arrest and procedure for violation; weapon seizure

A. "Domestic violence" means any act ~~which~~ THAT is a dangerous crime against children as defined in section 13-705 or an offense ~~defined~~ PRESCRIBED in section 13-1102, 13-1103, 13-1104, 13-1105, 13-1201, ~~through~~ 13-1202, 13-1203, 13-1204, 13-1302, ~~through~~ 13-1303, 13-1304, 13-1406, 13-1502, ~~through~~ 13-1503, 13-1504, ~~or~~ 13-1602~~, section~~ OR 13-2810, section 13-2904, subsection A, paragraph 1, 2, 3 or 6, SECTION 13-2910, SUBSECTION A, PARAGRAPH 8 OR 9, SECTION 13-2915, SUBSECTION A, PARAGRAPH 3 OR section 13-2916, ~~or section~~ 13-2921, 13-2921.01, 13-2923, 13-3019, 13-3601.02 or 13-3623, if any of the following applies:

1. The relationship between the victim and the defendant is one of marriage or former marriage or of persons residing or having resided in the same household.

2. The victim and the defendant have a child in common.

3. The victim or the defendant is pregnant by the other party.

4. The victim is related to the defendant or the defendant's spouse by blood or court order as a parent, grandparent, child, grandchild, brother or sister or by marriage as a parent-in-law, grandparent-in-law, stepparent, step-grandparent, stepchild, step-grandchild, brother-in-law or sister-in-law.

5. The victim is a child who resides or has resided in the same household as the defendant and is related by blood to a former spouse of the defendant or to a person who resides or who has resided in the same household as the defendant.

6. The relationship between the victim and the defendant is currently or was previously a romantic or sexual relationship. The following factors may be considered in determining whether the relationship between the victim and the defendant is currently or was previously a romantic or sexual relationship:

(a) The type of relationship.

(b) The length of the relationship.

(c) The frequency of the interaction between the victim and the defendant.

(d) If the relationship has terminated, the length of time since the termination.

B. A peace officer, with or without a warrant, may arrest a person if the officer has probable cause to believe that domestic violence has been committed and the officer has probable cause to believe that the person to be arrested has committed the offense, whether the offense is a felony or a misdemeanor and whether the offense was committed within or without the presence of the peace officer. In cases of domestic violence involving the infliction of physical injury or involving the discharge, use or threatening exhibition of a deadly weapon or dangerous instrument, the peace officer shall arrest a person, with or without a warrant, if the officer has probable cause to believe that the offense has been committed and the officer has probable cause to believe that the person to be arrested has committed the offense, whether the offense was committed within or without the presence of the peace officer, unless the officer has reasonable grounds to believe that the circumstances at the time are such that the victim will be protected from further injury. Failure to make an arrest does not give rise to civil liability except pursuant to section 12-820.02. In order to arrest both parties, the peace officer shall have probable cause to believe that both parties independently have committed an act of domestic violence. An act of self-defense that is justified under chapter 4 of this title is not deemed to be an act of domestic violence. The release procedures available under section 13-3883, subsection A, paragraph 4 and section 13-3903 are not applicable to arrests made pursuant to this subsection.

C. A peace officer may question the persons who are present to determine if a firearm is present on the premises. On learning or observing that a firearm is present on the premises, the peace officer may temporarily seize the firearm if the firearm is in plain view or was found pursuant to a consent to search and if the officer reasonably believes that the firearm would expose the victim or another person in the household to a risk of serious bodily injury or death. A firearm that is owned or possessed by the

1 victim shall not be seized unless there is probable cause to believe that
2 both parties independently have committed an act of domestic violence.
3 D. If a firearm is seized pursuant to subsection C of this section,
4 the peace officer shall give the owner or possessor of the firearm a receipt
5 for each seized firearm. The receipt shall indicate the identification or
6 serial number or other identifying characteristic of each seized firearm.
7 Each seized firearm shall be held for at least seventy-two hours by the law
8 enforcement agency that seized the firearm.
9 E. If a firearm is seized pursuant to subsection C of this section,
10 the victim shall be notified by a peace officer before the firearm is
11 released from temporary custody.
12 F. If there is reasonable cause to believe that returning a firearm to
13 the owner or possessor may endanger the victim, the person who reported the
14 assault or threat or another person in the household, the prosecutor shall
15 file a notice of intent to retain the firearm in the appropriate superior,
16 justice or municipal court. The prosecutor shall serve notice on the owner
17 or possessor of the firearm by certified mail. The notice shall state that
18 the firearm will be retained for not more than six months following the date
19 of seizure. On receipt of the notice, the owner or possessor may request a
20 hearing for the return of the firearm, to dispute the grounds for seizure or
21 to request an earlier return date. The court shall hold the hearing within
22 ten days after receiving the owner's or possessor's request for a hearing.
23 At the hearing, unless the court determines that the return of the firearm
24 may endanger the victim, the person who reported the assault or threat or
25 another person in the household, the court shall order the return of the
26 firearm to the owner or possessor.
27 G. A peace officer is not liable for any act or omission in the good
28 faith exercise of the officer's duties under subsections C, D, E and F of
29 this section.
30 H. Each indictment, information, complaint, summons or warrant that is
31 issued and that involves domestic violence shall state that the offense
32 involved domestic violence and shall be designated by the letters DV. A
33 domestic violence charge shall not be dismissed or a domestic violence
34 conviction shall not be set aside for failure to comply with this subsection.
35 I. A person who is arrested pursuant to subsection B of this section
36 may be released from custody in accordance with the Arizona rules of criminal
37 procedure or any other applicable statute. Any order for release, with or
38 without an appearance bond, shall include pretrial release conditions that
39 are necessary to provide for the protection of the alleged victim and other
40 specifically designated persons and may provide for additional conditions
41 that the court deems appropriate, including participation in any counseling
42 programs available to the defendant.
43 J. When a peace officer responds to a call alleging that domestic
44 violence has been or may be committed, the officer shall inform in writing

any alleged or potential victim of the procedures and resources available for the protection of the victim including:

1. An order of protection pursuant to section 13-3602, an injunction pursuant to section 25-315 and an injunction against harassment pursuant to section 12-1809.

2. The emergency telephone number for the local police agency.

3. Telephone numbers for emergency services in the local community.

K. A peace officer is not civilly liable for noncompliance with subsection J of this section.

L. An offense that is included in domestic violence carries the classification prescribed in the section of this title in which the offense is classified. If the defendant committed a felony offense listed in subsection A of this section against a pregnant victim and knew that the victim was pregnant or if the defendant committed a felony offense causing physical injury to a pregnant victim and knew that the victim was pregnant, section 13-709.04, subsection B applies to the sentence imposed.

~~M. If the defendant is found guilty of a first offense included in domestic violence, the court shall provide the following written notice to the defendant:~~

~~You have been convicted of an offense included in domestic violence. You are now on notice that:~~

~~1. If you are convicted of a second offense included in domestic violence, you may be placed on supervised probation and may be incarcerated as a condition of probation.~~

~~2. A third or subsequent charge may be filed as a felony and a conviction for that offense shall result in a term of incarceration.~~

~~N. The failure or inability of the court to provide the notice required under subsection M of this section does not preclude the use of the prior convictions for any purpose otherwise permitted.~~

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

13-3602. <u>Order of protection; procedure; contents; arrest for violation; penalty; protection order from another jurisdiction</u>

A. A person may file a verified petition, as in civil actions, with a magistrate, justice of the peace or superior court judge for an order of protection for the purpose of restraining a person from committing an act included in domestic violence. If the person is a minor, the parent, legal guardian or person who has legal custody of the minor shall file the petition unless the court determines otherwise. The petition shall name the parent, guardian or custodian as the plaintiff and the minor is a specifically designated person for the purposes of subsection G of this section. If a person is either temporarily or permanently unable to request an order, a third party may request an order of protection on behalf of the plaintiff. After the request, the judicial officer shall determine if the third party is

an appropriate requesting party for the plaintiff. For the purposes of this section, notwithstanding the location of the plaintiff or defendant, any court in this state may issue or enforce an order of protection.

B. An order of protection shall not be granted:

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

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

3. Against more than one defendant.

C. The petition shall state the:

1. Name of the plaintiff. The plaintiff's address shall be disclosed to the court for purposes of service. If the address of the plaintiff is unknown to the defendant, the plaintiff may request that the address be protected. On the plaintiff's request, the address shall not be listed on the petition. Whether the court issues an order of protection, the protected address shall be maintained in a separate document or automated database and is not subject to release or disclosure by the court or any form of public access except as ordered by the court.

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

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

4. Relationship between the parties pursuant to section 13-3601, subsection A and whether there is pending between the parties an action for maternity or paternity, annulment, legal separation or dissolution of marriage.

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

6. Desired relief.

D. A fee shall not be charged for filing a petition under this section or for service of process. On request of the plaintiff, each order of protection that is issued by a municipal court shall be served by the police agency for that city if the defendant can be served within the city. If the defendant cannot be served within the city, the police agency in the city in which the defendant can be served shall serve the order. If the order cannot be served within a city, the sheriff shall serve the order. On request of the plaintiff, each order of protection that is issued by a justice of the peace shall be served by the constable or sheriff for that jurisdiction if the defendant can be served within the jurisdiction. If the defendant cannot be served within that jurisdiction, the constable or sheriff in the jurisdiction in which the defendant can be served shall serve the order. On request of the plaintiff, each order of protection that is issued by a superior court judge or commissioner shall be served by the sheriff of the county. If the defendant cannot be served within that jurisdiction, the sheriff in the jurisdiction in which the defendant can be served shall serve the order. Each court shall provide, without charge, forms for purposes of

this section for assisting parties without counsel. The court shall make reasonable efforts to provide to both parties an appropriate information sheet on emergency and counseling services that are available in the local area.

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

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

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

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

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

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

2. Grant one party the use and exclusive possession of the parties' residence on a showing that there is reasonable cause to believe that physical harm may otherwise result. If the other party is accompanied by a law enforcement officer, the other party may return to the residence on one occasion to retrieve belongings. A law enforcement officer is not liable for any act or omission in the good faith exercise of the officer's duties under this paragraph.

3. 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 on a showing that there is reasonable cause to believe that physical harm may otherwise result.

4. If the court finds that the defendant is a credible threat to the physical safety of the plaintiff or other specifically designated persons, prohibit the defendant from possessing or purchasing a firearm for the duration of the order. If the court prohibits the defendant from possessing a firearm, the court shall also order the defendant to transfer any firearm owned or possessed by the defendant immediately after service of the order to the appropriate law enforcement agency for the duration of the order. If the defendant does not immediately transfer the firearm, the defendant shall transfer the firearm within twenty-four hours after service of the order.

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

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

7. GRANT THE PETITIONER THE EXCLUSIVE CARE, CUSTODY OR CONTROL OF ANY ANIMAL THAT IS OWNED, POSSESSED, LEASED, KEPT OR HELD BY THE PETITIONER, THE RESPONDENT OR A MINOR CHILD RESIDING IN THE RESIDENCE OR HOUSEHOLD OF THE PETITIONER OR THE RESPONDENT, AND ORDER THE RESPONDENT TO STAY AWAY FROM THE ANIMAL AND FORBID THE RESPONDENT FROM TAKING, TRANSFERRING, ENCUMBERING, CONCEALING, COMMITTING AN ACT OF CRUELTY OR NEGLECT IN VIOLATION OF SECTION 13-2910 OR OTHERWISE DISPOSING OF THE ANIMAL.

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

I. At any time during the period during which the order is in effect, a party who is under an order of protection or who is restrained from contacting the other party is entitled to one hearing on written request. No fee may be charged for requesting a hearing. A hearing that is requested by a party who is under an order of protection or who is restrained from contacting the other party shall be held within ten days from the date requested unless the court finds good cause to continue the hearing. If exclusive use of the home is awarded, the hearing shall be held within five days from the date requested. The hearing shall be held at the earliest possible time. An ex parte order that is issued under this section shall state on its face that the defendant is entitled to a hearing on written request and shall include the name and address of the judicial office where the request may be filed. After the hearing, the court may modify, quash or continue the order.

~~J. Through December 31, 2007, the order shall include the following statement:~~

~~Warning~~

~~This is an official court order. If you disobey this order, you may be arrested and prosecuted for the crime of interfering with judicial proceedings and any other crime you may have committed in disobeying this order.~~

~~K.~~ J. ~~Beginning January 1, 2008,~~ The order shall include the following statement:

Warning

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

~~L.~~ K. A copy of the petition and the order shall be served on the defendant within one year from the date the order is signed. An order of protection that is not served on the defendant within one year expires. An order is effective on the defendant on service of a copy of the order and petition. An order expires one year after service on the defendant. A modified order is effective on service and expires one year after service of the initial order and petition.

~~M.~~ L. Each affidavit, acceptance or return of service shall be promptly filed with the clerk of the issuing court. This filing shall be completed in person, shall be made by fax or shall be postmarked, if sent by mail, no later than the end of the seventh court business day after the date of service. If the filing is made by fax, the original affidavit, acceptance or return of service shall be promptly filed with the court. Within twenty-four hours after the affidavit, acceptance or return of service has been filed, excluding weekends and holidays, the court from which the order or any modified order was issued shall forward to the sheriff of the county in which the court is located a copy of the order of protection and a copy of the affidavit or certificate of service of process or acceptance of service. On receiving these copies, the sheriff shall register the order. Registration of an order means that a copy of the order of protection and a copy of the affidavit or acceptance of service have been received by the sheriff's office. The sheriff shall maintain a central repository for orders of protection so that the existence and validity of the orders can be easily verified. The effectiveness of an order does not depend on its registration, and for enforcement purposes pursuant to section 13-2810, a copy of an order of the court, whether or not registered, is presumed to be a valid existing order of the court for a period of one year from the date of service of the order on the defendant.

~~N.~~ M. A peace officer, with or without a warrant, may arrest a person if the peace officer has probable cause to believe that the person has violated section 13-2810 by disobeying or resisting an order that is issued in any jurisdiction in this state pursuant to this section, whether or not such violation occurred in the presence of the officer. Criminal violations of an order issued pursuant to this section shall be referred to an appropriate law enforcement agency. The law enforcement agency shall request that a prosecutorial agency file the appropriate charges. A violation of an order of protection shall not be adjudicated by a municipal or justice court unless a complaint has been filed or other legal process has been requested

by the prosecuting agency. The provisions for release under section 13-3883, subsection A, paragraph 4 and section 13-3903 do not apply to an arrest made pursuant to this section. For the purposes of this section, any court in this state has jurisdiction to enforce a valid order of protection that is issued in this state and that has been violated in any jurisdiction in this state.

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

~~P.~~ O. The remedies provided in this section for enforcement of the orders of the court are in addition to any other civil and criminal remedies available. The superior court shall have exclusive jurisdiction to issue orders of protection in all cases if it appears from the petition that an action for maternity or paternity, annulment, legal separation or dissolution of marriage is pending between the parties. A municipal court or justice court shall not issue an order of protection if it appears from the petition that an action for maternity or paternity, annulment, legal separation or dissolution of marriage is pending between the parties. After issuance of an order of protection, if the municipal court or justice court determines that an action for maternity or paternity, annulment, legal separation or dissolution of marriage is pending between the parties, the municipal court or justice court shall stop further proceedings in the action and forward all papers, together with a certified copy of docket entries or any other record in the action, to the superior court where they shall be docketed in the pending superior court action and shall proceed as though the petition for an order of protection had been originally brought in the superior court. Notwithstanding any other law and unless prohibited by an order of the superior court, a municipal court or justice court may hold a hearing on all matters relating to its ex parte order of protection if the hearing was requested before receiving written notice of the pending superior court action. No order of protection shall be invalid or determined to be ineffective merely because it was issued by a lower court at a time when an action for maternity or paternity, annulment, legal separation or dissolution of marriage was pending in a higher court. After a hearing with notice to the affected party, the court may enter an order requiring any party to pay the costs of the action, including reasonable attorney fees, if any. An

order that is entered by a justice court or municipal court after a hearing pursuant to this section may be appealed to the superior court as provided in title 22, chapter 2, article 4, section 22-425, subsection B and the superior court rules of civil appellate procedure without regard to an amount in controversy. No fee may be charged to either party for filing an appeal. For the purposes of this subsection, "pending" means, with respect to an action for annulment, legal separation or dissolution of marriage or for maternity or paternity, either that:

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

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

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

~~R.~~ Q. In addition to persons authorized to serve process pursuant to rule 4(d) of the Arizona rules of civil procedure, a peace officer or a correctional officer as defined in section 41-1661 who is acting in the officer's official capacity may serve an order of protection that is issued pursuant to this section. Service of the order of protection has priority over other service of process that does not involve an immediate threat to the safety of a person.

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

1. A protection order includes any injunction or other order that is issued for the purpose of preventing violent or threatening acts or harassment against, contact or communication with or physical proximity to another person. A protection order includes temporary and final orders other than support or child custody orders that are issued by civil and criminal courts if the order is obtained by the filing of an independent action or is a pendente lite order in another proceeding. The civil order shall be issued in response to a complaint, petition or motion that was filed by or on behalf of a person seeking protection.

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

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

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

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

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

APPROVED BY THE GOVERNOR MAY 7, 2010.

FILED IN THE OFFICE OF THE SECRETARY OF STATE MAY 7, 2010.

Passed the House April 29, 20 10,

by the following vote: 56 Ayes,

0 Nays, 4 Not Voting

Speaker of the House

Chief Clerk of the House

Passed the Senate March 3, 20 10,

by the following vote: 23 Ayes,

5 Nays, 1 Not Voting

VACANT

President of the Senate

Secretary of the Senate

EXECUTIVE DEPARTMENT OF ARIZONA
OFFICE OF GOVERNOR
This Bill was received by the Governor this

_____ day of _____, 20____,

at _____ o'clock _____ M.

_____
Secretary to the Governor

Approved this _____ day of

_____, 20_____,

at _____ o'clock _____ M.

_____
Governor of Arizona

EXECUTIVE DEPARTMENT OF ARIZONA
OFFICE OF SECRETARY OF STATE

This Bill was received by the Secretary of State

this _____ day of _____, 20____,

at _____ o'clock _____ M.

_____
Secretary of State

S.B. 1266

SENATE CONCURS IN HOUSE AMENDMENTS AND FINAL PASSAGE

Passed the Senate April 29, 20 10

by the following vote: 27 Ayes,

0 Nays, 3 Not Voting

President of the Senate

Secretary of the Senate

EXECUTIVE DEPARTMENT OF ARIZONA
OFFICE OF GOVERNOR

This Bill received by the Governor this

3 day of May, 20 10

at 8:50 o'clock A. M.

Secretary to the Governor

Approved this 7 day of

May, 2010

at 10:20 o'clock A. M.

Janice K. Brewer

Governor of Arizona

EXECUTIVE DEPARTMENT OF ARIZONA
OFFICE OF SECRETARY OF STATE

This Bill received by the Secretary of State

this 7th day of May, 20 10

at 4:30 o'clock P. M.

Secretary of State

S.B. 1266