

Senate Engrossed House Bill

**FILED**

**KEN BENNETT  
SECRETARY OF STATE**

State of Arizona  
House of Representatives  
Fifty-first Legislature  
First Regular Session  
2013

CHAPTER 213

# **HOUSE BILL 2517**

AN ACT

AMENDING SECTION 13-3601, ARIZONA REVISED STATUTES; RELATING TO DOMESTIC VIOLENCE OFFENSES.

(TEXT OF BILL BEGINS ON NEXT PAGE)

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

2 Section 1. Section 13-3601, Arizona Revised Statutes, is amended to  
3 read:

4 13-3601. Domestic violence; definition; classification;  
5 sentencing option; arrest and procedure for  
6 violation; weapon seizure

7 A. "Domestic violence" means any act that is a dangerous crime against  
8 children as defined in section 13-705 or an offense prescribed in section  
9 13-1102, 13-1103, 13-1104, 13-1105, 13-1201, 13-1202, 13-1203, 13-1204,  
10 13-1302, 13-1303, 13-1304, 13-1406, 13-1502, 13-1503, 13-1504, 13-1602 or  
11 13-2810, section 13-2904, subsection A, paragraph 1, 2, 3 or 6, section  
12 13-2910, subsection A, paragraph 8 or 9, section 13-2915, subsection A,  
13 paragraph 3 or section 13-2916, 13-2921, 13-2921.01, 13-2923, 13-3019,  
14 13-3601.02 or 13-3623, if any of the following applies:

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

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

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

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

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

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

34 (a) The type of relationship.

35 (b) The length of the relationship.

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

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

40 B. A peace officer, with or without a warrant, may arrest a person if  
41 the officer has probable cause to believe that domestic violence has been  
42 committed and the officer has probable cause to believe that the person to be  
43 arrested has committed the offense, whether the offense is a felony or a  
44 misdemeanor and whether the offense was committed within or without the

1 presence of the peace officer. In cases of domestic violence involving the  
2 infliction of physical injury or involving the discharge, use or threatening  
3 exhibition of a deadly weapon or dangerous instrument, the peace officer  
4 shall arrest a person WHO IS AT LEAST FIFTEEN YEARS OF AGE, with or without a  
5 warrant, if the officer has probable cause to believe that the offense has  
6 been committed and the officer has probable cause to believe that the person  
7 to be arrested has committed the offense, whether the offense was committed  
8 within or without the presence of the peace officer, unless the officer has  
9 reasonable grounds to believe that the circumstances at the time are such  
10 that the victim will be protected from further injury. Failure to make an  
11 arrest does not give rise to civil liability except pursuant to section  
12 12-820.02. In order to arrest both parties, the peace officer shall have  
13 probable cause to believe that both parties independently have committed an  
14 act of domestic violence. An act of self-defense that is justified under  
15 chapter 4 of this title is not deemed to be an act of domestic violence. The  
16 release procedures available under section 13-3883, subsection A, paragraph 4  
17 and section 13-3903 are not applicable to arrests made pursuant to this  
18 subsection.

19 C. A peace officer may question the persons who are present to  
20 determine if a firearm is present on the premises. On learning or observing  
21 that a firearm is present on the premises, the peace officer may temporarily  
22 seize the firearm if the firearm is in plain view or was found pursuant to a  
23 consent to search and if the officer reasonably believes that the firearm  
24 would expose the victim or another person in the household to a risk of  
25 serious bodily injury or death. A firearm that is owned or possessed by the  
26 victim shall not be seized unless there is probable cause to believe that  
27 both parties independently have committed an act of domestic violence.

28 D. If a firearm is seized pursuant to subsection C of this section,  
29 the peace officer shall give the owner or possessor of the firearm a receipt  
30 for each seized firearm. The receipt shall indicate the identification or  
31 serial number or other identifying characteristic of each seized firearm.  
32 Each seized firearm shall be held for at least seventy-two hours by the law  
33 enforcement agency that seized the firearm.

34 E. If a firearm is seized pursuant to subsection C of this section,  
35 the victim shall be notified by a peace officer before the firearm is  
36 released from temporary custody.

37 F. If there is reasonable cause to believe that returning a firearm to  
38 the owner or possessor may endanger the victim, the person who reported the  
39 assault or threat or another person in the household, the prosecutor shall  
40 file a notice of intent to retain the firearm in the appropriate superior,  
41 justice or municipal court. The prosecutor shall serve notice on the owner  
42 or possessor of the firearm by certified mail. The notice shall state that  
43 the firearm will be retained for not more than six months following the date  
44 of seizure. On receipt of the notice, the owner or possessor may request a

1 hearing for the return of the firearm, to dispute the grounds for seizure or  
2 to request an earlier return date. The court shall hold the hearing within  
3 ten days after receiving the owner's or possessor's request for a hearing.  
4 At the hearing, unless the court determines that the return of the firearm  
5 may endanger the victim, the person who reported the assault or threat or  
6 another person in the household, the court shall order the return of the  
7 firearm to the owner or possessor.

8 G. A peace officer is not liable for any act or omission in the good  
9 faith exercise of the officer's duties under subsections C, D, E and F of  
10 this section.

11 H. Each indictment, information, complaint, summons or warrant that is  
12 issued and that involves domestic violence shall state that the offense  
13 involved domestic violence and shall be designated by the letters DV. A  
14 domestic violence charge shall not be dismissed or a domestic violence  
15 conviction shall not be set aside for failure to comply with this subsection.

16 I. A person who is arrested pursuant to subsection B of this section  
17 may be released from custody in accordance with the Arizona rules of criminal  
18 procedure or any other applicable statute. Any order for release, with or  
19 without an appearance bond, shall include pretrial release conditions that  
20 are necessary to provide for the protection of the alleged victim and other  
21 specifically designated persons and may provide for additional conditions  
22 that the court deems appropriate, including participation in any counseling  
23 programs available to the defendant.

24 J. When a peace officer responds to a call alleging that domestic  
25 violence has been or may be committed, the officer shall inform in writing  
26 any alleged or potential victim of the procedures and resources available for  
27 the protection of the victim including:

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

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

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

33 4. WEBSITES FOR LOCAL RESOURCES RELATED TO DOMESTIC VIOLENCE.

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

36 L. If a person is convicted of an offense involving domestic violence  
37 and the victim was pregnant at the time of the commission of the offense, at  
38 the time of sentencing the court shall take into consideration the fact that  
39 the victim was pregnant and may increase the sentence.

40 M. An offense that is included in domestic violence carries the  
41 classification prescribed in the section of this title in which the offense  
42 is classified. If the defendant committed a felony offense listed in  
43 subsection A of this section against a pregnant victim and knew that the  
44 victim was pregnant or if the defendant committed a felony offense causing

1 physical injury to a pregnant victim and knew that the victim was pregnant,  
2 the maximum sentence otherwise authorized for that violation shall be  
3 increased by up to two years.

4 N. When a peace officer responds to a call alleging that domestic  
5 violence has been or may be committed, the officer ~~must~~ SHALL determine if a  
6 minor is present. If a minor is present, the peace officer ~~must~~ SHALL  
7 conduct a child welfare check to determine if the child is safe and if the  
8 child might be a victim of domestic violence or child abuse.

APPROVED BY THE GOVERNOR JUNE 19, 2013.

FILED IN THE OFFICE OF THE SECRETARY OF STATE JUNE 19, 2013.

Passed the House March 4, 20 13

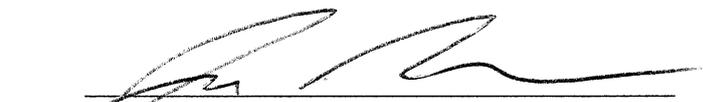
Passed the Senate April 9, 20 13

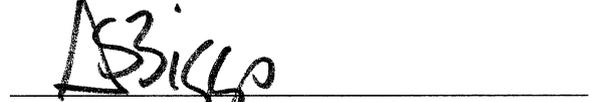
by the following vote: 59 Ayes,

by the following vote: 30 Ayes,

0 Nays, 1 Not Voting

0 Nays, 0 Not Voting



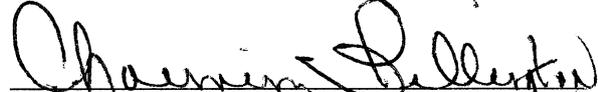


Speaker of the House

President of the Senate

*Pro Tempore*





Chief Clerk of the House

Secretary of the Senate

EXECUTIVE DEPARTMENT OF ARIZONA  
OFFICE OF GOVERNOR

~~This Bill received by the Governor this  
\_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_  
at \_\_\_\_\_ o'clock \_\_\_\_\_ M.  
\_\_\_\_\_  
Secretary to the Governor~~

Approved this \_\_\_\_\_ day of \_\_\_\_\_  
\_\_\_\_\_  
at \_\_\_\_\_ o'clock \_\_\_\_\_ M.  
\_\_\_\_\_  
Governor of Arizona

EXECUTIVE DEPARTMENT OF ARIZONA  
OFFICE OF SECRETARY OF STATE

~~This Bill received by the Secretary of State  
this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_  
at \_\_\_\_\_ o'clock \_\_\_\_\_ M.  
\_\_\_\_\_  
Secretary of State~~

H.B. 2517

HOUSE CONCURS IN SENATE  
AMENDMENTS AND FINAL PASSAGE

June 13, 2013,

by the following vote: 59 Ayes,

0 Nays, 1 Not Voting

[Signature]  
Speaker of the House

[Signature]  
Chief Clerk of the House

EXECUTIVE DEPARTMENT OF ARIZONA  
OFFICE OF GOVERNOR

This Bill was received by the Governor this

13 day of June, 2013,

at 4:45 o'clock P M.

[Signature]  
Secretary to the Governor

Approved this 19<sup>th</sup> day of

June, 2013,

at 12:02 o'clock P. M.

[Signature]  
Governor of Arizona

H.B. 2517

EXECUTIVE DEPARTMENT OF ARIZONA  
OFFICE OF SECRETARY OF STATE

This Bill was received by the Secretary of State

this 19<sup>th</sup> day of June, 2013,

at 2:05 o'clock P M.

[Signature]  
Secretary of State