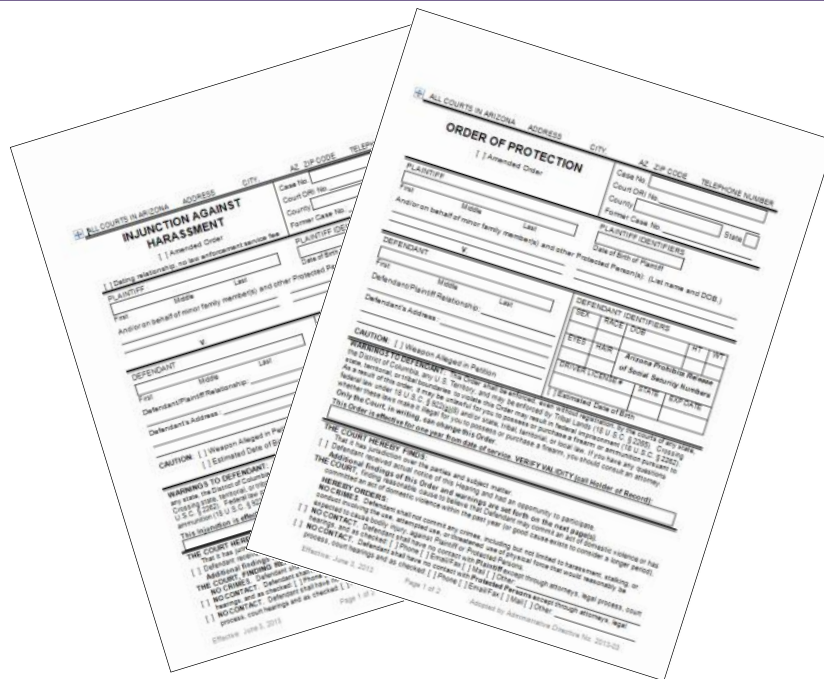


Things You Should Know About

Protective Orders

Orders of Protection
Injunctions Against Harassment
Injunctions Against Workplace Harassment



This booklet is designed to provide general information about protective orders in the State of Arizona.

Contents

IN AN EMERGENCY, CALL: 9-1-1

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Introduction

This booklet is intended to provide general information about protective orders. It is not a complete or authoritative review of this subject and reflects the laws of the State of Arizona only as of the date of its publication. The booklet is not intended to be a complete guide to obtaining a protective order. Domestic violence often involves many important issues about the legal rights of the people involved and of any children as well. Questions about specific situations should be discussed with an attorney.

Words that are included in the "Words & Definitions" section are ***bolded, italicized, and underlined*** in the text.

What is domestic violence?

A person who uses threats, harasses, molests, stalks, attacks, batters or strikes an intimate partner, family members, or his or her children is committing **domestic violence**. People from all ethnic, educational, and socioeconomic backgrounds can experience domestic violence.

A person who is experiencing domestic violence has a legal right to seek relief from the courts by getting an Order of Protection. A person who is seeking protection from ***harassment*** but who does not meet the relationship requirements for an Order of Protection may ask the court for an Injunction Against Harassment.

In the State of Arizona, domestic violence includes a variety of abusive acts in combination with specific relationships. The crimes and relationships are found in ***Arizona Revised Statutes (A.R.S.) § 13-3601***.



A *plaintiff* must be able to show the court that the person from whom he or she wants protection (the *defendant*) has committed or may commit an act of domestic violence. A **plaintiff does not have to be physically injured or hurt to be a victim of domestic violence.** Domestic violence occurs if the other person has done or attempts to:

- endanger
- threaten, intimidate, or harass
- interfere with the custody of children
- trespass on or damage property
- restrain, kidnap, or hold a person as a prisoner
- assault with his or her body or with a weapon
- display a deadly weapon or threaten with a deadly weapon
- surreptitiously (without a person's knowledge) photograph, videotape, film or record another person

The person only needs to threaten harm or abuse another person once for the act to be considered domestic violence.

Other acts of disorderly conduct and crimes such as stalking and disobeying a court order are also considered domestic violence if the parties have a specific relationship to each other.

General Questions & Answers

Q. Who is the plaintiff?

A. The plaintiff is the person who files the request (a *petition*) with the court for a protective order.

Q. Who is the defendant?

A. The defendant is the person against whom a request (a petition) for a protective order has been filed. The defendant may ask for a hearing in order to defend himself or herself.

Q. What is a protective order?

A. A protective order is a document obtained from a court to order the defendant not to contact the plaintiff and to prevent abusive behavior.

Q. What types of protective orders are available in Arizona?

A. In Arizona there are five types of protective orders:

- 1) Order of Protection
- 2) Emergency Order of Protection
- 3) Release Order
- 4) Injunction Against Harassment
- 5) Injunction Against Workplace Harassment

Q. What is an Order of Protection?

A. An Order of Protection is a *legal restraint* used to prohibit a person from committing acts of domestic violence or from contacting other people protected by the order. It can also provide several other kinds of protective relief, such as removing firearms from the home, adding other people to the protective order, and giving exclusive use of the home to the

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plaintiff. The Order of Protection law can be found at [A.R.S. § 13-3602](#).

A person who believes her or his safety is in danger because of domestic violence or harassment can ask the court for an Order of Protection (OP) or an Injunction Against Harassment (IAH). What determines the type of order that should be issued? The relationship between the person in danger and the person causing the danger is the deciding factor between an OP and an IAH. (See Relationship Test on page 7.)

Q. What is an Emergency Order of Protection?

A. An Emergency Order of Protection (EOP) is also a legal restraint to prevent domestic violence. An EOP may be granted by an authorized *judicial officer* in writing, verbally, or by telephone for the protection of a person in "imminent and present danger of domestic violence." An EOP can be issued during the hours the courts are closed. Unless *continued* by the court, an EOP is valid only until the close of the next *judicial business day* following the day the emergency order was issued. The EOP law can be found at [A.R.S. § 13-3624](#).

An EOP may be used to order a person not to commit acts of domestic violence or contact people protected by the order. Similar to the Order of Protection, it also provides protective relief, such as granting exclusive use of the home and removing firearms from an abuser.

4 In counties with a population of 150,000 persons or

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more, the presiding judge of the superior court must make available, on a rotating basis, a judicial officer to issue emergency orders during the hours that the courts are closed. There is no similar requirement for counties having a smaller population. However, in smaller counties, a judge, a justice of the peace, or a magistrate may issue an Emergency Order of Protection.

Q. What is a release order ?

A. In rural counties where it is not required that a judicial officer be designated to issue emergency orders when the courts are closed, emergency protection is available through a registered release order. Arizona law provides that when a person arrested for an act of domestic violence is released from custody, any release order shall include pretrial release conditions necessary to protect the alleged victim and other specifically designated persons.

Within 24 hours after a defendant is arrested for an act of domestic violence, the court must forward a certified copy of the release order to the sheriff of the county in which the order was issued for registration. The sheriff must maintain a central repository for release orders so the existence and validity of the release order may be easily verified.

Law enforcement agencies are required to advise domestic violence victims where registration and the conditions of a release order may be verified. Faced with a violation of a release order, a victim may

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summon a peace officer to enforce the conditions of the order against the defendant.

Q. What is an Injunction Against Harassment?

A. An Injunction Against Harassment (IAH) is a legal restraint that orders a person to stop harassing, annoying, or alarming another person. Injunctions can be used for disputes between neighbors or strangers.

Harassment is defined as "a series of acts over any period of time that is directed at a specific person...." Therefore, more than one act of harassment has to have occurred to qualify for an IAH. The Injunction Against Harassment differs from the Order of Protection in that exclusive use of the home cannot be ordered, and the police are not mandated to serve the injunction. The Injunction Against Harassment law can be found at [A.R.S. § 12-1809](#).

Q. What is the Injunction Against Workplace Harassment?

A. An Injunction Against Workplace Harassment (IAWH) allows an employer or an agent of an employer to file for relief on behalf of all employees at the workplace, any person who enters the employer's property, and any person who is performing official work duties. This allows the inclusion of numerous people under the protective umbrella of this injunction, whereas the Injunction Against Harassment is between two people. The Injunction Against Workplace Harassment law can

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be found at [A.R.S. § 12-1810](#).

For an IAWH, harassment is defined as "a single threat or act of physical harm or damage or a series of acts over a period of time that would cause a reasonable person to be seriously alarmed or annoyed."

A qualification is included in the IAWH law to ensure that an employer may not seek an injunction primarily to accomplish a purpose for which it was not designed (for example, prohibit free speech or other activities that are constitutionally or otherwise protected by law).

Q. What is the relationship test?

A. For a person seeking relief from domestic violence, the relationship test determines whether the person qualifies for an Order of Protection or an Injunction Against Harassment. To obtain an Order of Protection, the relationship between the plaintiff and the defendant **MUST** be one of the following:

- A spouse or former spouse
- Parents of a child in common
- One party is pregnant by the other party
- Present or former household members
- Related by blood or court order as parent, grandparent, child, grandchild, brother, or sister
- Related by marriage as parent-in-law, grand-

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parent-in-law, stepchild, step-grandchild, brother-in-law, sister-in-law, stepparent or step-grandparent

- A person who resides or who has resided in the same household with a child. The child must be 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.
- Persons with a current or previous romantic or sexual relationship. Factors to be considered in determining whether the parties have or had this relationship include the type and length of relationship, the frequency of interaction between the parties, and if the relationship has ended, how much time has passed since it ended.

For an Injunction Against Harassment, there is no relationship requirement between the plaintiff and the defendant. If the plaintiff and the defendant do not meet any of the above relationships required for an Order of Protection, then the plaintiff will need to apply for an Injunction Against Harassment.

Plaintiff's Questions

Q. How and where can I apply for an Order of Protection or an Injunction Against Harassment?

A. A person may file a petition for an Order of Protection or an Injunction Against Harassment in any superior, municipal, or justice court regardless of where the person lives in Arizona. The court will provide the proper petition form either at the Clerk of the Court's counter, a self-service center, or a protection order window.

Any court in the state is able to issue an OP or an IAH **except:**

- 1) If two courts are located within one mile of each other, then one court can be designated as the court that issues protective orders. The court must give you directions to the designated court and ensure that a judge is available there to hear your petition.
- 2) If an action (involving the same person from whom the plaintiff wants protection) for divorce, separation, paternity, or annulment has been filed with the superior court, then the plaintiff needs to request an Order of Protection at the superior court.
- 3) If the defendant is younger than 12 years of age, **only** the Juvenile Division of the superior court may issue the order or the injunction.

Q. What information do I need to obtain an Order of Protection or an Injunction Against Harassment?

A. To obtain an Order of Protection or an Injunction Against Harassment, you will need:

Plaintiff's Questions

- The **name, date of birth, and address**, if known, of the person from whom you are requesting protection (the defendant) and, if possible, any other address where that person can be reached.
- The dates and facts of the domestic violence or harassing acts or why you believe that domestic violence or harm **may** occur without protection.
- A **safe** address and phone number where you may be contacted so the court can notify you if a hearing is scheduled or if there is a change of the hearing date.

Additional helpful information about the defendant includes a physical description, social security number, and any aliases.

Q. Do I have to put my address on the petition to get an Order of Protection or an Injunction Against Harassment?

A. No. If the defendant does not already know your address, you can request that your address be kept confidential by the court. The court will provide you with a **separate** form to maintain your address in its files in the event the court needs to contact you about your protective order.

Q. Do I have to be an adult to get an Order of Protection or an Injunction Against Harassment?

A. Unless the court determines otherwise, if a person seeking protection is a minor, then a parent, legal guardian, or the person who has legal custody must request the order. However, the judicial officer has discretion to allow a minor to request an order in

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cases where a parent or guardian is missing or not available or where the minor is seeking relief from the parent.

Q. Can I ask for my children, family members, or other persons to be protected by the order?

A. Children, family members, or other persons may be included in an Order of Protection or an Injunction Against Harassment *only if the judge determines it is appropriate under the circumstances*. If the family member or other person is an adult, the judge may require that this person be present when requesting the protective order.

Note: A protective order **DOES NOT** determine legal decision-making (custody) and cannot address parenting time issues. These matters must be handled separately by filing a domestic relations action in the superior court.

Q. How much does it cost to get an Order of Protection or an Injunction Against Harassment?

A. By law, there are **NO** authorized filing fees and **NO** authorized fees to have the Order of Protection served.

Additionally, by law there are **NO** filing fees for an Injunction Against Harassment. If there is a dating relationship involved, there are **NO** authorized fees to have the Injunction Against Harassment served.

A fee can be charged for an Injunction Against

Plaintiff's Questions

Workplace Harassment and for an employer to have the IAWH served on the defendant. The application fee for an IAWH can vary and depends on the type of court (superior, justice, or municipal) in which the employer has filed. If the employer cannot afford the service fees, the employer can ask the court to waive or defer these fees.

Q. How long does the Order of Protection or an Injunction Against Harassment last?

A. An Order of Protection or an Injunction Against Harassment must be served within one year from the date it is issued. It is good for **one year from the date of service** on the defendant.

Q. Where and how can I get an Order of Protection when the courts are closed?

A. In counties with a population of 150,000 persons or more, you may ask any law enforcement officer to call the Sheriff's Office to request contact with the judicial officer designated for the day to issue an Emergency Order of Protection (EOP). The law enforcement officer must have a reasonable belief that you are in immediate and present danger of domestic violence based on a recent incident of actual domestic violence. The EOP may be authorized in writing or verbally and must be served on the defendant to be effective.

If the emergency order is verbally authorized, the law enforcement officer will complete the EOP form, noting the name of the judicial officer and that the

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order was verbally issued. See [A.R.S. § 13-3624\(A\)](#).

Note: If you haven been given an EOP and need continued protection, you must file a petition for an Order of Protection before the end of the following judicial business day.

Q. What happens if the defendant violates the Order of Protection or the Injunction Against Harassment?

A. IN AN EMERGENCY, CALL 9-1-1.

If the order has NOT been served, the defendant is not legally in violation of the order. Once the order has been served on the defendant, a violation of the court order is a criminal act. If the defendant does not follow the terms in the Order of Protection or the Injunction Against Harassment, then the police should be notified of a violation.

NOTE: You are advised **NOT** to contact the defendant or invite the defendant to visit you.

NOTE: The decision to file criminal charges for violation of an Order of Protection or an Injunction Against Harassment is made by the Prosecutor's Office, **NOT** by the victim or the court.

Q. What if I get an Order of Protection or an Injunction Against Harassment but the defendant has not yet been served and comes near me or commits another abusive act against me?

A. CALL 9-1-1. Explain that you have a protective

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order and the defendant is approaching you but has not yet been served. If you cannot call the police before the defendant contacts you, report the incident to the police as soon as you are able.

Keep a copy of the petition and the order with you at all times! Any Arizona law enforcement agent can serve the Order of Protection or the Injunction Against Harassment if you provide a copy of it. This is your proof to law enforcement that a protective order has been issued against the defendant.

Q. Can an Order of Protection or an Injunction Against Harassment be changed or modified?

A. Yes. The plaintiff or the defendant may file a petition to request that the order or injunction be modified or dismissed. At the hearing, the court may modify, quash, or continue the order or the injunction. A modified order or injunction must be served on the defendant to be in effect. A modified order or injunction is good for one year from the date of service of the original order.

Q. Can I get an order removing the defendant from my home?

A. Yes. If the judicial officer determines that there is reasonable cause to believe physical harm may result, you may be granted exclusive use of the residence in an Order of Protection. However, this order does not affect third parties, such as landlords. The landlord does not have to allow you to stay in the residence if you are not on the lease.

Plaintiff's Questions

NOTE: The court may allow the defendant to return one time to the residence, with law enforcement officer accompaniment, to retrieve personal belongings.

Q. I'm renting a residence and want to end my lease right away so I can get away from my abuser. Can I end my lease early because of domestic violence?

A. Arizona law ([A.R.S. § 33-1318](#)) allows a victim of domestic violence to end (terminate) a rental agreement early, without having to pay future rent or penalties or fees for early termination. However, you must notify the landlord *in writing* of your intent to end the lease early, and you must also give the landlord a copy of either an Order of Protection or a police report regarding the domestic violence incident. The incident of domestic violence that is causing you to end the lease must have occurred within 30 days of you giving notice to the landlord. This law provides other protections not described here. For more information about this law, contact an attorney.

Q. I plan to move to get away from my abuser. How can I keep my new address secret from the abuser?

A. The [Address Confidentiality Program](#), operated by the office of the Arizona Secretary of State, allows persons who have been subjected to domestic violence offenses, sexual offenses, or stalking to keep their residential addresses confidential and not accessible to the general public. A program participant is given a substitute address that becomes the

Plaintiff's Questions

participant's lawful address of record. An applicant must have recently moved to an undisclosed address within 90 days of applying to the ACP or must be planning to move in the near future to an undisclosed location.

- Q. The abuser has threatened to harm my pets and animals if I try to leave. How can I protect them?**
- A. In addition to himself or herself, a plaintiff can ask for animals to be protected by an Order of Protection. (See [A.R.S. § 13-3602\(G\)\(7\)](#).) The order can apply to any animal that is owned, possessed, leased, kept or held by the plaintiff, the defendant, or a minor child living in the residence of the plaintiff or the defendant. The defendant can be ordered to stay away from the animal and cannot take it, give it to someone else, hide it, or commit an act of cruelty or neglect against it.

Defendant's Questions

Q. How can I get an Order of Protection or an Injunction Against Harassment issued against me dismissed or changed?

A. The order or the injunction is valid for one year after it is served. During this year, you are entitled to **one** hearing on the order. As a defendant, you must file a written request for a hearing in the same court that issued the Order of Protection or the Injunction Against Harassment.

If the order is modified, the modified order must be re-served and is effective for one year from the date of service of the original order. You will be asked to sign an Acceptance of Service in the courtroom. If you refuse to sign the acceptance form, the judicial officer may detain you until a law enforcement officer is summoned to serve the order. The judicial officer also can authorize a court employee to serve the order on you in the courtroom.

Q. I have been ordered to surrender my firearms. When can I get them back?

A. The judge may order a defendant to turn over ALL firearms if the judge finds that the defendant is a credible threat to the plaintiff or other protected persons. If such an order is issued, you must turn over all of the firearms in your possession to the local law enforcement agency. When the order expires (one year), you may request the return of your firearms from the law enforcement agency that is holding them. You may request a hearing to modify the order to return your firearms.

Defendant's Questions

Q. I have been ordered to stay away from my house. How do I collect my belongings?

A. If you need to get personal items and clothing, you may return one time with a law enforcement officer. Contact the local law enforcement agency to make the arrangements. Law enforcement CANNOT resolve disputes regarding what belongings belong to whom. A civil action can be filed in the justice court to try to recover property that you believe is being wrongfully denied to you.

Q. What can I do if I believe this order stops me from seeing my children?

A. An Order of Protection does not determine legal decision-making and cannot address parenting time issues. It addresses only safety issues. Options are:

- 1) Asking for a hearing to modify the protective order in the court that issued it.
- 2) If the order does not prohibit contact with children, arranging for parenting time through a neutral third party (a friend or relative) not involved with the Order of Protection.
- 3) Filing an action in superior court, as part of a domestic relations case, to clarify your decision-making rights or the parenting time schedule.

If you were never married or never established paternity through an action in superior court, you have no legal right to the children. These rights must be established by filing a domestic relations action in superior court.

Words & Definitions

Continued. To keep an order in effect until the judicial officer can conduct a hearing to finalize or end the case. A case can be extended for a variety of reasons. If the judicial officer decides that a case needs to be continued, the case will be rescheduled to be heard again at later time. If the judicial officer has continued an order, the order will remain in effect until the hearing date.

Defendant. The party against whom the order has been entered. That person may file a response and ask for a hearing in order to *defend* himself or herself.

Dismissed. Also called “quashed.” An order is dismissed when a judicial officer removes the Order of Protection or the Injunction Against Harassment. *Note: Only the court can dismiss an order.* Even if the plaintiff and the defendant agree that the order should be dismissed, it is legally valid and enforceable until a judicial officer issues an order dismissing it.

Harassment. For an Injunction Against Harassment, a series of acts over any period of time that are directed at a specific person and would cause a reasonable person to be seriously alarmed, annoyed, or harassed, and the conduct seriously alarms, annoys, or harasses the person and serves no legitimate purpose.

Harassment, workplace. For an Injunction Against Workplace Harassment, a single threat or act of physical harm or damage or a series of acts over any period of time that would cause a reasonable person to be seriously alarmed or annoyed.

Words & Definitions

Judicial business day. The official working hours during which the court is open for business. Weekends and holidays are not included. For example, an Emergency Order of Protection (EOP) is valid until the end of the next judicial business day. If an Emergency Order of Protection is issued on Friday night, the next judicial business day is Monday. A plaintiff who still needs protection after the EOP expires must file a petition for an Order of Protection before the end of the next judicial business day.

Judicial officer. An elected or appointed judge, commissioner, justice of the peace or magistrate.

Legal restraint. A court order issued by a judge, commissioner, justice of the peace or magistrate that stops a defendant from doing certain acts.

Modify. To change. The plaintiff or the defendant may request specific changes be made to the Order of Protection or the Injunction Against Harassment. If the judicial officer agrees and makes the change at a hearing, the Order of Protection or the Injunction Against Harassment is considered "modified." A modified Order of Protection or Injunction Against Harassment must be served upon the defendant again.

Petition. A written, formal request. The court will provide a blank petition for the plaintiff to complete. The petition is then filed with the court, and if the judicial officer issues the protective order, a copy of the petition, along with the order, must be served on the defendant.

Words & Definitions

Plaintiff. The person who files the request (petition) for an order or an injunction with the court.

Quash. To dismiss. An order is quashed when a judicial officer removes the Order of Protection or the Injunction Against Harassment. *Note: Only the court can quash an order.* Even if the plaintiff and the defendant agree that the order should be dismissed, it is legally valid and enforceable until a judicial officer issues an order quashing it.

Served. "Service" or "served" means that the defendant is provided with a copy of the petition that was filed out along with the Order of Protection or the Injunction Against Harassment. Once an Order of Protection or Injunction Against Harassment is issued by the judge, the person seeking protection (Petitioner) needs to request that it be served on the defendant. Legal papers must be served by certain people in a particular way according to court rules (Rules 4.1 and 4.2 of the Arizona Rules of Civil Procedure). A plaintiff may not serve the papers. A private process server or a law enforcement agency can perform the service.

NOTE: Remember, the order or injunction is not effective until it is served on the defendant.

Resources

National Domestic Violence Hotline
(800) 799-SAFE (7233) – (800) 787-3224 (TDD)

Arizona Coalition Against Domestic Violence
Legal Advocacy Program
(800) 782-6400 – (602) 279-2900

Attorney General's Office of Victim Services
(602) 542-4911

Arizona Supreme Court Domestic Violence Law Web Page:
[http://www.azcourts.gov/domesticviolencelaw/
Home.aspx](http://www.azcourts.gov/domesticviolencelaw/Home.aspx)



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