STATE OF ARIZONA
OFFICE OF THE GOVERNOR

DOUGLAS A. DUCEY
GOVERNOR

EXECUTIVE OFFICE

June 5, 2020

The Honorable Katie Hobbs
Secretary of State
1700 W. Washington, 7th Floor
Phoenix, AZ 85007

Dear Secretary Hobbs:

I am transmitting to you the following bills from the Fifty-fourth Legislature, 2nd Regular Session, which I signed on June 5th, 2020:

S.B. 1012 executive session; school safety plans (Borrelli)
S.B. 1021 department of revenue; electronic signatures (Ugenti-Rita)
S.B. 1040 insurers; notices; methods of delivery (Livingston)
S.B. 1041 travel insurance (Livingston)
S.B. 1042 executive sessions; security plans (Borrelli)
S.B. 1061 schools; parental rights; posting (Allen, S.)
S.B. 1062 insurance transactions; discrimination; exceptions(Livingston)
S.B. 1083 agriculture department; livestock loss board (Allen, S.)
S.B. 1090 insurance adjusters; claims certificate (Livingston)
S.B. 1091 insurance producer licensing; surrender; application (Livingston)
S.B. 1096 property management records; residential rentals (Pace)
S.B. 1099 tax deed land sales; proceeds (Mesnard)
S.B. 1121 model city tax code; procedures (Leach)
S.B. 1131 certified public accountants (Gray)
S.B. 1210 assisted living; caregivers; training (Pace)
S.B. 1236 adult adoption; stepchildren (Gowan)
S.B. 1274 professional regulatory boards; composition (Ugenti-Rita)
S.B. 1292 financial literacy; state treasurer; fund (Allen,S.)
S.B. 1303 annexation of territory; requirements (Pratt)
S.B. 1305 personal delivery devices (Livingston)
S.B. 1354 public retirement systems; prefunding plan (Livingston)
S.B. 1397 insurance; preexisting condition exclusions; prohibition (Mesnard)
S.B. 1441 protection orders; modification; residence possession (Farnsworth, E.)
S.B. 1445 suicide prevention training; school employees (Bowie)
S.B. 1446 student identification cards; suicide prevention (Bowie)
S.B. 1460 electric cooperatives; broadband service (Borrelli)
S.B. 1492 Arizona teachers academy; program pathways (Boyer)

S.B. 1504 fingerprinting; vital records; child care (Brophy-McGee)
S.B. 1510 public contracts; payment methods (Livingston)
S.B. 1528 family college savings program; treasurer (Leach)
S.B. 1555 support order; dishonored payment; lien (Farnsworth, E.)
S.B. 1557 annuity transactions; requirements (Livingston)

Sincerely,

Douglas A. Ducey
Governor
State of Arizona

cc: Senate Secretary
Chief Clerk of the House of Representatives
Arizona News Service

Senate Engrossed

FILED
KATIE HOBBS
SECRETARY OF STATE

State of Arizona
Senate
Fifty-fourth Legislature
Second Regular Session
2020

CHAPTER 81
SENATE BILL 1441

AN ACT

AMENDING SECTIONS 13-3602 AND 13-3624, ARIZONA REVISED STATUTES; RELATING TO ORDERS OF PROTECTION.

(TEXT OF BILL BEGINS ON NEXT PAGE)

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

Section 1. Section 13-3602, Arizona Revised Statutes, is amended to read:

13-3602. Order of protection; procedure; contents; arrest for violation; penalty; protection order from another jurisdiction; definition

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 and contact information shall be disclosed to the court for purposes of service and notification. The address and contact information shall not be listed on the petition. Whether or not the court issues an order of protection, the plaintiff's address and contact information 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. 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 the appropriate information to both parties 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. WHILE THE ORDER OF PROTECTION IS IN EFFECT, IF A PARTY WAS GRANTED THE USE AND EXCLUSIVE POSSESSION OF THE PARTIES' RESIDENCE AND SUBSEQUENTLY MOVES OUT OF THE HOUSE, THE PARTY MUST FILE A NOTICE IN WRITING WITH THE COURT WITHIN FIVE DAYS AFTER MOVING OUT OF THE RESIDENCE. AFTER RECEIVING THE NOTIFICATION FROM THE PLAINTIFF, THE COURT SHALL PROVIDE NOTICE TO THE DEFENDANT THAT THE PLAINTIFF HAS MOVED OUT OF THE RESIDENCE AND OF THE DEFENDANT'S RIGHT TO REQUEST A HEARING PURSUANT TO SUBSECTION L OF THIS SECTION.

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 plaintiff the exclusive care, custody or control of any animal that is owned, possessed, leased, kept or held by the plaintiff, the defendant or a minor child residing in the residence or household of the plaintiff or the defendant, and order the defendant to stay away from the animal and forbid the defendant 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. After granting an order of protection, the court shall provide the order to a law enforcement agency or a constable as set forth in subsection J of this section for service or to an entity that is authorized in subsection K of this section to serve process. The agency or entity serving the order shall provide confirmation of service to the plaintiff as soon as practicable. If service of an order cannot be completed within fifteen days after the agency or entity receives the order, the agency or entity that is attempting service shall notify the

plaintiff and continue to attempt service. This notification may be completed by a victim notification system, if available.

J. If the order of protection is provided to a law enforcement agency or a constable, service of an order of protection is as follows:

1. For each order of protection that is issued by a municipal court, if the defendant can be served within that city or town, the order shall be served by the law enforcement agency of that city or town. If the order can be served in another city or town, the order shall be served by the law enforcement agency of that city or town. If the order cannot be served within a city or town, the order shall be served by the sheriff or constable of the county in which the defendant can be served.

2. For each order of protection that is issued by a justice of the peace, the order of protection shall be served by the sheriff or constable of the county in which the defendant can be served or by a municipal law enforcement agency.

3. For each order of protection that is issued by a superior court judge or commissioner, the order of protection shall by served by the sheriff or constable of the county where the defendant can be served.

K. 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.

L. 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. IF EXCLUSIVE USE OF THE HOME IS AWARDED TO THE PARTY, THE COURT, ON WRITTEN REQUEST OF A PARTY, MAY HOLD ADDITIONAL HEARINGS AT ANY TIME IF THERE IS A CHANGE IN CIRCUMSTANCES RELATED TO THE PRIMARY RESIDENCE.

M. 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.

N. An order of protection that is not served on the defendant within one year after the date that the order is issued 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.

O. A supplemental information form that is used by the court or a law enforcement agency solely for the purposes of service of process on the defendant and that contains information provided by the plaintiff is confidential.

P. Each affidavit, declaration, acceptance or return of service shall be filed as soon as practicable but not later than seventy-two hours, excluding weekends and holidays, with the clerk of the issuing court or as otherwise required by court rule. This filing shall be completed in person, electronically or by fax. Within twenty-four hours after the affidavit, declaration, 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 register the order with the national crime information center. The supreme court 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.

Q. 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 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.

R. A person who is arrested pursuant to subsection Q 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.

S. 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.

T. 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.

U. 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.

V. For the purposes of this section, "victim notification system" means an automated system that may provide plaintiffs and crime victims with an automated notification regarding the person's case.

Sec. 2. Section 13-3624, Arizona Revised Statutes, is amended to read:

13-3624. Emergency orders of protection

A. In counties with a population of one hundred fifty thousand persons or more, the presiding judge of the superior court, during the hours that the courts are closed, shall make available on a rotating basis a judge, justice of the peace, magistrate or commissioner who shall issue emergency orders of protection by telephone.

B. In counties with a population of less than one hundred fifty thousand persons, a judge, justice of the peace, magistrate or commissioner may issue an emergency order by telephone. The court, within twenty-four hours after a defendant is arrested for an act of domestic violence, shall register a certified copy of the release order with the sheriff's office of the county in which the order was issued. The court shall notify the sheriff's office of material changes in the release order, if the conditions of the release order are no longer in effect and when the charges are resolved. The sheriff in each county shall maintain a central repository for release orders so that the existence and validity of the orders can be easily verified. The law enforcement agency shall advise domestic violence victims where the victim may verify the registration and conditions of a release order.

C. The judge, justice of the peace, magistrate or commissioner who is authorized to issue emergency orders of protection may issue a written or oral ex parte emergency order of protection if a peace officer states that the officer has reasonable grounds to believe that a person is in immediate and present danger of domestic violence based on an allegation of a recent incident of actual domestic violence pursuant to section 13-3601, subsection A.

D. An emergency order of protection may include any of the following:

1. The defendant may be enjoined from committing a violation of one or more of the offenses included in domestic violence.

2. One party may be granted 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. WHILE THE ORDER OF PROTECTION IS IN EFFECT, IF A PARTY WAS GRANTED THE USE AND EXCLUSIVE POSSESSION OF THE

PARTIES' RESIDENCE AND SUBSEQUENTLY MOVES OUT OF THE HOUSE, THE PARTY MUST NOTIFY THE COURT WITHIN FIVE DAYS AFTER MOVING OUT OF THE RESIDENCE.

3. The defendant may be restrained from contacting the plaintiff and 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 may inflict bodily injury or death on the plaintiff, the defendant may be prohibited from possessing or purchasing a firearm for the duration of the order.

E. An emergency order of protection expires at the close of the next day of judicial business following the day of issue or seventy-two hours after issuance, whichever is longer, unless otherwise continued by the court.

F. A judge, justice of the peace, magistrate or commissioner may issue an oral emergency order of protection pursuant to subsection C of this section on request of the alleged victim, if there is a finding that a person's life or health is in imminent danger. 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. The judicial officer who issues an oral emergency order of protection shall document the issuance of the order as soon as practicable. The officer who receives the verbal order shall write and sign the order. The emergency order shall be served on the defendant, and a copy shall be given to the protected party. The emergency order shall be filed as soon as practicable after its issuance. The law enforcement agency shall file a certificate of service with the court and shall register the emergency order with the national crime information center as soon as practicable. If a person who is named in the order and who has not received personal service of the order but has received actual notice of the existence and substance of the order commits an act that violates the order, the person is subject to any penalty for the violation.

G. The availability of an emergency order of protection is not affected by either party leaving the residence.

H. A law enforcement agency that has jurisdiction to enforce an emergency order of protection shall enforce the emergency order when it has reasonable cause to believe that the order has been violated.

I. Failure of a law enforcement agency to enforce an emergency order of protection pursuant to this section does not give rise to civil liability except pursuant to section 12-820.02.

APPROVED BY THE GOVERNOR JUNE 5, 2020.

FILED IN THE OFFICE OF THE SECRETARY OF STATE JUNE 5, 2020.

Passed the House May 19, 2020,

by the following vote: 31 Ayes,

29 Nays, 0 Not Voting

Speaker of the House

Pro Tempore

Chief Clerk of the House

Passed the Senate February 18, 2020,

by the following vote: 28 Ayes,

2 Nays, 0 Not Voting

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. 1441

Passed the House _____, 20_____

by the following vote: _____ Ayes,

_____ Nays, _____ Not Voting

_____
Speaker of the House
☐ Pro Tempore

_____
Chief Clerk of the House

EXECUTIVE DEPARTMENT OF ARIZONA
OFFICE OF GOVERNOR

This Bill received by the Governor this

26th day of May, 20 20

at 12:20 o'clock P M.

_____
Secretary to the Governor

Approved this 5th day of

June 2020

at 12:12 o'clock P M.

_____
Governor of Arizona

EXECUTIVE DEPARTMENT OF ARIZONA
OFFICE OF SECRETARY OF STATE

This Bill received by the Secretary of State

this 5th day of June, 20 20

S.B. 1441

at 2:32 o'clock P. M.

_____
Secretary of State