Conference Engrossed

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JANICE K. BREWER
SECRETARY OF STATE

State of Arizona
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CHAPTER 287

SENATE BILL 1222

AN ACT

AMENDING SECTIONS 13-604, 13-609, 13-1202, 13-1805 AND 13-2308, ARIZONA REVISED STATUTES; AMENDING TITLE 13, CHAPTER 23, ARIZONA REVISED STATUTES, BY ADDING SECTION 13-2320; AMENDING SECTIONS 13-2409 AND 13-2512, ARIZONA REVISED STATUTES; CHANGING THE DESIGNATION OF TITLE 13, CHAPTER 38, ARTICLE 3, ARIZONA REVISED STATUTES, TO "REGISTRATION OF SEX OFFENDERS AND OFFENDER MONITORING"; AMENDING TITLE 13, CHAPTER 38, ARTICLE 3, ARIZONA REVISED STATUTES, BY ADDING SECTION 13-3829; AMENDING SECTION 13-3961, ARIZONA REVISED STATUTES; MAKING AN APPROPRIATION; RELATING TO CRIMINAL ACTIVITY.

(TEXT OF BILL BEGINS ON NEXT PAGE)

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

Section 1. Section 13-604, Arizona Revised Statutes, is amended to read:

13-604. Dangerous and repetitive offenders; definitions

A. Except as provided in subsection F, G or H of this section or section 13-604.01, a person who is at least eighteen years of age or who has been tried as an adult and who stands convicted of a class 4, 5 or 6 felony, whether a completed or preparatory offense, and who has a historical prior felony conviction shall be sentenced to imprisonment as prescribed in this subsection and shall not be 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 been served, the person is eligible for release pursuant to section 41-1604.07 or the sentence is commuted. The presumptive term may be mitigated or aggravated within the range prescribed under this subsection pursuant to the terms of section 13-702, subsections B, C and D. The terms are as follows:

Felony	Minimum	Presumptive	Maximum
Class 4	3 years	4.5 years	6 years
Class 5	1.5 years	2.25 years	3 years
Class 6	1 year	1.75 years	2.25 years

B. Except as provided in subsection I, J or K of this section or section 13-604.01, a person who is at least eighteen years of age or who has been tried as an adult and who stands convicted of a class 2 or 3 felony, whether a completed or preparatory offense, and who has a historical prior felony conviction shall be sentenced to imprisonment as prescribed in this subsection and shall not be 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 been served, the person is eligible for release pursuant to section 41-1604.07 or the sentence is commuted. The presumptive term may be mitigated or aggravated within the range prescribed under this subsection pursuant to the terms of section 13-702, subsections B, C and D. The terms are as follows:

Felony	Minimum	Presumptive	Maximum
Class 2	6 years	9.25 years	18.5 years
Class 3	4.5 years	6.5 years	13 years

C. Except as provided in subsection F, G, H or S of this section or section 13-604.01, a person who is at least eighteen years of age or who has been tried as an adult and who stands convicted of a class 4, 5 or 6 felony, whether a completed or preparatory offense, and who has two or more historical prior felony convictions shall be sentenced to imprisonment as prescribed in this subsection and shall not be 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 been served, the person is eligible for release pursuant to section 41-1604.07 or the sentence is commuted. The presumptive term may be mitigated or aggravated within the range prescribed under this subsection pursuant to the terms of section 13-702, subsections B, C and D. The terms are as follows:

Felony	Minimum	Presumptive	Maximum
Class 4	8 years	10 years	12 years
Class 5	4 years	5 years	6 years
Class 6	3 years	3.75 years	4.5 years

D. Except as provided in subsection I, J, K or S of this section or section 13-604.01, a person who is at least eighteen years of age or who has been tried as an adult and who stands convicted of a class 2 or 3 felony, and who has two or more historical prior felony convictions, shall be sentenced to imprisonment as prescribed in this subsection and shall not be 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 been served, the person is eligible for release pursuant to section 41-1604.07 or the sentence is commuted. The presumptive term may be mitigated or aggravated within the range prescribed under this subsection pursuant to the terms of section 13-702, subsections B, C and D. The terms are as follows:

Felony	Minimum	Presumptive	Maximum
Class 2	14 years	15.75 years	28 years
Class 3	10 years	11.25 years	20 years

E. A person who is at least eighteen years of age or who has been tried as an adult and who stands convicted of any misdemeanor or petty offense, other than a traffic offense, and who has been convicted of one or more of the same misdemeanors or petty offenses within two years next preceding the date of the present offense shall be sentenced for the next higher class of offense than that for which such person currently stands convicted.

F. Except as provided in section 13-604.01, a person who is at least eighteen years of age or who has been tried as an adult and who stands convicted of a class 4, 5 or 6 felony involving the intentional or knowing infliction of serious physical injury or the discharge, use or threatening exhibition of a deadly weapon or dangerous instrument without having previously been convicted of any felony shall be sentenced to imprisonment as prescribed in this subsection and shall not be 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 been served, the person is eligible for release pursuant to section 41-1604.07 or the sentence is commuted. The presumptive term may be mitigated or aggravated within the range prescribed under this subsection pursuant to the terms of section 13-702, subsections B, C and D. The terms are as follows:

Felony	Minimum	Presumptive	Maximum
Class 4	4 years	6 years	8 years
Class 5	2 years	3 years	4 years
Class 6	1.5 years	2.25 years	3 years

G. Except as provided in section 13-604.01, upon conviction of a class 4, 5 or 6 felony involving the intentional or knowing infliction of serious physical injury or the discharge, use or threatening exhibition of a deadly weapon or dangerous instrument a person who has a historical prior felony conviction involving the intentional or knowing infliction of serious physical injury or the use or exhibition of a deadly weapon or dangerous instrument shall be sentenced to imprisonment as prescribed in this subsection and shall not be 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 been served, the person is eligible for release pursuant to section 41-1604.07 or the sentence is commuted. The presumptive term may be mitigated or aggravated within the range prescribed under this subsection pursuant to the terms of section 13-702, subsections B, C and D. The terms are as follows:

Felony	Minimum	Presumptive	Maximum
Class 4	8 years	10 years	12 years
Class 5	4 years	5 years	6 years
Class 6	3 years	3.75 years	4.5 years

H. Except as provided in subsection S of this section or section 13-604.01, upon conviction of a class 4, 5 or 6 felony involving the intentional or knowing infliction of serious physical injury or the discharge, use or threatening exhibition of a deadly weapon or dangerous instrument a person who has two or more historical prior felony convictions involving the intentional or knowing infliction of serious physical injury or the use or exhibition of a deadly weapon or dangerous instrument shall be sentenced to imprisonment as prescribed in this subsection and shall not be 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 been served, the person is eligible for release pursuant to section 41-1604.07 or the sentence is commuted. The presumptive term may be mitigated or aggravated within the range prescribed under this subsection pursuant to the terms of section 13-702, subsections B, C and D. The terms are as follows:

Felony	Minimum	Presumptive	Maximum
Class 4	12 years	14 years	16 years
Class 5	6 years	7 years	8 years
Class 6	4.5 years	5.25 years	6 years

I. Except as provided in section 13-604.01, upon a first conviction of a class 2 or 3 felony involving discharge, use or threatening exhibition of a deadly weapon or dangerous instrument or upon conviction of a class 2 or 3

felony when the intentional or knowing infliction of serious physical injury upon another has occurred, the defendant shall be sentenced to imprisonment as prescribed in this subsection and shall not be 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 been served, the person is eligible for release pursuant to section 41-1604.07 or the sentence is commuted. The presumptive term may be mitigated or aggravated within the range prescribed under this subsection pursuant to the terms of section 13-702, subsections B, C and D. The terms are as follows:

Felony	Minimum	Presumptive	Maximum
Class 2	7 years	10.5 years	21 years
Class 3	5 years	7.5 years	15 years

J. Except as provided in section 13-604.01, upon conviction of a class 2 or 3 felony involving the discharge, use or threatening exhibition of a deadly weapon or dangerous instrument or the intentional or knowing infliction of serious physical injury upon another, a person who has a historical prior felony conviction that is a class 1, 2 or 3 felony involving the use or exhibition of a deadly weapon or dangerous instrument or the intentional or knowing infliction of serious physical injury on another shall be sentenced to imprisonment as prescribed in this subsection and shall not be 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 been served, the person is eligible for release pursuant to section 41-1604.07 or the sentence is commuted. The presumptive term may be mitigated or aggravated within the range prescribed under this subsection pursuant to the terms of section 13-702, subsections B, C and D. The terms are as follows:

Felony	Minimum	Presumptive	Maximum
Class 2	14 years	15.75 years	28 years
Class 3	10 years	11.25 years	20 years

K. Except as provided in subsection S of this section or section 13-604.01, upon conviction for a class 2 or 3 felony involving the discharge, use or threatening exhibition of a deadly weapon or dangerous instrument or the intentional or knowing infliction of serious physical injury upon another, a person who has two or more historical prior felony convictions that are class 1, 2 or 3 felonies involving the use or exhibition of a deadly weapon or dangerous instrument or the intentional or knowing infliction of serious physical injury on another shall be sentenced to imprisonment as prescribed in this subsection and shall not be 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 been served, the person is eligible for release pursuant to section 41-1604.07 or the sentence is commuted. The presumptive term may be mitigated or aggravated within the range prescribed

under this subsection pursuant to the terms of section 13-702, subsections B, C and D. The terms are as follows:

Felony	Minimum	Presumptive	Maximum
Class 2	21 years	28 years	35 years
Class 3	15 years	20 years	25 years

L. For the purposes of subsections I, J and K of this section in determining the applicability of the penalties provided in this section for second or subsequent class 2 or 3 felonies, the conviction for any felony committed ~~prior to~~ BEFORE October 1, 1978 which, if committed after October 1, 1978, could be a dangerous felony under this section may be designated by the state as a prior felony.

M. Convictions for two or more offenses committed on the same occasion shall be counted as only one conviction for purposes of this section.

N. A person who has been convicted in any court outside the jurisdiction of this state of an offense which if committed within this state would be punishable as a felony or misdemeanor is subject to the provisions of this section. A person who has been convicted as an adult of an offense punishable as a felony or a misdemeanor under the provisions of any prior code in this state shall be subject to the provisions of this section.

O. Time spent incarcerated within the two years next preceding the date of the offense for which a person is currently being sentenced under subsection E of this section shall not be included in the two years required to be free of convictions for purposes of that subsection.

P. The penalties prescribed by this section shall be substituted for the penalties otherwise authorized by law if the previous conviction or the allegation that the defendant committed a felony while released on bond or on the defendant's own recognizance or while escaped from preconviction custody as provided in subsection R of this section is charged in the indictment or information and admitted or found by the court or if the dangerous nature of the felony is charged in the indictment or information and admitted or found by the trier of fact. The release provisions prescribed by this section shall not be substituted for any penalties required by the substantive offense or provision of law that specifies a later release or completion of the sentence imposed prior to release. The court shall allow the allegation of a prior conviction, the dangerous nature of the felony or the allegation that the defendant committed a felony while released on bond or on the defendant's own recognizance or while escaped from preconviction custody at any time prior to the date the case is actually tried unless the allegation is filed fewer than twenty days before the case is actually tried and the court finds on the record that the defendant was in fact prejudiced by the untimely filing and states the reasons for these findings, provided that when the allegation of a prior conviction is filed, the state must make available to the defendant a copy of any material or information obtained concerning the prior conviction. The charge of previous conviction or the allegation that the defendant committed a felony while released on bond or on the

defendant's own recognizance or while escaped from preconviction custody shall not be read to the jury. For the purposes of this subsection, "dangerous nature of the felony" means a felony involving the discharge, use or threatening exhibition of a deadly weapon or dangerous instrument or the intentional or knowing infliction of serious physical injury upon another.

Q. Intentional failure by the court to impose the mandatory sentences or probation conditions provided in this title shall be deemed to be malfeasance.

R. A person who is convicted of committing any felony offense, which felony offense is committed while the person is released on bail or on the defendant's own recognizance on a separate felony offense or while the person is escaped from preconviction custody for a separate felony offense, shall be sentenced to a term of imprisonment two years longer than would otherwise be imposed for the felony offense committed while released on bond or on the defendant's own recognizance or while escaped from preconviction custody. The additional sentence imposed under this subsection is in addition to any enhanced punishment that may be applicable under any of the other subsections of this section. The defendant 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 two years are served, the person is eligible for release pursuant to section 41-1604.07 or the sentence is commuted.

S. A person who is at least eighteen years of age or who has been tried as an adult and who stands convicted of a serious offense except a drug offense, first degree murder or any dangerous crime against children, whether a completed or preparatory offense, and who has previously been convicted of two or more serious offenses not committed on the same occasion shall be sentenced to life imprisonment and 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 person has served not less than twenty-five years or the sentence is commuted.

T. A person who is convicted of committing any felony offense with the intent to promote, further or assist any criminal conduct by a criminal street gang shall not be eligible for suspension of sentence, probation, pardon or release from confinement on any basis except as authorized by section 31-233, subsection A or B until the sentence imposed by the court has been served, the person is eligible for release pursuant to section 41-1604.07 or the sentence is commuted. The presumptive, minimum and maximum sentence for the offense shall be increased by three years IF THE OFFENSE IS A CLASS 4, 5 OR 6 FELONY OR SHALL BE INCREASED BY FIVE YEARS IF THE OFFENSE IS A CLASS 2 OR 3 FELONY. The additional sentence imposed pursuant to this subsection is in addition to any enhanced sentence that may be applicable.

U. A person who is convicted of intentionally or knowingly committing aggravated assault on a peace officer while the officer is engaged in the

execution of any official duties pursuant to section 13-1204, subsection A, paragraph 1 or 2 shall be sentenced to imprisonment for not less than the presumptive sentence authorized under this chapter and is not eligible for suspension of sentence, commutation or release on any basis until the sentence imposed is served.

V. Except as provided in section 13-604.01 or 13-703, if the victim is an unborn child in the womb at any stage of its development, the defendant shall be sentenced pursuant to this section.

W. For the purposes of this section:

1. "Absconder" means a probationer who has moved from the probationer's primary place of residence without permission of the probation officer, who cannot be located within ninety days of the previous contact and against whom a petition to revoke has been filed in the superior court alleging that the probationer's whereabouts are unknown. A probationer is no longer deemed to be an absconder when voluntarily or involuntarily returned to probation service.

2. "Historical prior felony conviction" means:

(a) Any prior felony conviction for which the offense of conviction:

(i) Mandated a term of imprisonment except for a violation of chapter 34 of this title involving a drug below the threshold amount; or

(ii) Involved the intentional or knowing infliction of serious physical injury; or

(iii) Involved the use or exhibition of a deadly weapon or dangerous instrument; or

(iv) Involved the illegal control of a criminal enterprise; or

(v) Involved aggravated driving under the influence of intoxicating liquor or drugs, driving while under the influence of intoxicating liquor or drugs with a suspended, canceled, revoked or refused driver license or driving under the influence of intoxicating liquor or drugs with two or more driving under the influence of intoxicating liquor or drug convictions within a period of ~~sixty~~ EIGHTY-FOUR months; or

(vi) Involved any dangerous crime against children as defined in section 13-604.01.

(b) Any class 2 or 3 felony, except the offenses listed in subdivision (a) of this paragraph, that was committed within the ten years immediately preceding the date of the present offense. Any time spent on absconder status while on probation or incarcerated is excluded in calculating if the offense was committed within the preceding ten years. If a court determines a person was not on absconder status while on probation that time is not excluded.

(c) Any class 4, 5 or 6 felony, except the offenses listed in subdivision (a) of this paragraph, that was committed within the five years immediately preceding the date of the present offense. Any time spent on absconder status while on probation or incarcerated is excluded in calculating if the offense was committed within the preceding five years. If

a court determines a person was not on absconder status while on probation that time is not excluded.

(d) Any felony conviction that is a third or more prior felony conviction.

3. "Preconviction custody" means the confinement of a person in a jail in this state or another state after the person is arrested for or charged with a felony offense.

4. "Serious offense" means any of the following offenses if committed in this state or any offense committed outside this state which if committed in this state would constitute one of the following offenses:

(a) First degree murder.

(b) Second degree murder.

(c) Manslaughter.

(d) Aggravated assault resulting in serious physical injury or involving the discharge, use or threatening exhibition of a deadly weapon or dangerous instrument.

(e) Sexual assault.

(f) Any dangerous crime against children.

(g) Arson of an occupied structure.

(h) Armed robbery.

(i) Burglary in the first degree.

(j) Kidnapping.

(k) Sexual conduct with a minor under fifteen years of age.

5. "Substantive offense" means the felony, misdemeanor or petty offense that the trier of fact found beyond a reasonable doubt the defendant committed. Substantive offense does not include allegations that, if proven, would enhance the sentence of imprisonment or fine to which the defendant otherwise would be subject.

Sec. 2. Section 13-609, Arizona Revised Statutes, is amended to read:

13-609. Offenses committed in school safety zone; sentences; definitions

A. Except as otherwise prescribed in section 13-3411, a person who is convicted of a felony offense that is committed in a school safety zone is guilty of the same class of felony that the person would otherwise be guilty of if the violation had not occurred within a school safety zone, except that the court may impose a sentence that is one year longer than the minimum, maximum and presumptive sentence for that violation IF THE PERSON IS NOT A CRIMINAL STREET GANG MEMBER OR UP TO FIVE YEARS LONGER THAN THE MINIMUM, MAXIMUM AND PRESUMPTIVE SENTENCE FOR THAT VIOLATION IF THE PERSON IS A CRIMINAL STREET GANG MEMBER. The additional sentence imposed under this subsection is in addition to any other enhanced punishment that may be applicable under section 13-604 or ~~other provisions of~~ chapter 34 of this title.

B. In addition to any other penalty prescribed by this title, the court may order a person WHO IS subject to the provisions of subsection A of

this section to pay a fine of not less than two thousand dollars and not more than the maximum authorized by chapter 8 of this title.

C. Each school district governing board or its designee, or chief administrative officer in the case of a nonpublic or charter school, may place and maintain permanently affixed signs that are located in a visible manner at the main entrance of each school and that identify the school and its accompanying grounds as a school safety zone. A school may include information regarding the school safety zone boundaries on a sign that identifies the area as a drug free zone and not post separate school safety zone signs.

D. For THE purposes of this section:

1. "School" means any public or nonpublic kindergarten program, common school or high school.

2. "School safety zone" means any of the following:

(a) The area within three hundred feet of a school or its accompanying grounds.

(b) Any public property within one thousand feet of a school or its accompanying grounds.

(c) Any school bus.

(d) A bus contracted to transport pupils to any school during the time when the contracted vehicle is transporting pupils on behalf of the school.

(e) A school bus stop.

(f) Any bus stop where school children are awaiting, boarding or exiting a bus contracted to transport pupils to any school.

Sec. 3. Section 13-1202, Arizona Revised Statutes, is amended to read:

13-1202. Threatening or intimidating; classification

A. A person commits threatening or intimidating if the person threatens or intimidates by word or conduct:

1. To cause physical injury to another person or serious damage to the property of another; or

2. To cause, or in reckless disregard to causing, serious public inconvenience including, but not limited to, evacuation of a building, place of assembly or transportation facility; or

3. To cause physical injury to another person or damage to the property of another in order to promote, further or assist in the interests of or to cause, induce or solicit another person to participate in a criminal street gang, a criminal syndicate or a racketeering enterprise.

B. Threatening or intimidating pursuant to subsection A, paragraph 1 or 2 is a class 1 misdemeanor, except that it is a class 6 felony if:

1. The offense is committed in retaliation for a victim's either reporting criminal activity or being involved in an organization, other than a law enforcement agency, that is established for the purpose of reporting or preventing criminal activity.

2. THE PERSON IS A CRIMINAL STREET GANG MEMBER.

C. Threatening or intimidating pursuant to subsection A, paragraph 3 is a class ~~4~~ 3 felony.

Sec. 4. Section 13-1805, Arizona Revised Statutes, is amended to read:

13-1805. Shoplifting; detaining suspect; defense to wrongful detention; civil action by merchant; public services; classification

A. A person commits shoplifting if, while in an establishment in which merchandise is displayed for sale, the person knowingly obtains such goods of another with the intent to deprive that person of such goods by:

1. Removing any of the goods from the immediate display or from any other place within the establishment without paying the purchase price; or

2. Charging the purchase price of the goods to a fictitious person or any person without that person's authority; or

3. Paying less than the purchase price of the goods by some trick or artifice such as altering, removing, substituting or otherwise disfiguring any label, price tag or marking; or

4. Transferring the goods from one container to another; or

5. Concealment.

B. Any person who knowingly conceals ~~upon~~ ON himself or another person unpurchased merchandise of any mercantile establishment while within the mercantile establishment is presumed to have the necessary culpable mental state pursuant to subsection A of this section.

C. A merchant, or a merchant's agent or employee, with reasonable cause, may detain on the premises in a reasonable manner and for a reasonable time any person who is suspected of shoplifting as prescribed in subsection A of this section for questioning or summoning a law enforcement officer.

D. Reasonable cause is a defense to a civil or criminal action against a peace officer, a merchant or an agent or employee of the merchant for false arrest, false or unlawful imprisonment or wrongful detention.

E. If a minor engages in conduct that violates subsection A of this section, notwithstanding the fact that the minor may not be held responsible because of the person's minority, any merchant WHO IS injured by the shoplifting of the minor may bring a civil action against the parent or legal guardian of the minor under either section 12-661 or 12-692.

F. Any merchant who is injured by the shoplifting of an adult or emancipated minor in violation of subsection A of this section may bring a civil action against the adult or emancipated minor pursuant to section 12-691.

~~H.~~ G. In imposing sentence on a person who is convicted of violating this section, the court may require any person to perform public services designated by the court in addition to or in lieu of any fine that the court might impose.

~~G.~~ H. Shoplifting property with a value of two thousand dollars or more, ~~or~~ shoplifting property during any continuing criminal episode regardless of the value of the goods OR SHOPLIFTING PROPERTY IF DONE TO

PROMOTE, FURTHER OR ASSIST ANY CRIMINAL STREET GANG OR CRIMINAL SYNDICATE is a class 5 felony. Shoplifting property with a value of one thousand dollars or more but less than two thousand dollars is a class 6 felony. Shoplifting property valued at less than one thousand dollars is a class 1 misdemeanor, unless the property is a firearm in which case the shoplifting is a class 6 felony. For the purposes of this subsection, "continuing criminal episode" means theft committed from at least three separate retail establishments within a period of three consecutive days.

I. A person who commits shoplifting and who has previously committed or been convicted within the past five years of two or more offenses involving burglary, shoplifting, robbery or theft or who in the course of shoplifting entered the mercantile establishment with an artifice, instrument, container, device or other article that was intended to facilitate shoplifting is guilty of a class 4 felony.

Sec. 5. Section 13-2308, Arizona Revised Statutes, is amended to read:

13-2308. Participating in or assisting a criminal syndicate; leading or participating in a criminal street gang

A. A person commits participating in a criminal syndicate by:

1. Intentionally organizing, managing, directing, supervising or financing a criminal syndicate with the intent to promote or further the criminal objectives of the syndicate; or

2. Knowingly inciting or inducing others to engage in violence or intimidation to promote or further the criminal objectives of a criminal syndicate; or

3. Furnishing advice or direction in the conduct, financing or management of a criminal syndicate's affairs with the intent to promote or further the criminal objectives of a criminal syndicate; or

4. Intentionally promoting or furthering the criminal objectives of a criminal syndicate by inducing or committing any act or omission by a public servant in violation of his official duty; or

5. Hiring, engaging or using a minor for any conduct preparatory to or in completion of any offense in this section.

B. A person shall not be convicted pursuant to subsection A of this section on the basis of accountability as an accomplice unless he participates in violating this section in one of the ways specified.

C. A person commits assisting a criminal syndicate by committing any felony offense, whether completed or preparatory, with the intent to promote or further the criminal objectives of a criminal syndicate.

D. Except as provided in subsection E or F of this section, participating in a criminal syndicate is a class 2 felony.

E. A violation of subsection A, paragraph 5 of this section is a class 2 felony and the person convicted is not eligible for probation, pardon, suspension of sentence or release on any basis until the person has served the sentence imposed by the court or the sentence is commuted.

F. Assisting a criminal syndicate is a class 4 felony. ~~If committed for the benefit of, at the direction of, or in association with any criminal street gang with the intent to promote, further or assist any criminal conduct by the gang, assisting a criminal syndicate is a class 3 felony.~~

~~G. A person who violates subsection A, paragraph 1, 2, 3 or 4 of this section for the benefit of, at the direction of or in association with any criminal street gang, with the intent to promote, further or assist any criminal conduct by the gang, is guilty of a class 2 felony.~~

~~H.~~ G. Use of a common name or common identifying sign or symbol shall be admissible and may be considered in proving the combination of persons or enterprises required by this section.

Sec. 6. Title 13, chapter 23, Arizona Revised Statutes, is amended by adding section 13-2320, to read:

13-2320. Participating in or assisting a criminal street gang; classification

A. A PERSON COMMITS PARTICIPATING IN A CRIMINAL STREET GANG BY ANY OF THE FOLLOWING:

1. INTENTIONALLY ORGANIZING, MANAGING, DIRECTING, SUPERVISING OR FINANCING A CRIMINAL STREET GANG WITH THE INTENT TO PROMOTE OR FURTHER THE CRIMINAL OBJECTIVES OF THE CRIMINAL STREET GANG.

2. KNOWINGLY INCITING OR INDUCING OTHERS TO ENGAGE IN VIOLENCE OR INTIMIDATION TO PROMOTE OR FURTHER THE CRIMINAL OBJECTIVES OF A CRIMINAL STREET GANG.

3. FURNISHING ADVICE OR DIRECTION IN THE CONDUCT, FINANCING OR MANAGEMENT OF A CRIMINAL STREET GANG'S AFFAIRS WITH THE INTENT TO PROMOTE OR FURTHER THE CRIMINAL OBJECTIVES OF A CRIMINAL STREET GANG.

4. INTENTIONALLY PROMOTING OR FURTHERING THE CRIMINAL OBJECTIVES OF A CRIMINAL STREET GANG BY INDUCING OR COMMITTING ANY ACT OR OMISSION BY A PUBLIC SERVANT IN VIOLATION OF THE PUBLIC SERVANT'S OFFICIAL DUTY.

B. A PERSON COMMITS ASSISTING A CRIMINAL STREET GANG BY COMMITTING ANY FELONY OFFENSE, WHETHER COMPLETED OR PREPARATORY FOR THE BENEFIT OF, AT THE DIRECTION OF OR IN ASSOCIATION WITH ANY CRIMINAL STREET GANG.

C. PARTICIPATING IN A CRIMINAL STREET GANG IS A CLASS 2 FELONY.

D. ASSISTING A CRIMINAL STREET GANG IS A CLASS 3 FELONY.

E. USE OF A COMMON NAME OR COMMON IDENTIFYING SIGN OR SYMBOL SHALL BE ADMISSIBLE AND MAY BE CONSIDERED IN PROVING THE EXISTENCE OF A CRIMINAL STREET GANG OR MEMBERSHIP IN A CRIMINAL STREET GANG.

Sec. 7. Section 13-2409, Arizona Revised Statutes, is amended to read:

13-2409. Obstructing criminal investigations or prosecutions; classification

A person who knowingly attempts by means of bribery, misrepresentation, intimidation or force or threats of force to obstruct, delay or prevent the communication of information or testimony relating to a violation of any criminal statute to a peace officer, magistrate, prosecutor or grand jury or who knowingly injures another in his person or property on account of the

giving by the latter or by any other person of any such information or testimony to a peace officer, magistrate, prosecutor or grand jury is guilty of a class 5 felony, EXCEPT THAT IT IS A CLASS 3 FELONY IF THE PERSON COMMITS THE OFFENSE WITH THE INTENT TO PROMOTE, FURTHER OR ASSIST A CRIMINAL STREET GANG.

Sec. 8. Section 13-2512, Arizona Revised Statutes, is amended to read:

13-2512. Hindering prosecution in the first degree; classification

A. A person commits hindering prosecution in the first degree if, with the intent to hinder the apprehension, prosecution, conviction or punishment of another for any felony, the person renders assistance to the other person.

B. Hindering prosecution in the first degree is a class 5 felony, except that ~~hindering prosecution in the first degree where a~~ IT IS A CLASS 3 FELONY IF EITHER:

1. THE person knows or has reason to know that ~~it~~ THE OFFENSE involves terrorism or murder ~~is a class 3 felony~~.

2. THE PERSON COMMITS THE OFFENSE WITH THE INTENT TO PROMOTE, FURTHER OR ASSIST A CRIMINAL STREET GANG.

Sec. 9. Heading change

The article heading of title 13, chapter 38, article 3, Arizona Revised Statutes, is changed from "REGISTRATION OF SEX OFFENDERS" to "REGISTRATION OF SEX OFFENDERS AND OFFENDER MONITORING".

Sec. 10. Title 13, chapter 38, article 3, Arizona Revised Statutes, is amended by adding section 13-3829, to read:

13-3829. Criminal street gang and sex offender monitoring; qualified vendor; definition

A. THE DEPARTMENT OF PUBLIC SAFETY MAY ENTER INTO A CONTRACT WITH A QUALIFIED VENDOR TO PROVIDE A DATA MONITORING AND ALERT SYSTEM FOR PERSONS WHO ARE FOUND TO BE EITHER CRIMINAL STREET GANG MEMBERS PURSUANT TO SECTION 13-105 OR PERSONS WHO ARE REQUIRED TO REGISTER PURSUANT TO SECTION 13-3821.

B. THE VENDOR SHALL MONITOR THE MOVEMENT AND ANY CHANGE OF RESIDENCE OR ADDRESS OF A CRIMINAL STREET GANG MEMBER OR REGISTERED SEX OFFENDER THROUGH PUBLIC RECORDS OR OTHER RECORD INFORMATION SYSTEMS.

C. THE VENDOR SHALL NOTIFY THE DEPARTMENT OF PUBLIC SAFETY OR A LOCAL LAW ENFORCEMENT AGENCY IF A CRIMINAL STREET GANG MEMBER OR REGISTERED SEX OFFENDER DOES ANY OF THE FOLLOWING:

1. MOVES FROM ANOTHER STATE TO A RESIDENCE OR ADDRESS IN THIS STATE.

2. MOVES FROM A RESIDENCE OR ADDRESS IN THIS STATE TO A RESIDENCE OR ADDRESS IN ANOTHER STATE.

3. MOVES FROM A RESIDENCE OR ADDRESS IN THIS STATE TO ANOTHER RESIDENCE OR ADDRESS IN THIS STATE.

D. FOR THE PURPOSES OF THIS SECTION, "QUALIFIED VENDOR" MEANS A VENDOR THAT IS EXPERIENCED IN AND CAPABLE OF FULFILLING THE REQUIREMENTS OF THIS SECTION ON A DAILY BASIS.

Sec. 11. Section 13-3961, Arizona Revised Statutes, is amended to read:

13-3961. Offenses not bailable; purpose; preconviction; exceptions

A. A person who is in custody shall not be admitted to bail if the proof is evident or the presumption great that the person is guilty of the offense and the offense charged is either:

1. A capital offense.

2. Sexual assault.

3. Sexual conduct with a minor who is under fifteen years of age.

4. Molestation of a child who is under fifteen years of age.

5. A serious felony offense if the person has entered or remained in the United States illegally. For the purposes of this paragraph, "serious felony offense" means any class 1, 2, 3 or 4 felony or any violation of section 28-1383.

B. The purposes of bail and any conditions of release that are set by a judicial officer include:

1. Assuring the appearance of the accused.

2. Protecting against the intimidation of witnesses.

3. Protecting the safety of the victim, any other person or the community.

C. A person who is in custody shall not be admitted to bail if the person is charged with a felony offense and the state certifies by motion and the court finds after a hearing on the matter that there is clear and convincing evidence that the person charged poses a substantial danger to another person or the community or engaged in conduct constituting a violent offense, that no condition or combination of conditions of release may be imposed that will reasonably assure the safety of the other person or the community and that the proof is evident or the presumption great that the person committed the offense for which the person is charged. For the purposes of this subsection, "violent offense" means either of the following:

1. A dangerous crime against children.

2. Terrorism.

D. On oral motion of the state, the court shall order the hearing required by subsection C OF THIS SECTION at or within twenty-four hours of the initial appearance unless the person who is subject to detention or the state moves for a continuance. A continuance that is granted on the motion of the person shall not exceed five calendar days unless there are extenuating circumstances. A continuance on the motion of the state shall be granted on good cause shown and shall not exceed twenty-four hours. The person may be detained pending the hearing. The person is entitled to representation by counsel and is entitled to present information by proffer or otherwise, to testify and to present witnesses in the person's own behalf. Testimony of the person charged that is given during the hearing shall not be admissible on the issue of guilt in any subsequent judicial proceeding,

1 except as it might relate to the compliance with or violation of any
2 condition of release subsequently imposed or the imposition of appropriate
3 sentence or in perjury proceedings, or for the purposes of impeachment. The
4 case of the person shall be placed on an expedited calendar and, consistent
5 with the sound administration of justice, the person's trial shall be given
6 priority. The person may be admitted to bail in accordance with the Arizona
7 rules of criminal procedure whenever a judicial officer finds that a
8 subsequent event has eliminated the basis for detention.
9 E. The finding of an indictment or the filing of an information does
10 not add to the strength of the proof or the presumption to be drawn.
11 F. IN A HEARING PURSUANT TO SUBSECTION C OF THIS SECTION, PROOF THAT
12 THE PERSON IS A CRIMINAL STREET GANG MEMBER MAY GIVE RISE TO THE INFERENCE
13 THAT THE PERSON POSES A SUBSTANTIAL DANGER TO ANOTHER PERSON OR THE COMMUNITY
14 AND THAT NO CONDITION OR COMBINATION OF CONDITIONS OF RELEASE MAY BE IMPOSED
15 THAT WILL REASONABLY ASSURE THE SAFETY OF THE OTHER PERSON OR THE COMMUNITY.
16 Sec. 12. Joint legislative study committee on security threat
17 groups and criminal street gangs; duties; report
18 A. The joint legislative study committee on security threat groups and
19 criminal street gangs is established consisting of the following members:
20 1. Two members of the senate who are appointed by the president of the
21 senate and who are members of different political parties. The president of
22 the senate shall designate one of these members to serve as cochairperson of
23 the committee.
24 2. Two members of the house of representatives who are appointed by
25 the speaker of the house of representatives and who are members of different
26 political parties. The speaker of the house of representatives shall
27 designate one of these members to serve as cochairperson of the committee.
28 3. The director of the state department of corrections or the
29 director's designee.
30 4. The director of the department of juvenile corrections or the
31 director's designee.
32 5. The director of the department of public safety or the director's
33 designee.
34 6. The director of the adult services division in the administrative
35 office of the courts or the director's designee.
36 7. One county attorney, or the county attorney's designee, who
37 represents a county with a population of four hundred thousand persons or
38 less and who is appointed by the president of the senate.
39 8. One county attorney, or the county attorney's designee, who
40 represents a county with a population of more than four hundred thousand
41 persons and who is appointed by the speaker of the house of representatives.
42 9. One public defender, or the public defender's designee, who
43 represents a county with a population of four hundred thousand persons or
44 less and who is appointed by the speaker of the house of representatives.

10. One public defender, or the public defender's designee, who represents a county with a population of more than four hundred thousand persons and who is appointed by the president of the senate.

11. Two police chiefs who are appointed by the Arizona chiefs' of police association, one of whom represents a city or town with a population of one hundred thousand or more persons and one of whom represents a city or town with a population of less than one hundred thousand persons, or their designees.

12. Two sheriffs who are appointed by the Arizona sheriffs' association, one of whom represents a county with a population of five hundred thousand or more persons and one of whom represents a county with a population of less than five hundred thousand persons, or their designees.

13. One person who is a member of a nonprofit organization that provides criminal street gang prevention programs and who is appointed by the president of the senate.

14. One person who is a member of a local school board and who is appointed by the speaker of the house of representatives.

B. The committee shall meet a minimum of three times at a time and place set by the cochairpersons.

C. Members of the committee are not eligible to receive compensation but are eligible for reimbursement of expenses pursuant to title 38, chapter 4, article 2, Arizona Revised Statutes.

D. The committee shall:

1. Define the category of security threat groups and criminal street gangs.

2. Evaluate current criminal charging and sentencing enhancements for criminal street gang offenses and security threat group offenses.

3. Identify and evaluate current prevention based programs in communities and schools.

4. Evaluate sentencing enhancements that could monitor a criminal street gang member or security threat group member while on probation or community supervision and after any sentence is complete.

5. Identify funding sources for prevention programs relating to criminal street gang and security threat group members.

6. Make recommendations concerning laws, rules or procedures that are necessary to improve the prevention, prosecution and punishment of criminal street gang members and security threat group members.

E. The committee shall report its findings and recommendations to the governor, the president of the senate and the speaker of the house of representatives on or before December 31, 2007 and shall provide a copy of this report to the secretary of state and the director of the Arizona state library, archives and public records.

1 Sec. 13. Repeal
2 Section 12 of this act, relating to the joint legislative study
3 committee on security threat groups and criminal street gangs, is repealed
4 from and after September 30, 2008.
5 Sec. 14. Appropriation; department of public safety; crime
6 control
7 The sum of $2,000,000 is appropriated from the state general fund in
8 fiscal year 2007-2008 to the department of public safety as follows:
9 1. $1,000,000 to GIITEM for distribution to county attorneys for
10 vertical prosecutors in order to prosecute gang-related offenses.
11 2. $1,000,000 to GIITEM to upgrade the state gang intelligence
12 database and for crime analysts and related employee expenditures.
13 Sec. 15. Appropriation; nonsupplanting
14 The appropriation made in section 14 of this act shall not be used to
15 supplant existing monies or appropriations for the purposes specified.

APPROVED BY THE GOVERNOR JULY 2, 2007.

FILED IN THE OFFICE OF THE SECRETARY OF STATE JULY 2, 2007.

Passed the House April 17, 20 07,

by the following vote: 59 Ayes,

0 Nays, 1 Not Voting

Speaker of the House

Chief Clerk of the House

Passed the Senate March 8, 20 07,

by the following vote: 21 Ayes,

7 Nays, 2 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. 1222

HOUSE FINAL PASSAGE
as per Joint Conference

Passed the House June 20, 2007,

by the following vote: 55 Ayes,

0 Nays, 5 Not Voting

Speaker of the House

Norman L. Moore
Chief Clerk of the House

SENATE FINAL PASSAGE
as per Joint Conference

Passed the Senate June 20, 2007,

by the following vote: 25 Ayes,

0 Nays, 5 Not Voting

Timothy S. Bee
President of the Senate

Charmain Billington
Secretary of the Senate

EXECUTIVE DEPARTMENT OF ARIZONA
OFFICE OF GOVERNOR
This Bill was received by the Governor

this 21st day of June, 2007

at 8:32 o'clock a. M.

Jennifer Ybarra
Secretary to the Governor

Approved this 2 day of

July, 2007,

at 11:10 o'clock A. M.

Governor of Arizona

EXECUTIVE DEPARTMENT OF ARIZONA
OFFICE OF SECRETARY OF STATE
This Bill was received by ~~the~~ Secretary of State

this 2 day of July, 2007,

at 2:43 o'clock P. M.

Janice K. Brewer
Secretary of State

S.B. 1222