

Conference Engrossed

FILED

**KEN BENNETT
SECRETARY OF STATE**

State of Arizona
House of Representatives
Forty-ninth Legislature
Second Regular Session
2010

CHAPTER 255

HOUSE BILL 2238

AN ACT

AMENDING TITLE 13, CHAPTER 7, ARIZONA REVISED STATUTES, BY ADDING SECTION 13-709.05; AMENDING SECTION 13-901, ARIZONA REVISED STATUTES, AS AMENDED BY LAWS 2009, FIRST SPECIAL SESSION, CHAPTER 5, SECTION 2; REPEALING SECTION 13-901, ARIZONA REVISED STATUTES, AS AMENDED BY LAWS 2009, FIRST REGULAR SESSION, CHAPTER 125, SECTION 1; AMENDING SECTIONS 13-1402, 13-1403 AND 13-3212, ARIZONA REVISED STATUTES; REPEALING SECTION 13-3213, ARIZONA REVISED STATUTES; AMENDING SECTIONS 13-3821 AND 36-3701, ARIZONA REVISED STATUTES; BLENDING MULTIPLE ENACTMENTS; RELATING TO SEXUAL OFFENSES.

(TEXT OF BILL BEGINS ON NEXT PAGE)

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

2 Section 1. Title 13, chapter 7, Arizona Revised Statutes, is amended
3 by adding section 13-709.05, to read:

4 13-709.05. Special sentencing provisions; sexual offenses

5 A. A PERSON WHO IS CONVICTED OF A FELONY VIOLATION OF SECTION 13-1402
6 OR 13-1403 AND WHO HAS TWO OR MORE HISTORICAL PRIOR FELONY CONVICTIONS FOR A
7 VIOLATION OF SECTION 13-1402 OR 13-1403 INVOLVING INDECENT EXPOSURE OR PUBLIC
8 SEXUAL INDECENCY TO A MINOR WHO IS UNDER FIFTEEN YEARS OF AGE SHALL BE
9 SENTENCED TO A TERM OF IMPRISONMENT AS FOLLOWS:

10	<u>MITIGATED</u>	<u>MINIMUM</u>	<u>PRESUMPTIVE</u>	<u>MAXIMUM</u>	<u>AGGRAVATED</u>
11	6 YEARS	8 YEARS	10 YEARS	12 YEARS	15 YEARS

12 B. THE PRESUMPTIVE TERM IMPOSED PURSUANT TO THIS SECTION MAY BE
13 MITIGATED OR AGGRAVATED PURSUANT TO SECTION 13-701, SUBSECTIONS D AND E.

14 Sec. 2. Section 13-901, Arizona Revised Statutes, as amended by Laws
15 2009, first special session, chapter 5, section 2, is amended to read:

16 13-901. Probation

17 A. If a person who has been convicted of an offense is eligible for
18 probation, the court may suspend the imposition or execution of sentence and,
19 if so, shall without delay place the person on intensive probation
20 supervision pursuant to section 13-913 or supervised or unsupervised
21 probation on such terms and conditions as the law requires and the court
22 deems appropriate, including participation in any programs authorized in
23 title 12, chapter 2, article 11. If a person is not eligible for probation,
24 imposition or execution of sentence shall not be suspended or delayed. If
25 the court imposes probation, it may also impose a fine as authorized by
26 chapter 8 of this title. If probation is granted the court shall impose a
27 condition that the person waive extradition for any probation revocation
28 procedures and it shall order restitution pursuant to section 13-603,
29 subsection C where there is a victim who has suffered economic loss. When
30 granting probation to an adult the court, as a condition of probation, shall
31 assess a monthly fee of not less than sixty-five dollars unless, after
32 determining the inability of the probationer to pay the fee, the court
33 assesses a lesser fee. THIS FEE IS NOT SUBJECT TO ANY SURCHARGE. In justice
34 and municipal courts the fee shall only be assessed when the person is placed
35 on supervised probation. For persons placed on probation in the superior
36 court, the fee shall be paid to the clerk of the superior court and the clerk
37 of the court shall pay all monies collected from this fee to the county
38 treasurer for deposit in the adult probation services fund established by
39 section 12-267. For persons placed on supervised probation in the justice
40 court, the fee shall be paid to the justice court and the justice court shall
41 transmit all of the monies to the county treasurer for deposit in the adult
42 probation services fund established by section 12-267. For persons placed on
43 supervised probation in the municipal court, the fee shall be paid to the
44 municipal court. The municipal court shall transmit all of the monies to the
45 city treasurer who shall transmit the monies to the county treasurer for

1 deposit in the adult probation services fund established by section 12-267.
2 Any amount assessed pursuant to this subsection shall be used to supplement
3 monies used for the salaries of adult probation and surveillance officers and
4 for support of programs and services of the superior court adult probation
5 departments.

6 B. The period of probation shall be determined according to section
7 13-902, except that if a person is released pursuant to section 31-233,
8 subsection B and community supervision is waived pursuant to section 13-603,
9 subsection K, the court shall extend the period of probation by the amount of
10 time the director of the state department of corrections approves for the
11 inmate's temporary release.

12 C. The court, in its discretion, may issue a warrant for the rearrest
13 of the defendant and may modify or add to the conditions or, if the defendant
14 commits an additional offense or violates a condition, may revoke probation
15 in accordance with the rules of criminal procedure at any time before the
16 expiration or termination of the period of probation. If the court revokes
17 the defendant's probation and the defendant is serving more than one
18 probationary term concurrently, the court may sentence the person to terms of
19 imprisonment to be served consecutively.

20 D. At any time during the probationary term of the person released on
21 probation, any probation officer, without warrant or other process and at any
22 time until the final disposition of the case, may rearrest any person and
23 bring the person before the court.

24 E. The court, on its own initiative or on application of the
25 probationer, after notice and an opportunity to be heard for the prosecuting
26 attorney and, on request, the victim, may terminate the period of probation
27 or intensive probation and discharge the defendant at a time earlier than
28 that originally imposed if in the court's opinion the ends of justice will be
29 served and if the conduct of the defendant on probation warrants it.

30 F. When granting probation the court may require that the defendant be
31 imprisoned in the county jail at whatever time or intervals, consecutive or
32 nonconsecutive, the court shall determine, within the period of probation, as
33 long as the period actually spent in confinement does not exceed one year or
34 the maximum period of imprisonment permitted under chapter 7 of this title,
35 whichever is the shorter.

36 G. IF THE DEFENDANT IS PLACED ON LIFETIME PROBATION AND HAS SERVED ONE
37 YEAR IN THE COUNTY JAIL AS A TERM OF PROBATION, THE COURT MAY REQUIRE THAT
38 THE DEFENDANT BE ADDITIONALLY IMPRISONED IN THE COUNTY JAIL AT WHATEVER TIME
39 OR INTERVALS, CONSECUTIVE OR NONCONSECUTIVE, THE COURT SHALL DETERMINE,
40 WITHIN THE PERIOD OF PROBATION IF THE DEFENDANT'S PROBATION IS REVOKED BY THE
41 COURT AND THE DEFENDANT IS SUBSEQUENTLY REINSTATED ON PROBATION. THE PERIOD
42 ACTUALLY SPENT IN CONFINEMENT AS A TERM OF BEING REINSTATED ON PROBATION
43 SHALL NOT EXCEED ONE YEAR OR WHEN INCLUDING THE INITIAL ONE YEAR PERIOD OF
44 INCARCERATION IMPOSED AS A TERM OF PROBATION, THE MAXIMUM PERIOD OF

1 IMPRISONMENT PERMITTED UNDER CHAPTER 7 OF THIS TITLE, WHICHEVER IS THE
2 SHORTER.

3 ~~G.~~ H. If restitution is made a condition of probation, the court
4 shall fix the amount of restitution and the manner of performance pursuant to
5 chapter 8 of this title.

6 ~~H.~~ I. When granting probation, the court shall set forth at the time
7 of sentencing and on the record the factual and legal reasons in support of
8 each sentence.

9 ~~I.~~ J. If the defendant meets the criteria set forth in section
10 13-901.01 or 13-3422, the court may place the defendant on probation pursuant
11 to either section. If a defendant is placed on probation pursuant to section
12 13-901.01 or 13-3422, the court may impose any term of probation that is
13 authorized pursuant to this section and that is not in violation of section
14 13-901.01.

15 Sec. 3. Repeal

16 Section 13-901, Arizona Revised Statutes, as amended by Laws 2009,
17 first regular session, chapter 125, section 1, is repealed.

18 Sec. 4. Section 13-1402, Arizona Revised Statutes, is amended to read:
19 13-1402. Indecent exposure; exception; classification

20 A. A person commits indecent exposure if he or she exposes his or her
21 genitals or anus or she exposes the areola or nipple of her breast or breasts
22 and another person is present, and the defendant is reckless about whether
23 the other person, as a reasonable person, would be offended or alarmed by the
24 act.

25 B. Indecent exposure does not include an act of breast-feeding by a
26 mother.

27 C. Indecent exposure to a person who is fifteen or more years of age
28 is a class 1 misdemeanor. Indecent exposure to a person who is under fifteen
29 years of age is a class 6 felony.

30 D. A PERSON WHO IS CONVICTED OF A FELONY VIOLATION OF THIS SECTION AND
31 WHO HAS TWO OR MORE HISTORICAL PRIOR FELONY CONVICTIONS FOR A VIOLATION OF
32 THIS SECTION OR SECTION 13-1403 INVOLVING INDECENT EXPOSURE OR PUBLIC SEXUAL
33 INDECENCY TO A MINOR WHO IS UNDER FIFTEEN YEARS OF AGE SHALL BE SENTENCED
34 PURSUANT TO SECTION 13-709.05.

35 Sec. 5. Section 13-1403, Arizona Revised Statutes, is amended to read:
36 13-1403. Public sexual indecency; public sexual indecency to a

37 minor; classification

38 A. A person commits public sexual indecency by intentionally or
39 knowingly engaging in any of the following acts, if another person is
40 present, and the defendant is reckless about whether such other person, as a
41 reasonable person, would be offended or alarmed by the act:

- 42 1. An act of sexual contact.
- 43 2. An act of oral sexual contact.
- 44 3. An act of sexual intercourse.
- 45 4. An act of bestiality.

1 B. A person commits public sexual indecency to a minor if the person
2 intentionally or knowingly engages in any of the acts listed in subsection A
3 and such person is reckless about whether a minor WHO IS under ~~the age of~~
4 fifteen years OF AGE is present.

5 C. Public sexual indecency is a class 1 misdemeanor. Public sexual
6 indecency to a minor is a class 5 felony.

7 D. A PERSON WHO IS CONVICTED OF A FELONY VIOLATION OF THIS SECTION AND
8 WHO HAS TWO OR MORE HISTORICAL PRIOR FELONY CONVICTIONS FOR A VIOLATION OF
9 THIS SECTION OR SECTION 13-1402 INVOLVING INDECENT EXPOSURE OR PUBLIC SEXUAL
10 INDECENCY TO A MINOR WHO IS UNDER FIFTEEN YEARS OF AGE SHALL BE SENTENCED
11 PURSUANT TO SECTION 13-709.05.

12 Sec. 6. Section 13-3212, Arizona Revised Statutes, is amended to read:
13 13-3212. Child prostitution; classification; increased
14 punishment

15 A. A person commits child prostitution by knowingly:

16 1. Causing any minor to engage in prostitution.
17 2. Using any minor for the purposes of prostitution.
18 3. Permitting a minor who is under the person's custody or control to
19 engage in prostitution.

20 4. Receiving any benefit for or on account of procuring or placing a
21 minor in any place or in the charge or custody of any person for the purpose
22 of prostitution.

23 5. Receiving any benefit pursuant to an agreement to participate in
24 the proceeds of prostitution of a minor.

25 6. Financing, managing, supervising, controlling or owning, either
26 alone or in association with others, prostitution activity involving a minor.

27 7. Transporting or financing the transportation of any minor with the
28 intent that the minor engage in prostitution.

29 ~~8. Engaging in prostitution with a minor.~~

30 B. A PERSON WHO IS AT LEAST EIGHTEEN YEARS OF AGE COMMITS CHILD
31 PROSTITUTION BY KNOWINGLY:

32 1. ENGAGING IN PROSTITUTION WITH A MINOR UNDER FIFTEEN YEARS OF AGE.

33 2. ENGAGING IN PROSTITUTION WITH A MINOR WHO THE PERSON KNOWS IS
34 FIFTEEN, SIXTEEN OR SEVENTEEN YEARS OF AGE.

35 3. ENGAGING IN PROSTITUTION WITH A MINOR WHO IS FIFTEEN, SIXTEEN, OR
36 SEVENTEEN YEARS OF AGE.

37 ~~B. Notwithstanding any other law, a sentence imposed on a person for a~~
38 ~~violation of this section involving a minor who is fifteen, sixteen or~~
39 ~~seventeen years of age shall be consecutive to any other sentence imposed on~~
40 ~~the person at any time.~~

41 ~~C. If a person is convicted of a violation of subsection A, paragraph~~
42 ~~8 of this section, the victim is fifteen, sixteen or seventeen years of age~~
43 ~~and the court sentences the person to a term of probation, the court shall~~
44 ~~order that as an initial term of probation the person be imprisoned in the~~
45 ~~county jail for not less than thirty days. This jail term of incarceration~~

1 shall not be deleted, deferred or otherwise suspended and shall commence on
2 the date of sentencing. This subsection does not apply to persons who are
3 sentenced to serve a period of incarceration in the state department of
4 corrections.

5 C. IT IS NOT A DEFENSE TO A PROSECUTION UNDER SUBSECTION A AND
6 SUBSECTION B, PARAGRAPHS 1 AND 2 OF THIS SECTION THAT THE OTHER PERSON IS A
7 PEACE OFFICER POSING AS A MINOR OR A PERSON ASSISTING A PEACE OFFICER POSING
8 AS A MINOR.

9 D. Child prostitution PURSUANT TO SUBSECTION A OF THIS SECTION is a
10 class 2 felony, and if the minor is under fifteen years of age ~~it~~ AND is
11 punishable pursuant to section 13-705.

12 E. CHILD PROSTITUTION PURSUANT TO SUBSECTION B, PARAGRAPH 1 OF THIS
13 SECTION IS A CLASS 2 FELONY AND IS PUNISHABLE PURSUANT TO SECTION 13-705.

14 ~~E.~~ F. If the minor is fifteen, sixteen or seventeen years of age,
15 child prostitution pursuant to subsection A, ~~paragraph 1, 2, 3, 4, 5, 6 or 7~~
16 AND SUBSECTION B, PARAGRAPH 2 of this section is a class 2 felony, the person
17 convicted shall be sentenced pursuant to this section and the person is not
18 eligible for suspension of sentence, probation, pardon or release from
19 confinement on any basis except as specifically authorized by section 31-233,
20 subsection A or B until the sentence imposed by the court has been served or
21 commuted. The presumptive term may be aggravated or mitigated within the
22 range under this section pursuant to section 13-701, subsections C, D and E.
23 The terms are as follows:

24 1. The term for a first offense is as follows:

<u>Minimum</u>	<u>Presumptive</u>	<u>Maximum</u>
7 years	10.5 years	21 years

27 2. The term for a defendant who has one historical prior felony
28 conviction FOR A VIOLATION OF THIS SECTION is as follows:

<u>Minimum</u>	<u>Presumptive</u>	<u>Maximum</u>
14 years	15.75 years	28 years

31 3. The term for a defendant who has two or more historical prior
32 felony convictions FOR A VIOLATION OF THIS SECTION is as follows:

<u>Minimum</u>	<u>Presumptive</u>	<u>Maximum</u>
21 years	28 years	35 years

35 G. CHILD PROSTITUTION PURSUANT TO SUBSECTION B, PARAGRAPH 3 OF THIS
36 SECTION IS A CLASS 6 FELONY. IF THE COURT SENTENCES THE PERSON TO A TERM OF
37 PROBATION, THE COURT SHALL ORDER THAT AS AN INITIAL TERM OF PROBATION THE
38 PERSON BE IMPRISONED IN THE COUNTY JAIL FOR NOT LESS THAN ONE HUNDRED EIGHTY
39 CONSECUTIVE DAYS. THIS JAIL TERM SHALL COMMENCE ON THE DATE OF SENTENCING.
40 THE COURT MAY SUSPEND NINETY DAYS OF THE JAIL SENTENCE IF THE PERSON HAS NOT
41 PREVIOUSLY BEEN CONVICTED OF A VIOLATION OF THIS SECTION, A VIOLATION OF
42 SECTION 13-3214 OR A VIOLATION OF ANY CITY OR TOWN ORDINANCE THAT PROHIBITS
43 PROSTITUTION AND THAT HAS THE SAME OR SUBSTANTIALLY SIMILAR ELEMENTS AS
44 SECTION 13-3214 AND THE PERSON SUCCESSFULLY COMPLETES AN APPROPRIATE COURT
45 ORDERED EDUCATION OR TREATMENT PROGRAM.

1 H. NOTHING IN THIS SECTION PRECLUDES THE STATE FROM ALLEGING AND
2 PROVING ANY OTHER SENTENCING ENHANCEMENTS AS PROVIDED BY LAW.

3 Sec. 7. Repeal

4 Section 13-3213, Arizona Revised Statutes, is repealed.

5 Sec. 8. Section 13-3821, Arizona Revised Statutes, is amended to read:
6 13-3821. Persons required to register; procedure;
7 identification card; assessment; definitions

8 A. A person who has been convicted of a violation or attempted
9 violation of any of the following offenses or who has been convicted of an
10 offense committed in another jurisdiction that if committed in this state
11 would be a violation or attempted violation of any of the following offenses
12 or an offense that was in effect before September 1, 1978 and that, if
13 committed on or after September 1, 1978, has the same elements of an offense
14 listed in this section or who is required to register by the convicting
15 jurisdiction, within ten days after the conviction or within ten days after
16 entering and remaining in any county of this state, shall register with the
17 sheriff of that county:

18 1. Unlawful imprisonment pursuant to section 13-1303 if the victim is
19 under eighteen years of age and the unlawful imprisonment was not committed
20 by the child's parent.

21 2. Kidnapping pursuant to section 13-1304 if the victim is under
22 eighteen years of age and the kidnapping was not committed by the child's
23 parent.

24 3. Sexual abuse pursuant to section 13-1404 if the victim is under
25 eighteen years of age.

26 4. Sexual conduct with a minor pursuant to section 13-1405.

27 5. Sexual assault pursuant to section 13-1406.

28 6. Sexual assault of a spouse if the offense was committed before
29 August 12, 2005.

30 7. Molestation of a child pursuant to section 13-1410.

31 8. Continuous sexual abuse of a child pursuant to section 13-1417.

32 9. Taking a child for the purpose of prostitution pursuant to section
33 13-3206.

34 10. Child prostitution pursuant to section 13-3212 SUBSECTION A OR
35 SUBSECTION B, PARAGRAPHS 1 OR 2.

36 11. Commercial sexual exploitation of a minor pursuant to section
37 13-3552.

38 12. Sexual exploitation of a minor pursuant to section 13-3553.

39 13. Luring a minor for sexual exploitation pursuant to section 13-3554.

40 14. Sex trafficking of a minor pursuant to section 13-1307.

41 15. A second or subsequent violation of indecent exposure to a person
42 under fifteen years of age pursuant to section 13-1402.

43 16. A second or subsequent violation of public sexual indecency to a
44 minor under the age of fifteen years pursuant to section 13-1403,
45 subsection B.

1 17. A third or subsequent violation of indecent exposure pursuant to
2 section 13-1402.

3 18. A third or subsequent violation of public sexual indecency pursuant
4 to section 13-1403.

5 19. A violation of section 13-3822 or 13-3824.

6 20. Unlawful age misrepresentation.

7 21. Aggravated luring a minor for sexual exploitation pursuant to
8 section 13-3560.

9 B. Before the person is released from confinement the state department
10 of corrections in conjunction with the department of public safety and each
11 county sheriff shall complete the registration of any person who was
12 convicted of a violation of any offense listed under subsection A of this
13 section. Within three days after the person's release from confinement, the
14 state department of corrections shall forward the registered person's records
15 to the department of public safety and to the sheriff of the county in which
16 the registered person intends to reside. Registration pursuant to this
17 subsection shall be consistent with subsection E of this section.

18 C. Notwithstanding subsection A of this section, the judge who
19 sentences a defendant for any violation of chapter 14 or 35.1 of this title
20 or for an offense for which there was a finding of sexual motivation pursuant
21 to section 13-118 may require the person who committed the offense to
22 register pursuant to this section.

23 D. The court may require a person who has been adjudicated delinquent
24 for an act that would constitute an offense specified in subsection A or C of
25 this section to register pursuant to this section. Any duty to register
26 under this subsection shall terminate when the person reaches twenty-five
27 years of age.

28 E. A person who has been convicted of or adjudicated delinquent and
29 who is required to register in the convicting state for an act that would
30 constitute an offense specified in subsection A or C of this section and who
31 is not a resident of this state shall be required to register pursuant to
32 this section if the person is either:

33 1. Employed full-time or part-time in this state, with or without
34 compensation, for more than fourteen consecutive days or for an aggregate
35 period of more than thirty days in a calendar year.

36 2. Enrolled as a full-time or part-time student in any school in this
37 state for more than fourteen consecutive days or for an aggregate period of
38 more than thirty days in a calendar year. For the purposes of this
39 paragraph, "school" means an educational institution of any description,
40 public or private, wherever located in this state.

41 F. Any duty to register under subsection D or E of this section for a
42 juvenile adjudication terminates when the person reaches twenty-five years of
43 age.

1 G. The court may order the termination of any duty to register under
2 this section on successful completion of probation if the person was under
3 eighteen years of age when the offense for which the person was convicted was
4 committed.

5 H. The court may order the suspension or termination of any duty to
6 register under this section after a hearing held pursuant to section 13-923.

7 I. At the time of registering, the person shall sign or affix an
8 electronic fingerprint to a statement giving such information as required by
9 the director of the department of public safety, including all names by which
10 the person is known, any required online identifier and the name of any
11 website or internet communication service where the identifier is being used.
12 The sheriff shall fingerprint and photograph the person and within three days
13 thereafter shall send copies of the statement, fingerprints and photographs
14 to the department of public safety and the chief of police, if any, of the
15 place where the person resides. The information that is required by this
16 subsection shall include the physical location of the person's residence and
17 the person's address. If the person has a place of residence that is
18 different from the person's address, the person shall provide the person's
19 address, the physical location of the person's residence and the name of the
20 owner of the residence if the residence is privately owned and not offered
21 for rent or lease. If the person receives mail at a post office box, the
22 person shall provide the location and number of the post office box. If the
23 person does not have an address or a permanent place of residence, the person
24 shall provide a description and physical location of any temporary residence
25 and shall register as a transient not less than every ninety days with the
26 sheriff in whose jurisdiction the transient is physically present.

27 J. On the person's initial registration and every year after the
28 person's initial registration, the person shall confirm any required online
29 identifier and the name of any website or internet communication service
30 where the identifier is being used and the person shall obtain a new
31 nonoperating identification license or a driver license from the motor
32 vehicle division in the department of transportation and shall carry a valid
33 nonoperating identification license or a driver license. Notwithstanding
34 sections 28-3165 and 28-3171, the license is valid for one year from the date
35 of issuance, and the person shall submit to the department of transportation
36 proof of the person's address and place of residence. The motor vehicle
37 division shall annually update the person's address and photograph and shall
38 make a copy of the photograph available to the department of public safety or
39 to any law enforcement agency. The motor vehicle division shall provide to
40 the department of public safety daily address updates for persons required to
41 register pursuant to this section.

42 K. Except as provided in subsection E or L of this section, the clerk
43 of the superior court in the county in which a person has been convicted of a
44 violation of any offense listed under subsection A of this section or has
45 been ordered to register pursuant to subsection C or D of this section shall

1 notify the sheriff in that county of the conviction within ten days after
2 entry of the judgment.

3 L. Within ten days after entry of judgment, a court not of record
4 shall notify the arresting law enforcement agency of an offender's conviction
5 of a violation of section 13-1402. Within ten days after receiving this
6 information, the law enforcement agency shall determine if the offender is
7 required to register pursuant to this section. If the law enforcement agency
8 determines that the offender is required to register, the law enforcement
9 agency shall provide the information required by section 13-3825 to the
10 department of public safety and shall make community notification as required
11 by law.

12 M. A person who is required to register pursuant to this section
13 because of a conviction for the unlawful imprisonment of a minor or the
14 kidnapping of a minor is required to register, absent additional or
15 subsequent convictions, for a period of ten years from the date that the
16 person is released from prison, jail, probation, community supervision or
17 parole and the person has fulfilled all restitution obligations.
18 Notwithstanding this subsection, a person who has a prior conviction for an
19 offense for which registration is required pursuant to this section is
20 required to register for life.

21 N. A person who is required to register pursuant to this section and
22 who is a student at a public or private institution of postsecondary
23 education or who is employed, with or without compensation, at a public or
24 private institution of postsecondary education or who carries on a vocation
25 at a public or private institution of postsecondary education shall notify
26 the county sheriff having jurisdiction of the institution of postsecondary
27 education. The person who is required to register pursuant to this section
28 shall also notify the sheriff of each change in enrollment or employment
29 status at the institution.

30 O. At the time of registering, the sheriff shall secure a sufficient
31 sample of blood or other bodily substances for deoxyribonucleic acid testing
32 and extraction from a person who has been convicted of an offense committed
33 in another jurisdiction that if committed in this state would be a violation
34 or attempted violation of any of the offenses listed in subsection A of this
35 section or an offense that was in effect before September 1, 1978 and that,
36 if committed on or after September 1, 1978, has the same elements of an
37 offense listed in subsection A of this section or who is required to register
38 by the convicting jurisdiction. The sheriff shall transmit the sample to the
39 department of public safety.

40 P. Any person who is required to register under subsection A of this
41 section shall register the person's required online identifier and the name
42 of any website or internet communication service where the identifier is
43 being used or is intended to be used with the sheriff from and after December
44 31, 2007, regardless of whether the person was required to register an

1 identifier at the time of the person's initial registration under this
2 section.

3 Q. On conviction of any offense for which a person is required to
4 register pursuant to this section, in addition to any other penalty
5 prescribed by law, the court shall order the person to pay an additional
6 assessment of two hundred fifty dollars. This assessment is not subject to
7 any surcharge. The court shall transmit the monies received pursuant to this
8 section to the county treasurer. The county treasurer shall transmit the
9 monies received to the state treasurer. The state treasurer shall deposit
10 the monies received in the sex offender monitoring fund established by
11 section 13-3828. Notwithstanding any other law, the court shall not waive
12 the assessment imposed pursuant to this section.

13 R. For the purposes of this section:

14 1. "Address" means the location at which the person receives mail.

15 2. "Required online identifier" means any electronic e-mail address
16 information or instant message, chat, social networking or other similar
17 internet communication name, but does not include a social security number,
18 date of birth or pin number.

19 3. "Residence" means the person's dwelling place, whether permanent or
20 temporary.

21 Sec. 9. Section 36-3701, Arizona Revised Statutes, is amended to read:
22 36-3701. Definitions

23 In this article, unless the context otherwise requires:

24 1. "Agency" means any agency that is authorized to direct the release
25 of a person who is serving a sentence or term of confinement or who is
26 receiving treatment, including a state or federal prison, a county jail and
27 the Arizona state hospital.

28 2. "Competent professional" means a person who is:

29 (a) Familiar with the state's sexually violent persons statutes and
30 sexual offender treatment programs available in this state.

31 (b) Approved by the superior court as meeting court approved
32 guidelines.

33 3. "Conviction" includes a finding of guilt at any time for a sexually
34 violent offense or an order of the juvenile court adjudicating the person
35 delinquent for any sexually violent offense.

36 4. "Less restrictive alternative" means court ordered treatment in a
37 setting that is less restrictive than total confinement and that is conducted
38 in a setting approved by the superintendent of the state hospital.

39 5. "Mental disorder" means a paraphilia, personality disorder or
40 conduct disorder or any combination of paraphilia, personality disorder and
41 conduct disorder that predisposes a person to commit sexual acts to such a
42 degree as to render the person a danger to the health and safety of others.

1 6. "Sexually violent offense" means any of the following:
2 (a) INDECENT EXPOSURE TO A PERSON WHO IS UNDER FIFTEEN YEARS OF AGE
3 PURSUANT TO SECTION 13-1402, PUBLIC SEXUAL INDECENCY TO A MINOR PURSUANT TO
4 SECTION 13-1403, sexual conduct with a minor pursuant to section 13-1405,
5 sexual assault pursuant to section 13-1406, molestation of a child pursuant
6 to section 13-1410, continuous sexual abuse of a child pursuant to section
7 13-1417 or sexual assault of a spouse if the offense was committed before the
8 ~~effective date of this amendment to this section~~ AUGUST 12, 2005.
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, kidnapping 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 attempt, a solicitation, a facilitation or a conspiracy to
18 commit an offense listed in subdivision (a) or (b) of this paragraph.
19 (d) An act committed in another jurisdiction that if committed in this
20 state would be a sexually violent offense listed in subdivision (a) or (b) of
21 this paragraph.
22 (e) A conviction for a felony offense that was in effect before
23 September 1, 1978 and that if committed on or after September 1, 1978 would
24 be comparable to a sexually violent offense listed in subdivision (a) or (b)
25 of this paragraph.
26 7. "Sexually violent person" means a person to whom both of the
27 following apply:
28 (a) Has ever been convicted of or found guilty but insane of a
29 sexually violent offense or was charged with a sexually violent offense and
30 was determined incompetent to stand trial.
31 (b) Has a mental disorder that makes the person likely to engage in
32 acts of sexual violence.

APPROVED BY THE GOVERNOR MAY 7, 2010.

FILED IN THE OFFICE OF THE SECRETARY OF STATE MAY 7, 2010.

Passed the House March 3, 2010

by the following vote: 60 Ayes,

0 Nays, 0 Not Voting

[Signature]
Speaker of the House

[Signature]
Chief Clerk of the House

Passed the Senate April 12, 2010

by the following vote: 29 Ayes,

0 Nays, 1 Not Voting

[Signature]
President of the Senate

[Signature]
Secretary of the Senate

EXECUTIVE DEPARTMENT OF ARIZONA
OFFICE OF GOVERNOR

This Bill received by the Governor this

_____ day of _____, 20_____

at _____ o'clock _____ M.

Secretary to the Governor

Approved this _____ day of _____

at _____ o'clock _____ M.

Governor of Arizona

EXECUTIVE DEPARTMENT OF ARIZONA
OFFICE OF SECRETARY OF STATE

This Bill received by the Secretary of State

this _____ day of _____, 20_____

at _____ o'clock _____ M.

Secretary of State

H.B. 2238

HOUSE FINAL PASSAGE
as per Joint Conference

Passed the House April 28, 2010

by the following vote: 59 Ayes,

0 Nays, 1 Not Voting

[Signature]
Speaker of the House

[Signature]
Chief Clerk of the House

SENATE FINAL PASSAGE
as per Joint Conference

Passed the Senate Apr 28, 2010

by the following vote: 30 Ayes,

0 Nays, 0 Not Voting

[Signature]
President of the Senate

[Signature]
Secretary of the Senate

EXECUTIVE DEPARTMENT OF ARIZONA
OFFICE OF GOVERNOR

This Bill received by the Governor this

29 day of April, 2010

at 11:50 o'clock A. M.

[Signature]
Secretary to the Governor

Approved this 7 day of

May, 2010

at 10:38 o'clock A. M.

[Signature]
Governor of Arizona

EXECUTIVE DEPARTMENT OF ARIZONA
OFFICE OF SECRETARY OF STATE

This Bill received by the Secretary of State

this 7th day of May, 2010

at 4:30 o'clock P.M.

[Signature]
Secretary of State

H.B. 2238