

### **39-13-113. Violation of an order of protection or restraining order – Violation of no contact order.**

(a) It is an offense to knowingly violate:

(1) An order of protection issued pursuant to title 36, chapter 3, part 6; or

(2) A restraining order issued to a victim as defined in § 36-3-601.

(b) A person violating this section **may be arrested with or without a warrant** as provided in § 36-3-611, and the arrest shall be conducted in accordance with the requirements of § 36-3-619.

(c) A person who is arrested for a violation of this section shall be considered within the provisions of § 40-11-150(a) and **subject to the twelve-hour holding period** authorized by § 40-11-150(h).

(d) After a person has been arrested for a violation of this section, the arresting officer shall inform the victim that the person has been arrested and that the person may be **eligible to post bond** for the offense and be released until the date of trial for the offense.

(e) Neither an arrest nor the issuance of a warrant or capias for a violation of this section in any way affects the validity or enforceability of any order of protection, restraining order, or no contact order.

(f) In order to constitute a violation of subsection (a):

(1) The **person must have received notice** of the request for an order of protection or restraining order;

(2) The person must have had **an opportunity to appear and be heard** in connection with the order of protection or restraining order; and

(3) The **court made specific findings of fact** in the order of protection or restraining order that the person **committed domestic abuse, sexual assault, or stalking** as defined in § 36-3-601 **or** was convicted of a felony offense under chapter 13, part 1, 2, 3, or 5 of this title.

(g) A violation of subsection (a) is a Class A misdemeanor. Notwithstanding § 40-35-111(e)(1), a violation of subsection (a) is punishable by a fine of not less than one hundred dollars (\$100) nor more than two thousand five hundred dollars (\$2,500), and **any sentence of incarceration imposed shall be served consecutively** to the sentence for any other offense that is based in whole or in part on the same factual allegations. However, the **sentencing judge** or magistrate **may** specifically order the **sentences** for the offenses arising out of the same facts to be **served concurrently**.

(h)

(1) It is an offense and a violation of an order of protection for a person to **knowingly possess a firearm while an order of protection** that fully complies with 18 U.S.C. § 922(g)(8) is entered against that person and in effect, or any successive order of protection containing the language of § 36-3-606(f) and that fully complies with 18 U.S.C. § 922(g)(8) is entered against that person and in effect.

(2) For purposes of this subsection (h), the determination of whether a person possesses firearms shall be based upon the factors set out in § 36-3-625(f) if the firearms constitute the business inventory or are subject to the National Firearms Act, (26 U.S.C. § 5801 et seq.).

(3) A violation of this subsection (h) is a Class A misdemeanor and each violation constitutes a separate offense.

(4) If a violation of subsection (h) also constitutes a violation of § 36-3-625(h) or § 39-17-1307(f), the respondent may be charged and convicted under any or all such sections.

(i)

(1) It is an offense to knowingly violate a no contact order, issued prior to a defendant's release on bond, following the defendant's arrest for any criminal offense defined in this chapter, in which the alleged victim of the offense is a domestic abuse victim as defined in § 36-3-601.

(2) A violation of subdivision (i)(1) is a Class A misdemeanor. A sentence imposed must be served **consecutively** to the sentence for the offense for which the defendant was originally arrested, unless the sentencing judge or magistrate specifically orders the sentences for the offenses to be served concurrently.