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1996

**FILED**

**Jane Dee Hull  
Secretary of State**

CHAPTER 315

**SENATE BILL 1118**

AN ACT

AMENDING SECTIONS 13-1406.01, 13-3821, 13-3822, 13-3824, 13-3825, 13-4438, 13-4601, 13-4604, 13-4605, 13-4606, 13-4607, 13-4609 AND 31-281, ARIZONA REVISED STATUTES; REPEALING SECTION 13-4608, ARIZONA REVISED STATUTES; AMENDING TITLE 13, CHAPTER 42, ARIZONA REVISED STATUTES, BY ADDING A NEW SECTION 13-4608; AMENDING TITLE 13, CHAPTER 42, ARIZONA REVISED STATUTES, BY ADDING SECTIONS 13-4610, 13-4611, 13-4612 AND 13-4613; AMENDING LAWS 1995, CHAPTER 257, SECTION 9; PROVIDING FOR THE DELAYED REPEAL OF LAWS 1995, CHAPTER 257, SECTION 9, AS AMENDED BY THIS ACT; MAKING AN APPROPRIATION; RELATING TO SEXUAL OFFENDERS.

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

Section 1. Section 13-1406.01, Arizona Revised Statutes, is amended to read:

13-1406.01. Sexual assault of a spouse; violation; classification

A. A person commits sexual assault of a spouse by intentionally or knowingly engaging in sexual intercourse or oral sexual contact with a spouse without consent of the spouse by the immediate or threatened use of force against the spouse or another.

B. A first offense sexual assault of a spouse is a class 6 felony. Pursuant to section 13-702, the judge has discretion to enter judgment for conviction of a class 1 misdemeanor with mandatory counseling. Any subsequent sexual assault of a spouse is a class 2 felony and the person convicted is not eligible for suspension of sentence, probation, pardon or release from confinement on any basis except as specifically authorized by section 31-233, subsection A or B until the sentence imposed by the court has

1 been served or commuted. Convictions for two or more offenses not committed  
2 on the same occasion but consolidated for trial purposes shall not be counted  
3 as prior convictions for purposes of this section.

4 ~~C. A person convicted under this section may, in the discretion of the~~  
5 ~~court, be exempt from the registration requirements of chapter 38, article~~  
6 ~~3 of this title.~~

7 Sec. 2. Section 13-3821, Arizona Revised Statutes, is amended to read:  
8 13-3821. Persons required to register; procedure;  
9 identification card; classification

10 A. A person who has been convicted of a violation or attempted  
11 violation of any of the following offenses or who has been convicted of an  
12 offense committed in another jurisdiction which if committed in this state  
13 would be a violation or attempted violation of any of the following offenses  
14 shall, within ten days after the conviction or within ten days after entering  
15 any county of this state for the purpose of residing or setting up a  
16 temporary domicile for ten days or more, register with the sheriff of the  
17 county in which the person resides or sets up temporary domicile:

- 18 1. Sexual abuse pursuant to section 13-1404 if the victim is under  
19 fifteen years of age.
- 20 2. Sexual conduct with a minor pursuant to section 13-1405.
- 21 3. Sexual assault pursuant to section 13-1406.
- 22 4. Sexual assault of a spouse pursuant to section 13-1406.01.
- 23 5. Molestation of a child pursuant to section 13-1410.
- 24 6. Continuous sexual abuse of a child pursuant to section 13-1417.
- 25 7. Commercial sexual exploitation of a minor pursuant to section  
26 13-3552.
- 27 8. Sexual exploitation of a minor pursuant to section 13-3553.
- 28 9. A second or subsequent violation of indecent exposure to a person  
29 under the age of fifteen years pursuant to section 13-1402, subsection B.
- 30 10. A second or subsequent violation of public sexual indecency to a  
31 minor under the age of fifteen years pursuant to section 13-1403,  
32 subsection B.

33 B. Notwithstanding subsection A of this section, the judge who  
34 sentences a defendant for any violation of chapter 14 or 35.1 of this title  
35 or for an offense for which there was a finding of sexual motivation pursuant  
36 to section 13-118, may require the person who committed the offense to  
37 register pursuant to this section.

38 C. The court may require a person who has been adjudicated delinquent  
39 for an act that would constitute an offense specified in subsection A or B  
40 of this section to register pursuant to this section. Any duty to register  
41 under this subsection shall terminate when the person reaches the age of  
42 twenty-five.

43 D. At the time of registering, the person shall sign a statement in  
44 writing giving such information as required by the director of the department

1 of public safety, including all names by which the person is known. The  
2 sheriff shall fingerprint and photograph the person and within three days  
3 thereafter shall send copies of the statement, fingerprints and photographs  
4 to the criminal identification section within the department of public safety  
5 and the chief of police, if any, of the place where the person resides.

6 E. UPON THE PERSON'S INITIAL REGISTRATION AND EVERY THREE YEARS AFTER  
7 THE PERSON'S INITIAL REGISTRATION, THE PERSON SHALL OBTAIN A NONOPERATING  
8 IDENTIFICATION LICENSE OR A DRIVER'S LICENSE FROM THE MOTOR VEHICLE DIVISION  
9 IN THE DEPARTMENT OF TRANSPORTATION. THE PERSON SHALL NOT RECEIVE A DRIVER'S  
10 LICENSE THAT IS RENEWABLE FOR A PERIOD THAT EXCEEDS FIVE YEARS, SIX MONTHS  
11 AFTER THE PERSON'S BIRTH DATE. THE MOTOR VEHICLE DIVISION SHALL SEND A COPY  
12 OF THE PHOTOGRAPH TO THE CRIMINAL IDENTIFICATION SECTION OF THE DEPARTMENT  
13 OF PUBLIC SAFETY.

14 E- F. The clerk of the superior court in the county in which a person  
15 has been convicted of a violation of any offense listed under subsection A  
16 of this section shall notify the sheriff in that county of the conviction  
17 within ten days after entry of the judgment.

18 Sec. 3. Section 13-3822, Arizona Revised Statutes, is amended to read:

19 13-3822. Notice of change of address and change of name;  
20 forwarding of information

21 A. Within ten days after changing the person's address within a county  
22 or after changing the person's name, a person required to register under the  
23 provisions of this article shall inform the sheriff in writing of the  
24 person's new address OR NEW NAME. Within three days after receipt of such  
25 information, the sheriff shall forward it to the criminal identification  
26 section within the department of public safety and the chief of police, if  
27 any, of the place from which the person moves, and shall forward a copy of  
28 the statement, fingerprints and photograph of such person to the chief of  
29 police, if any, of the place to which the person has moved.

30 B. WITHIN SEVENTY-TWO HOURS AFTER A PERSON MOVES FROM A COUNTY IN  
31 WHICH THE PERSON IS REGISTERED, THE PERSON SHALL NOTIFY THE SHERIFF OF THE  
32 COUNTY FROM WHICH THE PERSON MOVES. IF THE PERSON IS SUBJECT TO COMMUNITY  
33 NOTIFICATION REQUIREMENTS, THE SHERIFF OF THE COUNTY FROM WHICH THE PERSON  
34 MOVES SHALL ADVISE THE LOCAL LAW ENFORCEMENT AGENCY OF THE COUNTY TO WHICH  
35 THE PERSON MOVES OF THE MOVE. THE LOCAL LAW ENFORCEMENT AGENCY SHALL CONTACT  
36 THE DEPARTMENT OF PUBLIC SAFETY FOLLOWING TEN DAYS AFTER BEING NOTIFIED TO  
37 DETERMINE IF THE PERSON HAS REREGISTERED. IF THE PERSON HAS NOT  
38 REREGISTERED, THE LOCAL LAW ENFORCEMENT AGENCY SHALL NOTIFY THE COUNTY  
39 ATTORNEY IN THE COUNTY IN WHICH THE PERSON PREVIOUSLY RESIDED.

40 Sec. 4. Section 13-3824, Arizona Revised Statutes, is amended to read:

41 13-3824. Violation; classification

42 A person who, being subject to registration under the provisions of  
43 this article, fails to ~~register as prescribed by sections 13-3821 and 13-3822~~  
44 COMPLY WITH THE REQUIREMENTS OF THIS ARTICLE is guilty of a class 6 felony.

1           Sec. 5. Section 13-3825, Arizona Revised Statutes, is amended to read:  
2           13-3825. Community notification

3           A. ~~At least three months before~~ WITHIN SEVENTY-TWO HOURS AFTER a  
4 person WHO WAS CONVICTED is released from confinement OR WHO WAS ACCEPTED  
5 UNDER THE INTERSTATE COMPACT FOR THE SUPERVISION OF PAROLEES AND PROBATIONERS  
6 AND HAS ARRIVED IN THIS STATE, the agency that ~~has jurisdiction over~~ HAD  
7 CUSTODY OF the person who was convicted of committing an offense for which  
8 the person was required to register pursuant to section 13-3821 OR THAT HAS  
9 ACCEPTED SUPERVISION UNDER THE INTERSTATE COMPACT FOR THE SUPERVISION OF  
10 PAROLEES AND PROBATIONERS shall provide ~~written notice to the chief law~~  
11 ~~enforcement officer of the community in which the person intends to reside~~  
12 ~~and any victim of the person who has requested notice of the person's~~  
13 ~~release.~~ ALL OF THE FOLLOWING INFORMATION TO THE DEPARTMENT OF PUBLIC  
14 SAFETY:

- 15           1. THE OFFENDER'S IDENTIFYING INFORMATION.
- 16           2. A RISK ASSESSMENT OF THE OFFENDER.
- 17           3. THE OFFENDER'S DATE OF RELEASE FROM CONFINEMENT OR, IF THE OFFENDER  
18 IS SENTENCED TO PROBATION WITHOUT JAIL TIME, THE DATE THE SENTENCE IS  
19 IMPOSED.

20           B. FOLLOWING THE TENTH DAY AFTER THE PERSON IS RELEASED FROM  
21 CONFINEMENT OR, IF THE OFFENDER IS SENTENCED TO PROBATION WITHOUT JAIL TIME,  
22 THE DATE THE SENTENCE IS IMPOSED, THE DEPARTMENT OF PUBLIC SAFETY SHALL  
23 CROSS-REFERENCE THE INFORMATION THE DEPARTMENT RECEIVES PURSUANT TO  
24 SUBSECTION A OF THIS SECTION WITH THE SEX OFFENDER REGISTRY TO DETERMINE IF  
25 THE PERSON IS REGISTERED AS REQUIRED BY SECTION 13-3821. IF THE PERSON IS  
26 NOT REGISTERED, THE DEPARTMENT OF PUBLIC SAFETY SHALL NOTIFY THE COUNTY  
27 ATTORNEY IN THE COUNTY IN WHICH THE PERSON WAS CONVICTED OR THE INTERSTATE  
28 COMPACT ADMINISTRATOR FOR THIS STATE. IF THE PERSON IS REGISTERED, THE  
29 DEPARTMENT OF PUBLIC SAFETY SHALL FORWARD THE INFORMATION THE DEPARTMENT  
30 RECEIVED PURSUANT TO SUBSECTION A OF THIS SECTION TO THE SHERIFF IN THE  
31 COUNTY WHERE THE PERSON IS REGISTERED.

32           C. AFTER RECEIVING THE INFORMATION PURSUANT TO SUBSECTION B OF THIS  
33 SECTION, THE SHERIFF SHALL FORWARD THE INFORMATION TO THE CHIEF LAW  
34 ENFORCEMENT OFFICER OF THE COMMUNITY IN WHICH THE PERSON RESIDES. AFTER  
35 REVIEWING THE INFORMATION RECEIVED AND ANY OTHER INFORMATION AVAILABLE TO THE  
36 LOCAL LAW ENFORCEMENT AGENCY, THE LOCAL LAW ENFORCEMENT AGENCY SHALL  
37 CATEGORIZE EACH OFFENDER AND PLACE EACH OFFENDER INTO A NOTIFICATION LEVEL.  
38 WITHIN FORTY-FIVE DAYS, THE LOCAL LAW ENFORCEMENT AGENCY MAY NOTIFY THE  
39 COMMUNITY OF THE OFFENDER'S PRESENCE IN THE COMMUNITY PURSUANT TO SUBSECTION  
40 H OF THIS SECTION. If the community does not have a chief law enforcement  
41 officer, the ~~agency~~ SHERIFF shall ~~provide written notice to the sheriff of~~  
42 ~~the county in which the person intends to reside of the person's release~~  
43 PERFORM THE DUTIES OF THE LOCAL LAW ENFORCEMENT AGENCY.

1           ~~B. Within forty five days after receiving written notice pursuant to~~  
2 ~~subsection A of this section, the chief law enforcement officer of the~~  
3 ~~community in which the person intends to reside shall notify that community~~  
4 ~~of the person's release to the community, if appropriate, pursuant to~~  
5 ~~guidelines established by the community notification guidelines committee.~~  
6 ~~If the community does not have a local law enforcement agency, the sheriff~~  
7 ~~of the county in which the person intends to reside shall notify the~~  
8 ~~community of the person's release.~~

9           ~~E. D.~~ On receiving notice pursuant to section 13-3822 that a person  
10 who is required to register has changed the person's address, the chief law  
11 enforcement officer of the community to which the person has relocated shall  
12 MAY notify that community of the person's relocation to the community, if  
13 appropriate, pursuant to ~~guidelines established by the community notification~~  
14 ~~guidelines committee~~ SUBSECTION C OF THIS SECTION. If the community does not  
15 have a local law enforcement agency, the sheriff of the county ~~in~~ TO which  
16 the person ~~intends to reside~~ HAS RELOCATED shall notify the community of the  
17 person's relocation.

18           E. IN COOPERATION WITH THE COUNTY PROBATION DEPARTMENT OR THE STATE  
19 DEPARTMENT OF CORRECTIONS, A LAW ENFORCEMENT AGENCY MAY DELEGATE ALL OR PART  
20 OF THE NOTIFICATION PROCESS FOR OFFENDERS ON COMMUNITY SUPERVISION TO THE  
21 COUNTY PROBATION DEPARTMENT OR TO THE STATE DEPARTMENT OF CORRECTIONS, AS  
22 APPROPRIATE.

23           ~~E.~~ F. A person who provides or fails to provide information required  
24 by this section is not civilly or criminally liable unless the act or  
25 omission is wanton or wilful.

26           ~~E.~~ G. This section does not prohibit law enforcement officers from  
27 giving a community notice of any circumstances or persons that pose a danger  
28 to the community under circumstances that are not provided for under this  
29 section.

30           ~~F.~~ H. This section does not apply to persons subject to the  
31 registration requirements in section 13-3821 as a result of offenses  
32 adjudicated by a juvenile court.

33           Sec. 6. Section 13-4438, Arizona Revised Statutes, is amended to read:

34           13-4438. Deoxyribonucleic acid testing; exception

35           A. Except as provided in subsection E of this section, before a  
36 person who was convicted of a sexual offense as provided in section 13-1403,  
37 13-1404, 13-1405, 13-1406, 13-1410, 13-1411, 13-1412 or 13-3608 and who was  
38 sentenced to a term of imprisonment is released AND WITHIN THIRTY DAYS AFTER  
39 THE ARRIVAL OF A PERSON WHO IS ACCEPTED UNDER THE INTERSTATE COMPACT FOR THE  
40 SUPERVISION OF PAROLEES AND PROBATIONERS, the state department of corrections  
41 shall secure a blood sample sufficient for deoxyribonucleic acid testing and  
42 extraction. The state department of corrections shall transmit the sample  
43 to the department of public safety. A PERSON WHO IS ACCEPTED FOR INTERSTATE  
44 PAROLE SUPERVISION BY THIS STATE SHALL PAY FOR THE COSTS OF THE TESTING.

1           B. Except as provided in subsection E of this section, before a  
2 person who was convicted or adjudicated delinquent of a sexual offense as  
3 provided in section 13-1403, 13-1404, 13-1405, 13-1406, 13-1410, 13-1411,  
4 13-1412 or 13-3608 and who was sentenced to a term of incarceration in a  
5 county jail detention facility or a county juvenile detention facility is  
6 released, the county jail detention facility shall secure a blood sample  
7 sufficient for deoxyribonucleic acid testing and extraction. The county jail  
8 detention facility shall transmit the sample to the department of public  
9 safety.

10           C. Except as provided in subsection E of this section, within fifteen  
11 days after a person is convicted or adjudicated delinquent of a sexual  
12 offense as provided in section 13-1403, 13-1404, 13-1405, 13-1406, 13-1410,  
13 13-1411, 13-1412 or 13-3608 and is sentenced to a term of probation AND  
14 WITHIN THIRTY DAYS AFTER THE ARRIVAL OF A PERSON WHO IS ACCEPTED UNDER THE  
15 INTERSTATE COMPACT FOR THE SUPERVISION OF PAROLEES AND PROBATIONERS, a county  
16 probation department shall secure a blood sample sufficient for  
17 deoxyribonucleic acid testing and extraction. The county probation  
18 department shall transmit the sample to the department of public safety. A  
19 PERSON WHO IS ACCEPTED FOR INTERSTATE PROBATION SUPERVISION BY THIS STATE  
20 SHALL PAY FOR THE COSTS OF THE TESTING.

21           D. Except as provided in subsection E of this section, before RELEASE  
22 OF a person who was adjudicated delinquent of a sexual offense as provided  
23 in section 13-1403, 13-1404, 13-1405, 13-1406, 13-1410, 13-1411, 13-1412 or  
24 13-3608 and who was committed to a secure care facility, the department of  
25 juvenile corrections shall secure a blood sample sufficient for  
26 deoxyribonucleic acid testing and extraction. The department of juvenile  
27 corrections shall transmit the sample to the department of public safety.

28           E. A blood sample shall not be secured pursuant to subsection A,  
29 B, C or D of this section if the scientific criminal analysis section of the  
30 department of public safety has previously made a deoxyribonucleic acid  
31 analysis of the person's blood pursuant to this section and maintains a  
32 report of the results.

33           F. The department of public safety shall conduct an analysis of the  
34 samples that it receives and shall make and maintain a report of the results  
35 of each deoxyribonucleic acid analysis.

36           Sec. 7. Section 13-4601, Arizona Revised Statutes, is amended to read:

37           13-4601. Definitions

38           In this chapter, unless the context otherwise requires:

39           1. "LESS RESTRICTIVE ALTERNATIVE" MEANS COURT ORDERED TREATMENT IN A  
40 SETTING THAT IS LESS RESTRICTIVE THAN TOTAL CONFINEMENT.

41           ~~1~~ 2. "Mental abnormality" means a congenital or acquired condition  
42 that affects the emotional or volitional capacity of a person and that  
43 predisposes the person to commit criminal sexual acts to such a degree as to  
44 render the person a menace to the health and safety of others.

1           2- 3. "Predatory acts" means acts that a person directs towards  
2 another person with whom the person has established or promoted a  
3 relationship for the primary purpose of victimization.

4           3- 4. "Sexually violent offense" means any of the following:

5           (a) Sexual conduct with a minor pursuant to section 13-1405,  
6 sexual assault pursuant to section 13-1406, sexual assault of a spouse  
7 pursuant to section 13-1406.01, molestation of a child pursuant to section  
8 13-1410 or continuous sexual abuse of a child pursuant to section 13-1417.

9           (b) Second degree murder pursuant to section 13-1104, first degree  
10 murder pursuant to section 13-1105, assault pursuant to section 13-1203,  
11 aggravated assault pursuant to section 13-1204, unlawful imprisonment  
12 pursuant to section 13-1303, kidnaping pursuant to section 13-1304 or  
13 burglary in the first degree pursuant to section 13-1508 if the court at the  
14 time of sentencing or civil commitment proceedings determines beyond a  
15 reasonable doubt that the act was sexually motivated pursuant to section  
16 13-118.

17           (c) An act committed in another state that if committed in this state  
18 would be a sexually violent offense.

19           4- 5. "Sexually violent predator" means a person who is charged with  
20 or has been convicted of a sexually violent offense and who suffers from a  
21 ~~mental abnormality or personality disorder~~ PARAPHILIA that makes the person  
22 likely to engage in predatory acts of sexual violence.

23           Sec. 8. Section 13-4604, Arizona Revised Statutes, is amended to read:  
24 13-4604. Judicial determination of predators; transfer for  
25 evaluation

26           A. On the filing of a petition pursuant to section 13-4603, the judge  
27 shall determine if probable cause exists to believe that the person named in  
28 the petition is a sexually violent predator.

29           B. If the judge determines that probable cause exists to believe that  
30 the person named in the petition is a sexually violent predator, the judge  
31 shall order that the person be taken into custody ~~and~~.

32           C. WITHIN SEVENTY-TWO HOURS AFTER A PERSON IS TAKEN INTO CUSTODY  
33 PURSUANT TO SUBSECTION B OF THIS SECTION, THE COURT SHALL PROVIDE THE PERSON  
34 WITH NOTICE OF AND AN OPPORTUNITY TO APPEAR AT A PROBABLE CAUSE HEARING TO  
35 CONTEST THE PROBABLE CAUSE FINDING MADE BY THE COURT PURSUANT TO SUBSECTION  
36 A OF THIS SECTION. AT THE HEARING, THE COURT SHALL VERIFY THE PERSON'S  
37 IDENTITY AND SHALL DETERMINE IF PROBABLE CAUSE EXISTS TO BELIEVE THAT THE  
38 PERSON IS A SEXUALLY VIOLENT PREDATOR. AT THE HEARING, THE STATE MAY RELY  
39 ON THE PETITION THAT ALLEGES THAT THE PERSON IS A SEXUALLY VIOLENT PREDATOR  
40 AND THAT IS FILED PURSUANT TO SECTION 13-4603. THE STATE MAY SUPPLEMENT THE  
41 INFORMATION IN THE PETITION WITH ADDITIONAL DOCUMENTARY EVIDENCE OR LIVE  
42 TESTIMONY.

43           D. AT THE PROBABLE CAUSE HEARING, THE PERSON HAS THE FOLLOWING RIGHTS:  
44 1. TO BE REPRESENTED BY COUNSEL.

- 1 2. TO PRESENT EVIDENCE ON THE PERSON'S BEHALF.
- 2 3. TO CROSS-EXAMINE WITNESSES WHO TESTIFY AGAINST THE PERSON.
- 3 4. TO VIEW AND COPY ALL PETITIONS AND REPORTS IN THE COURT FILE.

4 E. IF AT THE HEARING THE COURT DETERMINES THAT PROBABLE CAUSE EXISTS  
5 TO BELIEVE THAT THE PERSON IS A SEXUALLY VIOLENT PREDATOR, THE JUDGE SHALL  
6 ORDER THAT THE PERSON BE transferred to an appropriate facility for an  
7 evaluation. A person who is qualified pursuant to rules adopted by the  
8 department of health services ~~in cooperation with the state department of~~  
9 ~~corrections~~ shall conduct the evaluation.

10 Sec. 9. Section 13-4605, Arizona Revised Statutes, is amended to read:

11 13-4605. Trial; rights of parties

12 A. Within forty-five days after a petition is filed pursuant to  
13 section 13-4603, the court shall conduct a trial to determine if the person  
14 named in the petition is a sexually violent predator. The judge, attorney  
15 general or person named in the petition may request a jury trial. If no  
16 request is made, the trial shall be before the court. THE JUDGE MAY CONTINUE  
17 THE TRIAL AT THE REQUEST OF EITHER PARTY ON A SHOWING OF GOOD CAUSE OR ON ITS  
18 OWN MOTION IF THE PERSON WILL NOT BE SUBSTANTIALLY PREJUDICED.

19 B. The person named in the petition is entitled to assistance of  
20 counsel at any proceeding conducted pursuant to this chapter. If the person  
21 is indigent, the court shall appoint counsel to assist the person.

22 C. If the person named in the petition is subject to an examination,  
23 the person may retain any expert or other professional person of the person's  
24 own choice to perform the examination. The selected expert or other  
25 professional person shall be given reasonable access to the person in order  
26 to conduct the examination and shall be given all relevant medical and  
27 psychological records and reports. If the person is indigent, the court  
28 shall assist the person in retaining any expert or other professional person  
29 to conduct an examination or participate in the trial on the person's behalf.

30 Sec. 10. Section 13-4606, Arizona Revised Statutes, is amended to  
31 read:

32 13-4606. Determining predator status; commitment procedures

33 A. The court or jury shall determine beyond a reasonable doubt if the  
34 person named in the petition is a sexually violent predator. If the state  
35 alleges that the sexually violent offense on which the petition for  
36 commitment is based was sexually motivated, the state shall prove beyond a  
37 reasonable doubt that the alleged sexually violent act was sexually  
38 motivated.

39 B. If the court or jury determines that the person is a sexually  
40 violent predator, the court shall commit the person to the custody of the  
41 ~~state department of corrections~~ HEALTH SERVICES for placement in the state  
42 hospital or a licensed behavioral health or mental health inpatient treatment  
43 ~~facility operated by the state department of corrections~~. The person shall  
44 remain in the state hospital or licensed behavioral health or mental health

1 inpatient treatment facility and shall receive care and treatment until the  
2 person's ~~mental abnormality or personality disorder~~ PARAPHILIA has so changed  
3 that the person would not be a threat to public safety if THE PERSON WAS  
4 CONDITIONALLY released TO A LESS RESTRICTIVE ALTERNATIVE OR WAS  
5 UNCONDITIONALLY DISCHARGED.

6 C. If the court or jury does not determine beyond a reasonable doubt  
7 that the person is a sexually violent predator, the court shall order the  
8 person's release.

9 D. If the person named in the petition was found incompetent to stand  
10 trial, the court first shall hear evidence and determine if the person  
11 committed the act or acts charged if the court did not enter a finding before  
12 the charges were dismissed. The rules of evidence, all constitutional rights  
13 available to criminal defendants except the right not to be tried while  
14 incompetent and all procedures under this section apply to the hearing  
15 conducted pursuant to this subsection. The court shall enter specific  
16 findings on whether the person committed the act or acts charged, the extent  
17 to which the person's incompetence to stand trial affected the outcome of the  
18 hearing, including its effect on the person's ability to consult with and  
19 assist counsel and to testify on the person's own behalf, the extent to which  
20 the evidence could be reconstructed without the assistance of the person and  
21 the strength of the prosecution's case. If the court finds beyond a  
22 reasonable doubt that the person committed the act or acts charged, the court  
23 shall enter a final order to that effect and may then consider whether the  
24 person should be committed pursuant to this section. The person may appeal  
25 the court's final order.

26 Sec. 11. Section 13-4607, Arizona Revised Statutes, is amended to  
27 read:

28 13-4607. Annual examination of committed persons; report

29 A. The psychiatrist of the state hospital or a licensed behavioral  
30 health or mental health inpatient treatment facility ~~operated by the state~~  
31 ~~department of corrections~~, or if no psychiatrist is available, the physician  
32 at the facility, shall annually examine each person who is committed pursuant  
33 to this chapter. THE PERSON WHO CONDUCTS THE ANNUAL EXAMINATION SHALL SUBMIT  
34 THE EXAMINATION REPORT TO THE COURT. THE ANNUAL REPORT SHALL STATE IF  
35 CONDITIONAL RELEASE TO A LESS RESTRICTIVE ALTERNATIVE IS IN THE BEST INTEREST  
36 OF THE PERSON AND WILL ADEQUATELY PROTECT THE COMMUNITY.

37 B. The person may retain, or on the request of an indigent person the  
38 court may appoint, any qualified expert or other professional person to  
39 conduct the examination. A retained or appointed person shall have access  
40 to all records concerning the person. ~~The person conducting the annual~~  
41 ~~examination shall submit the examination report to the court.~~

42 Sec. 12. Repeal

43 Section 13-4608, Arizona Revised Statutes, is repealed.

1           Sec. 13. Title 13, chapter 42, Arizona Revised Statutes, is amended  
2 by adding a new section 13-4608, to read:

3           13-4608. Detention and commitment requirements; definition

4           A. A PERSON WHO IS COMMITTED OR CONDITIONALLY RELEASED TO A LESS  
5 RESTRICTIVE ALTERNATIVE PURSUANT TO THIS CHAPTER DOES NOT FORFEIT ANY LEGAL  
6 RIGHT AND SHALL NOT SUFFER ANY LEGAL DISABILITY AS A CONSEQUENCE OF ANY  
7 ACTIONS TAKEN OR ORDERS MADE EXCEPT AS SPECIFICALLY PROVIDED IN THIS CHAPTER.

8           B. A PERSON WHO IS COMMITTED OR CONDITIONALLY RELEASED TO A LESS  
9 RESTRICTIVE ALTERNATIVE PURSUANT TO THIS CHAPTER HAS THE RIGHT TO ADEQUATE  
10 CARE AND TREATMENT. THE STATE HOSPITAL OR A LICENSED BEHAVIORAL HEALTH OR  
11 MENTAL HEALTH INPATIENT TREATMENT FACILITY SHALL KEEP RECORDS DETAILING ALL  
12 MEDICAL, EXPERT AND PROFESSIONAL CARE AND TREATMENT THAT A COMMITTED PERSON  
13 RECEIVES AND SHALL KEEP COPIES OF ALL REPORTS OF PERIODIC EXAMINATIONS THAT  
14 ARE MADE PURSUANT TO THIS CHAPTER. THESE RECORDS AND REPORTS SHALL BE MADE  
15 AVAILABLE ON REQUEST ONLY TO ANY OF THE FOLLOWING:

- 16           1. THE COMMITTED PERSON.
- 17           2. THE COMMITTED PERSON'S ATTORNEY.
- 18           3. THE PROSECUTOR.
- 19           4. THE COURT.

20           5. ON PROPER SHOWING, AN EXPERT OR PROFESSIONAL PERSON WHO  
21 DEMONSTRATES A NEED FOR ACCESS TO THE RECORDS OR REPORTS.

22           C. AT THE TIME A PERSON IS TAKEN INTO CUSTODY OR TRANSFERRED INTO A  
23 BEHAVIORAL HEALTH OR MENTAL HEALTH INPATIENT TREATMENT FACILITY PURSUANT TO  
24 THIS CHAPTER, THE PERSON IN CHARGE OF THE FACILITY OR THE PERSON'S DESIGNEE  
25 SHALL TAKE REASONABLE PRECAUTIONS TO INVENTORY AND SAFEGUARD THE PERSONAL  
26 PROPERTY OF THE DETAINED OR TRANSFERRED PERSON. THE STAFF MEMBER WHO MAKES  
27 AN INVENTORY OF THE PERSON'S PERSONAL PROPERTY SHALL GIVE A SIGNED COPY OF  
28 THAT INVENTORY TO THE PERSON. THE FACILITY SHALL ALLOW A RESPONSIBLE  
29 RELATIVE TO INSPECT THE PROPERTY, SUBJECT TO ANY LIMITATIONS THAT THE PERSON  
30 SPECIFICALLY IMPOSES. THE FACILITY SHALL NOT DISCLOSE THE CONTENTS OF THE  
31 INVENTORY TO ANY OTHER PERSON WITHOUT THE CONSENT OF THE PERSON OR A COURT  
32 ORDER.

33           D. THIS CHAPTER DOES NOT PROHIBIT A PERSON WHO IS COMMITTED OR  
34 CONDITIONALLY RELEASED TO A LESS RESTRICTIVE ALTERNATIVE FROM EXERCISING ANY  
35 RIGHT THAT IS AVAILABLE FOR THE PURPOSE OF OBTAINING RELEASE FROM  
36 CONFINEMENT, INCLUDING THE RIGHT TO PETITION FOR A WRIT OF HABEAS CORPUS.

37           E. A PERSON WHO IS INDIGENT MAY NOT BE CONDITIONALLY RELEASED TO A  
38 LESS RESTRICTIVE ALTERNATIVE OR UNCONDITIONALLY DISCHARGED WITHOUT SUITABLE  
39 CLOTHING. WHEN A PERSON IS CONDITIONALLY RELEASED TO A LESS RESTRICTIVE  
40 ALTERNATIVE OR UNCONDITIONALLY DISCHARGED, THE SUPERINTENDENT OF THE STATE  
41 HOSPITAL SHALL FURNISH THE PERSON WITH AN AMOUNT OF MONEY PURSUANT TO SECTION  
42 31-228.

1 F. FOR THE PURPOSES OF THIS SECTION, "RESPONSIBLE RELATIVE" MEANS THE  
2 SPOUSE, PARENT, ADULT CHILD OR ADULT SIBLING OF THE PERSON AND INCLUDES THE  
3 GUARDIAN, CONSERVATOR OR ATTORNEY OF THE PERSON.

4 Sec. 14. Section 13-4609, Arizona Revised Statutes, is amended to  
5 read:

6 13-4609. Petition for release; procedures

7 A. If the superintendent of the state hospital or the director of the  
8 ~~state~~ department of ~~corrections~~ HEALTH SERVICES determines that the person's  
9 ~~mental abnormality or personality disorder~~ PARAPHILIA has so changed that the  
10 person is not likely to engage in predatory acts of sexual violence if  
11 CONDITIONALLY released TO A LESS RESTRICTIVE ALTERNATIVE OR UNCONDITIONALLY  
12 DISCHARGED, the superintendent or director shall allow the person to petition  
13 the court for CONDITIONAL release TO A LESS RESTRICTIVE ALTERNATIVE OR FOR  
14 UNCONDITIONAL DISCHARGE. The person shall serve the petition on the court  
15 and the county attorney. The court shall hold a hearing on the petition for  
16 CONDITIONAL release TO A LESS RESTRICTIVE ATLERNATIVE OR FOR UNCONDITIONAL  
17 DISCHARGE within forty-five days after receiving the petition. THE COURT MAY  
18 CONTINUE THE HEARING ON THE REQUEST OF EITHER PARTY AND A SHOWING OF GOOD  
19 CAUSE OR ON ITS OWN MOTION IF THE RESPONDENT WILL NOT BE SUBSTANTIALLY  
20 PREJUDICED. The county attorney or the attorney general on request of the  
21 county attorney shall represent the state at the hearing and may request that  
22 the petitioner be examined by any expert or other professional person  
23 selected by the county attorney. The county attorney, the attorney general  
24 or the petitioner may request that the hearing be conducted before a jury.  
25 The attorney for the state has the burden of proving beyond a reasonable  
26 doubt that the petitioner's ~~mental abnormality or personality disorder~~  
27 PARAPHILIA has not changed and that the petitioner remains a danger to others  
28 and is likely to engage in predatory acts of sexual violence if CONDITIONALLY  
29 released TO A LESS RESTRICTIVE ALTERNATIVE OR UNCONDITIONALLY DISCHARGED.

30 B. This section does not prohibit the committed person from  
31 petitioning the court for CONDITIONAL release TO A LESS RESTRICTIVE  
32 ALTERNATIVE OR FOR UNCONDITIONAL DISCHARGE without the approval of the  
33 superintendent of the state hospital or the director of the ~~state~~ department  
34 of ~~corrections~~ HEALTH SERVICES. The director of the ~~state~~ department of  
35 ~~corrections~~ HEALTH SERVICES shall give annual written notice to the committed  
36 person of the person's right to petition the court for CONDITIONAL release  
37 TO A LESS RESTRICTIVE ALTERNATIVE OR FOR UNCONDITIONAL DISCHARGE without the  
38 approval of the superintendent or director. The notice shall contain a  
39 waiver of rights. The director shall submit the notice and waiver to the  
40 court with the annual examination report.

41 C. If the committed person does not affirmatively waive the right to  
42 petition the court, the court shall set a hearing to show cause to determine  
43 if facts exist that would warrant a hearing on whether the person's condition  
44 has so changed that the person could be safely CONDITIONALLY released TO A

1 LESS RESTRICTIVE ALTERNATIVE OR UNCONDITIONALLY DISCHARGED. The person has  
2 the right to be represented by counsel at the show cause hearing but does not  
3 have the right to be present.

4 D. If at the show cause hearing the court determines that probable  
5 cause exists to believe that the person's ~~mental abnormality or personality~~  
6 ~~disorder~~ PARAPHILIA has so changed that the person may be safely  
7 CONDITIONALLY released TO A LESS RESTRICTIVE ALTERNATIVE OR UNCONDITIONALLY  
8 DISCHARGED and is not likely to engage in predatory acts of sexual violence  
9 if released, the court shall set a hearing on the issue of CONDITIONAL  
10 release TO A LESS RESTRICTIVE ALTERNATIVE OR UNCONDITIONAL DISCHARGE.

11 E. The committed person may be present at the release hearing and is  
12 entitled to the same constitutional protections that apply to the initial  
13 commitment proceeding. The county attorney or the attorney general on  
14 request of the county attorney shall represent the state, may request a jury  
15 and may request that the person be examined by any expert or other  
16 professional person selected by the attorney for the state. The committed  
17 person may retain and the court on request of an indigent person may appoint  
18 any expert or other professional person. The attorney for the state has the  
19 burden of proving beyond a reasonable doubt that the person's ~~mental~~  
20 ~~abnormality or personality disorder~~ PARAPHILIA has not changed and that the  
21 person remains a danger to others and is likely to engage in predatory acts  
22 of sexual violence if CONDITIONALLY released TO A LESS RESTRICTIVE  
23 ALTERNATIVE OR UNCONDITIONALLY DISCHARGED.

24 F. THE COURT'S JURISDICTION OVER A PERSON WHO IS CIVILLY COMMITTED  
25 PURSUANT TO THIS CHAPTER CONTINUES UNTIL THE PERSON IS UNCONDITIONALLY  
26 DISCHARGED.

27 Sec. 15. Title 13, chapter 42, Arizona Revised Statutes, is amended  
28 by adding sections 13-4610, 13-4611, 13-4612 and 13-4613, to read:

29 13-4610. Conditional release to a less restrictive alternative;  
30 findings

31 BEFORE THE COURT ORDERS THAT A PERSON BE CONDITIONALLY RELEASED TO A  
32 LESS RESTRICTIVE ALTERNATIVE, THE COURT SHALL FIND THAT ALL OF THE FOLLOWING  
33 APPLY:

34 1. THE PERSON WILL BE TREATED BY A TREATMENT PROVIDER WHO IS QUALIFIED  
35 TO PROVIDE THE NECESSARY TREATMENT IN THIS STATE.

36 2. THE TREATMENT PROVIDER PRESENTS A SPECIFIC COURSE OF TREATMENT FOR  
37 THE PERSON, AGREES TO ASSUME RESPONSIBILITY FOR THE PERSON'S TREATMENT, WILL  
38 REPORT ON THE PERSON'S PROGRESS TO THE COURT ON A REGULAR BASIS AND WILL  
39 REPORT ANY VIOLATIONS AS PRESCRIBED IN PARAGRAPHS 4 AND 5 OF THIS SECTION  
40 IMMEDIATELY TO THE COURT, THE PROSECUTOR, THE COMMUNITY SUPERVISION OFFICER  
41 AND THE SUPERINTENDENT OF THE STATE HOSPITAL.

42 3. THE PERSON WHO IS CONDITIONALLY RELEASED TO A LESS RESTRICTIVE  
43 ALTERNATIVE HAS HOUSING ARRANGEMENTS THAT ARE SUFFICIENTLY SECURE TO PROTECT  
44 THE COMMUNITY AND THE PERSON OR AGENCY THAT IS PROVIDING THE HOUSING TO THE

1       CONDITIONALLY RELEASED PERSON AGREES IN WRITING TO THE FOLLOWING  
2       CONDITIONS:

3           (a) TO ACCEPT THE CONDITIONALLY RELEASED PERSON.

4           (b) TO PROVIDE THE LEVEL OF SECURITY THAT THE COURT REQUIRES.

5           (c) TO IMMEDIATELY REPORT THE UNAUTHORIZED ABSENCE OF THE  
6       CONDITIONALLY RELEASED PERSON FROM THE HOUSING ARRANGEMENT TO WHICH THE  
7       PERSON HAS BEEN ASSIGNED.

8           4. THE PERSON WILL COMPLY WITH THE TREATMENT PROVIDER AND ALL OF THE  
9       REQUIREMENTS THAT ARE IMPOSED BY THE TREATMENT PROVIDER AND THE COURT.

10          5. THE PERSON WILL COMPLY WITH THE SUPERVISION REQUIREMENTS THAT ARE  
11       IMPOSED BY THE STATE DEPARTMENT OF CORRECTIONS.

12          13-4611. Conditional release to a less restrictive alternative;  
13                                   evidence

14           A. AT THE CONCLUSION OF A HEARING THAT IS HELD PURSUANT TO SECTION  
15       13-4609, IF THE COURT FINDS THAT THERE IS NO LEGALLY SUFFICIENT EVIDENTIARY  
16       BASIS FOR A REASONABLE JURY TO FIND THAT THE CONDITIONS SET FORTH IN SECTION  
17       13-4610 HAVE BEEN MET, THE COURT SHALL GRANT THE STATE'S MOTION FOR A  
18       JUDGMENT AS A MATTER OF LAW ON THE ISSUE OF CONDITIONAL RELEASE TO A LESS  
19       RESTRICTIVE ALTERNATIVE.

20           B. IF THE ISSUE OF CONDITIONAL RELEASE TO A LESS RESTRICTIVE  
21       ALTERNATIVE IS SUBMITTED TO A JURY, THE COURT SHALL INSTRUCT THE JURY TO  
22       RETURN A VERDICT IN SUBSTANTIALLY THE FOLLOWING FORM: "HAS THE STATE PROVED  
23       BEYOND A REASONABLE DOUBT THAT THE PROPOSED LESS RESTRICTIVE ALTERNATIVE IS  
24       NOT IN THE BEST INTERESTS OF RESPONDENT OR WILL NOT ADEQUATELY PROTECT THE  
25       COMMUNITY? ANSWER: YES OR NO."

26          13-4612. Conditional release to a less restrictive alternative;  
27                                   conditions; reports; review

28           A. IF THE COURT OR A JURY DETERMINES THAT CONDITIONAL RELEASE TO A  
29       LESS RESTRICTIVE ALTERNATIVE IS IN THE BEST INTEREST OF THE PERSON AND WILL  
30       ADEQUATELY PROTECT THE COMMUNITY AND THE COURT DETERMINES THAT THE MINIMUM  
31       CONDITIONS UNDER SECTION 13-4610 ARE MET, THE COURT SHALL ENTER JUDGMENT AND  
32       ORDER THE PERSON'S CONDITIONAL RELEASE TO A LESS RESTRICTIVE ALTERNATIVE.

33           B. THE COURT MAY IMPOSE ANY ADDITIONAL CONDITIONS ON THE PERSON THAT  
34       THE COURT DETERMINES ARE NECESSARY TO ENSURE THE PERSON'S COMPLIANCE WITH  
35       TREATMENT AND TO PROTECT THE COMMUNITY. IF THE COURT FINDS THAT CONDITIONS  
36       DO NOT EXIST THAT WILL BOTH ENSURE THE PERSON'S COMPLIANCE WITH TREATMENT AND  
37       PROTECT THE COMMUNITY, THE COURT SHALL REMAND THE PERSON TO THE CUSTODY OF  
38       THE STATE HOSPITAL OR A LICENSED BEHAVIORAL HEALTH OR MENTAL HEALTH INPATIENT  
39       TREATMENT FACILITY OPERATED FOR CONTROL, CARE AND TREATMENT.

40           C. IF THE SERVICE PROVIDER THAT IS DESIGNATED TO PROVIDE INPATIENT OR  
41       OUTPATIENT TREATMENT OR TO MONITOR OR SUPERVISE ANY OTHER TERMS AND  
42       CONDITIONS OF A PERSON'S PLACEMENT IN A LESS RESTRICTIVE ALTERNATIVE IS NOT  
43       THE STATE HOSPITAL, THE SERVICE PROVIDER SHALL AGREE IN WRITING TO PROVIDE  
44       THE TREATMENT.

1 D. BEFORE THE COURT AUTHORIZES A PERSON'S CONDITIONAL RELEASE TO A  
2 LESS RESTRICTIVE ALTERNATIVE, THE COURT SHALL IMPOSE ANY CONDITIONS ON THE  
3 PERSON THAT THE COURT DETERMINES ARE NECESSARY TO ENSURE THE SAFETY OF THE  
4 COMMUNITY. THE COURT SHALL ORDER THE SUPERINTENDENT OF THE HOSPITAL TO  
5 INVESTIGATE THE LESS RESTRICTIVE ALTERNATIVE AND TO RECOMMEND ANY ADDITIONAL  
6 CONDITIONS TO THE COURT. THE COURT SHALL GIVE A COPY OF THE CONDITIONS OF  
7 RELEASE TO THE PERSON AND TO ANY DESIGNATED SERVICE PROVIDER. THE CONDITIONS  
8 MAY INCLUDE ANY OF THE FOLLOWING:

- 9 1. SPECIFICATION OF A RESIDENCE.  
10 2. PROHIBITION ON ANY CONTACT WITH POTENTIAL OR PAST VICTIMS.  
11 3. PROHIBITION ON THE USE OF ALCOHOL AND OTHER DRUGS.  
12 4. PARTICIPATION BY THE PERSON IN A SPECIFIC COURSE OF INPATIENT OR  
13 OUTPATIENT TREATMENT, INCLUDING MONITORING THE PERSON BY THE USE OF A  
14 POLYGRAPH OR PLETHYSMOGRAPH.  
15 5. SUPERVISION BY A COMMUNITY SUPERVISION OFFICER.  
16 6. A REQUIREMENT THAT THE PERSON REMAIN IN THIS STATE UNLESS THE  
17 PERSON RECEIVES PRIOR AUTHORIZATION FROM THE COURT.  
18 7. OTHER CONDITIONS THAT THE COURT DETERMINES ARE IN THE BEST INTEREST  
19 OF THE PERSON OR OTHERS.

20 E. EACH MONTH OR AS OTHERWISE DIRECTED BY THE COURT, EACH DESIGNATED  
21 SERVICE PROVIDER SHALL SUBMIT A REPORT THAT STATES IF THE PERSON IS COMPLYING  
22 WITH THE TERMS AND CONDITIONS OF THE CONDITIONAL RELEASE TO A LESS  
23 RESTRICTIVE ALTERNATIVE TO:

- 24 1. THE COURT.  
25 2. THE FACILITY FROM WHICH THE PERSON WAS RELEASED.  
26 3. THE PROSECUTOR OF THE COUNTY WHERE THE PERSON WAS FOUND TO BE A  
27 SEXUALLY VIOLENT PREDATOR.  
28 4. THE COMMUNITY SUPERVISION OFFICER.

29 F. THE COURT SHALL REVIEW THE CASE OF EACH PERSON WHO IS CONDITIONALLY  
30 RELEASED TO A LESS RESTRICTIVE ALTERNATIVE WITHIN ONE YEAR AFTER THE PERSON'S  
31 RELEASE AND ANNUALLY THEREAFTER UNTIL THE PERSON IS UNCONDITIONALLY  
32 DISCHARGED. THE CASE REVIEW MAY OCCUR MORE FREQUENTLY IF, ON THE MOTION OF  
33 THE PERSON, THE SUPERINTENDENT OF THE STATE HOSPITAL, THE PROSECUTING  
34 ATTORNEY OR THE COURT'S OWN MOTION, THE COURT DETERMINES THAT REVIEW SHOULD  
35 OCCUR MORE FREQUENTLY. AT A CASE REVIEW, THE COURT SHALL DETERMINE ONLY IF  
36 THE PERSON SHALL CONTINUE TO BE CONDITIONALLY RELEASED TO A LESS RESTRICTIVE  
37 ALTERNATIVE. IN MAKING ITS DETERMINATION, THE COURT SHALL CONSIDER THE  
38 PERIODIC REPORTS THAT ARE SUBMITTED TO THE COURT PURSUANT TO SUBSECTION E OF  
39 THIS SECTION AND THE OPINIONS OF THE SUPERINTENDENT OF THE STATE HOSPITAL AND  
40 ANY OTHER EXPERT OR PROFESSIONAL PERSONS.

41 13-4613. Revocation of conditional release to a less  
42 restrictive alternative; hearing

43 A. IF THE PETITIONER OR THE COURT BELIEVES THAT THE PERSON WHO IS  
44 CONDITIONALLY RELEASED TO A LESS RESTRICTIVE ALTERNATIVE IS NOT COMPLYING

1 WITH THE TERMS AND CONDITIONS OF RELEASE OR IS IN NEED OF ADDITIONAL CARE AND  
2 TREATMENT, THE DESIGNATED SERVICE PROVIDER, THE COMMUNITY SUPERVISION  
3 OFFICER, THE PROSECUTING ATTORNEY OR THE ATTORNEY GENERAL MAY PETITION THE  
4 COURT FOR, OR THE COURT ON ITS OWN MOTION MAY SCHEDULE, AN IMMEDIATE HEARING  
5 FOR THE PURPOSE OF REVOKING OR MODIFYING THE TERMS AND CONDITIONS OF THE  
6 PERSON'S CONDITIONAL RELEASE.

7 B. IF, BASED ON INFORMATION THAT IS RELEASED TO THEM, THE PROSECUTING  
8 ATTORNEY, THE COMMUNITY SUPERVISION OFFICER OR THE COURT REASONABLY BELIEVES  
9 THAT A PERSON WHO IS CONDITIONALLY RELEASED TO A LESS RESTRICTIVE ALTERNATIVE  
10 IS NOT COMPLYING WITH THE TERMS AND CONDITIONS OF THE PERSON'S CONDITIONAL  
11 RELEASE, THE COURT OR COMMUNITY SUPERVISION OFFICER MAY ORDER THAT THE  
12 CONDITIONALLY RELEASED PERSON BE APPREHENDED AND TAKEN INTO CUSTODY UNTIL A  
13 HEARING CAN BE SCHEDULED TO DETERMINE IF THE PERSON'S CONDITIONAL RELEASE  
14 SHOULD BE REVOKED OR MODIFIED. THE COURT SHALL BE NOTIFIED BEFORE THE CLOSE  
15 OF THE NEXT JUDICIAL DAY OF THE PERSON'S APPREHENSION. THE PROSECUTING  
16 ATTORNEY AND THE CONDITIONALLY RELEASED PERSON MAY REQUEST AN IMMEDIATE  
17 MENTAL EXAMINATION OF THE PERSON. IF THE CONDITIONALLY RELEASED PERSON IS  
18 INDIGENT, THE COURT, ON REQUEST, SHALL ASSIST THE PERSON IN OBTAINING A  
19 QUALIFIED EXPERT OR PROFESSIONAL PERSON TO CONDUCT THE EXAMINATION.

20 C. AFTER RECEIVING NOTICE OF THE PERSON'S APPREHENSION, THE COURT  
21 SHALL PROMPTLY SCHEDULE A HEARING. AT THE HEARING, THE COURT SHALL DETERMINE  
22 IF THE STATE HAS PROVED BY A PREPONDERANCE OF THE EVIDENCE THAT THE PERSON  
23 WHO IS CONDITIONALLY RELEASED TO A LESS RESTRICTIVE ALTERNATIVE DID NOT  
24 COMPLY WITH THE TERMS AND CONDITIONS OF RELEASE AND IF THE PERSON SHOULD  
25 CONTINUE ON CONDITIONAL RELEASE UNDER THE SAME OR MODIFIED CONDITIONS OR IF  
26 THE CONDITIONAL RELEASE SHOULD BE REVOKED AND THE PERSON SHOULD BE COMMITTED  
27 TO TOTAL CONFINEMENT, SUBJECT TO RELEASE ONLY UNDER THE PROVISIONS OF THIS  
28 CHAPTER.

29 Sec. 16. Section 31-281, Arizona Revised Statutes, is amended to read:  
30 31-281. Deoxyribonucleic acid identification; sexual offenses

31 A. A person convicted or adjudicated delinquent of a sexual offense  
32 as provided in section 13-1403, 13-1404, 13-1405, 13-1406, 13-1410, 13-1411,  
33 13-1412 or 13-3608 AND ANY PERSON WHO IS ACCEPTED UNDER THE INTERSTATE  
34 COMPACT FOR THE SUPERVISION OF PAROLEES AND PROBATIONERS AND HAS ARRIVED IN  
35 THIS STATE shall submit to deoxyribonucleic acid testing for law enforcement  
36 identification purposes. Reports of the tests shall be maintained by the  
37 department of public safety.

38 B. A person who is tested pursuant to subsection A of this section and  
39 who has sufficient financial ability shall pay for the costs of the testing.  
40 The cost to the person shall not exceed five hundred dollars. All monies  
41 received pursuant to this subsection shall be transmitted to the state  
42 treasurer for deposit in the Arizona deoxyribonucleic acid identification  
43 system fund established by section 41-2419.

1 C. Results of any tests secured pursuant to this section from a person  
2 adjudicated delinquent may be used for any law enforcement identification  
3 purpose, including adult prosecutions.

4 Sec. 17. Laws 1995, chapter 257, section 9 is amended to read:

5 Sec. 9. Community notification guidelines committee; members;  
6 powers and duties; definition

7 A. ~~On or before January 30, 1996, the following persons shall adopt~~  
8 ~~guidelines for local law enforcement agencies concerning the contents and~~  
9 ~~guidelines for notification pursuant to section 13-3825, Arizona Revised~~  
10 ~~Statutes, as added by this act, including the extent and number of schools~~  
11 ~~and neighbors to be notified.~~ THE COMMUNITY NOTIFICATION GUIDELINES COMMITTEE  
12 IS ESTABLISHED CONSISTING OF THE FOLLOWING MEMBERS:

13 1. The attorney general OR THE ATTORNEY GENERAL'S DESIGNEE.

14 2. The chairperson of the senate judiciary committee, as an advisory  
15 member.

16 3. The chairperson of the house of representatives judiciary  
17 committee, as an advisory member.

18 4. Two sheriffs OR THEIR DESIGNEES who are appointed by the president  
19 of the Arizona county attorneys and sheriffs association, one of whom  
20 represents a county with a population of more than four hundred thousand  
21 persons according to the most recent United States decennial census and one  
22 of whom represents a county with a population of four hundred thousand  
23 persons or less according to the most recent United States decennial census.

24 5. Two chiefs of police OR THEIR DESIGNEES who are appointed by the  
25 president of the Arizona association of chiefs of police, one of whom  
26 represents a city or town in a county with a population of more than four  
27 hundred thousand persons according to the most recent United States decennial  
28 census and one of whom represents a city or town in a county with a  
29 population of four hundred thousand persons or less according to the most  
30 recent United States decennial census.

31 6. Two county attorneys OR THEIR DESIGNEES who are appointed by the  
32 chairman of the Arizona prosecuting attorneys advisory council, one of whom  
33 represents a county with a population of more than four hundred thousand  
34 persons according to the most recent United States decennial census and one  
35 of whom represents a county with a population of four hundred thousand  
36 persons or less according to the most recent United States decennial census.

37 7. Two county adult probation officers OR THEIR DESIGNEES who are  
38 appointed by the chief justice of the supreme court, one of whom represents  
39 a county with a population of more than four hundred thousand persons  
40 according to the most recent United States decennial census and one of whom  
41 represents a county with a population of four hundred thousand persons or  
42 less according to the most recent United States decennial census.

43 8. One state adult parole administrator OR THE ADMINISTRATOR'S  
44 DESIGNEE who is appointed by the governor.

1           9. THE DIRECTOR OF THE DEPARTMENT OF PUBLIC SAFETY OR THE DIRECTOR'S  
2 DESIGNEE.

3           10. THE DIRECTOR OF THE DEPARTMENT OF TRANSPORTATION OR THE DIRECTOR'S  
4 DESIGNEE.

5           B. THE COMMITTEE SHALL MONITOR THE IMPLEMENTATION OF THE COMMUNITY  
6 NOTIFICATION GUIDELINES THAT WERE PREVIOUSLY ADOPTED BY THE COMMITTEE. The  
7 guidelines ~~that are adopted~~ shall provide for ~~the following~~ levels of  
8 notification based on the ~~committed offense~~ RISK A PARTICULAR SEX OFFENDER  
9 POSES TO THE COMMUNITY:

10           1. For ~~the following offenses~~ LEVEL THREE OFFENDERS, the notification  
11 shall be made to schools, and neighbors, and ~~notification may be made to~~  
12 community groups and prospective employers. ~~+~~

13           ~~(a) Sexual conduct with a minor under fifteen years of age pursuant~~  
14 ~~to section 13-1405, subsection B, Arizona Revised Statutes.~~

15           ~~(b) Sexual assault pursuant to section 13-1406, Arizona Revised~~  
16 ~~Statutes, involving the use or threatening exhibition of a deadly weapon or~~  
17 ~~dangerous instrument or the intentional or knowing infliction of serious~~  
18 ~~physical injury.~~

19           ~~(c) Continuous sexual abuse of a child pursuant to section 13-1417,~~  
20 ~~Arizona Revised Statutes.~~

21           2. For ~~the following offenses~~ LEVEL TWO OFFENDERS, the notification  
22 may be made to schools, and neighbors, and ~~notification may be made to~~  
23 community groups and prospective employers. ~~+~~

24           ~~(a) A second or subsequent sexual assault of a spouse pursuant to~~  
25 ~~section 13-1406.01, Arizona Revised Statutes.~~

26           ~~(b) Sexual abuse pursuant to section 13-1404, Arizona Revised~~  
27 ~~Statutes, if the victim is under fifteen years of age.~~

28           ~~(c) Molestation of a child pursuant to section 13-1410, Arizona~~  
29 ~~Revised Statutes.~~

30           ~~(d) Commercial sexual exploitation of a minor pursuant to section~~  
31 ~~13-3552, Arizona Revised Statutes.~~

32           ~~(e) Sexual exploitation of a minor pursuant to section 13-3553,~~  
33 ~~Arizona Revised Statutes.~~

34           ~~C. The guidelines shall also provide that if a person on probation for~~  
35 ~~a conviction for an attempted violation of any of the offenses for which~~  
36 ~~registration is required pursuant to section 13-3821, Arizona Revised~~  
37 ~~Statutes, as added by this act, commits a new sexual offense or violates the~~  
38 ~~terms and conditions of probation, notification of that person's release may~~  
39 ~~be made pursuant to subsection B, paragraph 2 of this section.~~

40           3. FOR LEVEL ONE OFFENDERS, THE LOCAL LAW ENFORCEMENT AGENCY THAT HAS  
41 RESPONSIBILITY FOR NOTIFICATION SHALL MAINTAIN INFORMATION ABOUT THE  
42 OFFENDER. THE LOCAL LAW ENFORCEMENT AGENCY MAY DISSEMINATE THIS INFORMATION  
43 TO OTHER LAW ENFORCEMENT AGENCIES AND MAY GIVE NOTIFICATION TO THE PEOPLE  
44 WITH WHOM THE OFFENDER RESIDES.

1           ~~D.~~ C. The members of the committee shall elect a ~~chairman~~  
2 COCHAIRPERSONS from the membership of the committee ~~at the first committee~~  
3 ~~meeting~~. THE MEMBERS SHALL MEET AT LEAST QUARTERLY.

4           ~~E.~~ D. Members of the committee are not eligible to receive  
5 compensation but are eligible for reimbursement of expenses pursuant to title  
6 38, chapter 4, article 2.

7           ~~F.~~ E. For the purposes of this section, "advisory member" means a  
8 committee member who advises other committee members during meetings, ~~but~~ WHO  
9 is ineligible to vote and WHO is not a member for determining whether a  
10 quorum is present.

11           Sec. 18. Delayed repeal

12           Laws 1995, chapter 257, section 9, as amended by this act, is repealed  
13 from and after June 30, 1998.

14           Sec. 19. Appropriation; purpose; application

15           A. The sum of \$457,000 is appropriated from the state general fund to  
16 the department of public safety in fiscal year 1996-1997 for distribution to  
17 local law enforcement agencies for the purpose of paying for the costs of  
18 community notification pursuant to section 13-3825, Arizona Revised Statutes,  
19 as amended by this act.

20           B. The department of public safety shall establish standards for  
21 approving local law enforcement agencies' requests for reimbursement of the  
22 costs of community notification. A local law enforcement agency may apply  
23 on a quarterly basis to the department to request reimbursement.

24           C. The appropriation made in subsection A of this section is exempt  
25 from the provisions of section 35-190, Arizona Revised Statutes, relating to  
26 lapsing of appropriations.

27           Sec. 20. Legislative intent

28           The legislature finds that some sex offenders pose a high risk of  
29 engaging in sex offenses after being released from imprisonment or commitment  
30 and that protecting the public from sex offenders is a paramount governmental  
31 interest. Because the penal and mental health components of our justice  
32 system are largely hidden from public view, the lack of information from  
33 either source may result in a failure of both systems to meet this paramount  
34 public safety concern. Overly restrictive confidentiality and liability laws  
35 governing the release of information about sexual predators have reduced the  
36 willingness of agencies to release information that could be appropriately  
37 released under public disclosure laws. This lack of disclosure has increased  
38 the risk to public safety. Persons who have been convicted of committing a  
39 sex offense have a reduced expectation of privacy because of the public's  
40 interest in public safety and in the effective operation of government. The  
41 release of information about sexual predators to public agencies and, under  
42 limited circumstances, to the public will further the government's interests  
43 of public safety and public scrutiny of the criminal and mental health

1 systems in this state if the information that is released is rationally  
2 related to the furtherance of these goals.

3 Sec. 21. Severability

4 If a provision of this act or its application to any person or  
5 circumstance is held invalid, the invalidity does not affect other provisions  
6 or applications of the act that can be given effect without the invalid  
7 provision or application, and to this end the provisions of this act are  
8 severable.

9 Sec. 22. Retroactivity

10 A. Section 5 of this act applies retroactively to from and after May  
11 31, 1996.

12 B. Sections 7 through 15 of this act apply retroactively to from and  
13 after June 30, 1996.

14 C. Section 17 of this act applies retroactively to from and after  
15 January 29, 1996.

APPROVED BY THE GOVERNOR MAY 1, 1996

FILED IN THE OFFICE OF THE SECRETARY OF STATE MAY 1, 1996