

Senate Engrossed House Bill

FILED

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SECRETARY OF STATE

State of Arizona
House of Representatives
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First Regular Session
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CHAPTER 167

HOUSE BILL 2238

AN ACT

AMENDING SECTIONS 8-201, 13-701, 13-705, 13-706, 13-902, 13-1307, 13-1308, 13-1309, 13-2301, 13-3212, 13-3620, 13-3821, 13-3827, 41-114, 41-1758.03 AND 41-1758.07, ARIZONA REVISED STATUTES; RELATING TO SEX TRAFFICKING.

(TEXT OF BILL BEGINS ON NEXT PAGE)

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

2 Section 1. Section 8-201, Arizona Revised Statutes, is amended to
3 read:

4 8-201. Definitions

5 In this title, unless the context otherwise requires:

6 1. "Abandoned" means the failure of the parent to provide
7 reasonable support and to maintain regular contact with the child,
8 including providing normal supervision. Abandoned includes a judicial
9 finding that a parent has made only minimal efforts to support and
10 communicate with the child. Failure to maintain a normal parental
11 relationship with the child without just cause for a period of six months
12 constitutes prima facie evidence of abandonment.

13 2. "Abuse" means the infliction or allowing of physical injury,
14 impairment of bodily function or disfigurement or the infliction of or
15 allowing another person to cause serious emotional damage as evidenced by
16 severe anxiety, depression, withdrawal or untoward aggressive behavior and
17 which emotional damage is diagnosed by a medical doctor or psychologist
18 and is caused by the acts or omissions of an individual who has the care,
19 custody and control of a child. Abuse includes:

20 (a) Inflicting or allowing sexual abuse pursuant to section
21 13-1404, sexual conduct with a minor pursuant to section 13-1405, sexual
22 assault pursuant to section 13-1406, molestation of a child pursuant to
23 section 13-1410, commercial sexual exploitation of a minor pursuant to
24 section 13-3552, sexual exploitation of a minor pursuant to section
25 13-3553, incest pursuant to section 13-3608 or child ~~prostitution~~ SEX
26 TRAFFICKING pursuant to section 13-3212.

27 (b) Physical injury that results from permitting a child to enter
28 or remain in any structure or vehicle in which volatile, toxic or
29 flammable chemicals are found or equipment is possessed by any person for
30 the purpose of manufacturing a dangerous drug as defined in section
31 13-3401.

32 (c) Unreasonable confinement of a child.

33 3. "Adult" means a person who is eighteen years of age or older.

34 4. "Adult court" means the appropriate justice court, municipal
35 court or criminal division of the superior court that has jurisdiction to
36 hear proceedings concerning offenses committed by juveniles as provided in
37 sections 8-327 and 13-501.

38 5. "Award" or "commit" means to assign legal custody.

39 6. "Child", "youth" or "juvenile" means an individual who is under
40 the age of eighteen years.

41 7. "Complaint" means a written statement of the essential facts
42 constituting a public offense that is any of the following:

43 (a) Made on an oath before a judge or commissioner of the superior
44 court or an authorized juvenile hearing officer.

- 1 (b) Made pursuant to section 13-3903.
2 (c) Accompanied by an affidavit of a law enforcement officer or
3 employee that swears on information and belief to the accuracy of the
4 complaint pursuant to section 13-4261.
- 5 8. "Criminal conduct allegation" means an allegation of conduct by
6 a parent, guardian or custodian of a child or an adult member of the
7 victim's household that, if true, would constitute any of the following:
8 (a) A violation of section 13-3623 involving child abuse.
9 (b) A felony offense that constitutes domestic violence as defined
10 in section 13-3601.
11 (c) A violation of section 13-1404 or 13-1406 involving a minor.
12 (d) A violation of section 13-1405, 13-1410 or 13-1417.
13 (e) Any other act of abuse that is classified as a felony.
14 (f) An offense that constitutes domestic violence as defined in
15 section 13-3601 and that involves a minor who is a victim of or was in
16 imminent danger during the domestic violence.
- 17 9. "Custodian" means a person, other than a parent or legal
18 guardian, who stands in loco parentis to the child or a person to whom
19 legal custody of the child has been given by order of the juvenile court.
- 20 10. "DCS report" means a communication received by the centralized
21 intake hotline that alleges child abuse or neglect and that meets the
22 criteria for a report as prescribed in section 8-455.
- 23 11. "Delinquency hearing" means a proceeding in the juvenile court
24 to determine whether a juvenile has committed a specific delinquent act as
25 set forth in a petition.
- 26 12. "Delinquent act" means an act by a juvenile that if committed
27 by an adult would be a criminal offense or a petty offense, a violation of
28 any law of this state, or of another state if the act occurred in that
29 state, or a law of the United States, or a violation of any law that can
30 only be violated by a minor and that has been designated as a delinquent
31 offense, or any ordinance of a city, county or political subdivision of
32 this state defining crime. Delinquent act does not include an offense
33 under section 13-501, subsection A or B if the offense is filed in adult
34 court. Any juvenile who is prosecuted as an adult or who is remanded for
35 prosecution as an adult shall not be adjudicated as a delinquent juvenile
36 for the same offense.
- 37 13. "Delinquent juvenile" means a child who is adjudicated to have
38 committed a delinquent act.
- 39 14. "Department" means the department of child safety.
- 40 15. "Dependent child":
41 (a) Means a child who is adjudicated to be:
42 (i) In need of proper and effective parental care and control and
43 who has no parent or guardian, or one who has no parent or guardian
44 willing to exercise or capable of exercising such care and control.

- 1 (ii) Destitute or who is not provided with the necessities of life,
2 including adequate food, clothing, shelter or medical care.
- 3 (iii) A child whose home is unfit by reason of abuse, neglect,
4 cruelty or depravity by a parent, a guardian or any other person having
5 custody or care of the child.
- 6 (iv) Under eight years of age and who is found to have committed an
7 act that would result in adjudication as a delinquent juvenile or
8 incorrigible child if committed by an older juvenile or child.
- 9 (v) Incompetent or not restorable to competency and who is alleged
10 to have committed a serious offense as defined in section 13-706.
- 11 (b) Does not include a child who in good faith is being furnished
12 Christian Science treatment by a duly accredited practitioner if none of
13 the circumstances described in subdivision (a) of this paragraph exists.
- 14 16. "Detention" means the temporary confinement of a juvenile who
15 requires secure care in a physically restricting facility that is
16 completely surrounded by a locked and physically secure barrier with
17 restricted ingress and egress for the protection of the juvenile or the
18 community pending court disposition or as a condition of probation.
- 19 17. "Director" means the director of the department.
- 20 18. "Health professional" has the same meaning prescribed in
21 section 32-3201.
- 22 19. "Incorrigible child" means a child who:
- 23 (a) Is adjudicated as a child who refuses to obey the reasonable
24 and proper orders or directions of a parent, guardian or custodian and who
25 is beyond the control of that person.
- 26 (b) Is habitually truant from school as defined in section 15-803,
27 subsection C.
- 28 (c) Is a runaway from the child's home or parent, guardian or
29 custodian.
- 30 (d) Habitually behaves in such a manner as to injure or endanger
31 the morals or health of self or others.
- 32 (e) Commits any act constituting an offense that can only be
33 committed by a minor and that is not designated as a delinquent act.
- 34 (f) Fails to obey any lawful order of a court of competent
35 jurisdiction given in a noncriminal action.
- 36 20. "Independent living program" includes a residential program
37 with supervision of less than twenty-four hours a day.
- 38 21. "Juvenile court" means the juvenile division of the superior
39 court when exercising its jurisdiction over children in any proceeding
40 relating to delinquency, dependency or incorrigibility.
- 41 22. "Law enforcement officer" means a peace officer, sheriff,
42 deputy sheriff, municipal police officer or constable.
- 43 23. "Medical director of a mental health agency" means a
44 psychiatrist, or licensed physician experienced in psychiatric matters,
45 who is designated in writing by the governing body of the agency as the

1 person in charge of the medical services of the agency, or a psychiatrist
2 designated by the governing body to act for the director. The term
3 includes the superintendent of the state hospital.

4 24. "Mental health agency" means any private or public facility
5 that is licensed by this state as a mental health treatment agency, a
6 psychiatric hospital, a psychiatric unit of a general hospital or a
7 residential treatment center for emotionally disturbed children and that
8 uses secure settings or mechanical restraints.

9 25. "Neglect" or "neglected" means:

10 (a) The inability or unwillingness of a parent, guardian or
11 custodian of a child to provide that child with supervision, food,
12 clothing, shelter or medical care if that inability or unwillingness
13 causes unreasonable risk of harm to the child's health or welfare, except
14 if the inability of a parent, guardian or custodian to provide services to
15 meet the needs of a child with a disability or chronic illness is solely
16 the result of the unavailability of reasonable services.

17 (b) Permitting a child to enter or remain in any structure or
18 vehicle in which volatile, toxic or flammable chemicals are found or
19 equipment is possessed by any person for the purposes of manufacturing a
20 dangerous drug as defined in section 13-3401.

21 (c) A determination by a health professional that a newborn infant
22 was exposed prenatally to a drug or substance listed in section 13-3401
23 and that this exposure was not the result of a medical treatment
24 administered to the mother or the newborn infant by a health
25 professional. This subdivision does not expand a health professional's
26 duty to report neglect based on prenatal exposure to a drug or substance
27 listed in section 13-3401 beyond the requirements prescribed pursuant to
28 section 13-3620, subsection E. The determination by the health
29 professional shall be based on one or more of the following:

30 (i) Clinical indicators in the prenatal period including maternal
31 and newborn presentation.

32 (ii) History of substance use or abuse.

33 (iii) Medical history.

34 (iv) Results of a toxicology or other laboratory test on the mother
35 or the newborn infant.

36 (d) Diagnosis by a health professional of an infant under one year
37 of age with clinical findings consistent with fetal alcohol syndrome or
38 fetal alcohol effects.

39 (e) Deliberate exposure of a child by a parent, guardian or
40 custodian to sexual conduct as defined in section 13-3551 or to sexual
41 contact, oral sexual contact or sexual intercourse as defined in section
42 13-1401, bestiality as prescribed in section 13-1411 or explicit sexual
43 materials as defined in section 13-3507.

- 1 (f) Any of the following acts committed by the child's parent,
2 guardian or custodian with reckless disregard as to whether the child is
3 physically present:
- 4 (i) Sexual contact as defined in section 13-1401.
 - 5 (ii) Oral sexual contact as defined in section 13-1401.
 - 6 (iii) Sexual intercourse as defined in section 13-1401.
 - 7 (iv) Bestiality as prescribed in section 13-1411.
- 8 26. "Newborn infant" means a child who is under thirty days of age.
- 9 27. "Petition" means a written statement of the essential facts
10 that allege delinquency, incorrigibility or dependency.
- 11 28. "Prevention" means the creation of conditions, opportunities
12 and experiences that encourage and develop healthy, self-sufficient
13 children and that occur before the onset of problems.
- 14 29. "Protective supervision" means supervision that is ordered by
15 the juvenile court of children who are found to be dependent or
16 incorrigible.
- 17 30. "Referral" means a report that is submitted to the juvenile
18 court and that alleges that a child is dependent or incorrigible or that a
19 juvenile has committed a delinquent or criminal act.
- 20 31. "Secure care" means confinement in a facility that is
21 completely surrounded by a locked and physically secure barrier with
22 restricted ingress and egress.
- 23 32. "Serious emotional injury" means an injury that is diagnosed by
24 a medical doctor or a psychologist and that does any one or a combination
25 of the following:
- 26 (a) Seriously impairs mental faculties.
 - 27 (b) Causes serious anxiety, depression, withdrawal or social
28 dysfunction behavior to the extent that the child suffers dysfunction that
29 requires treatment.
 - 30 (c) Is the result of sexual abuse pursuant to section 13-1404,
31 sexual conduct with a minor pursuant to section 13-1405, sexual assault
32 pursuant to section 13-1406, molestation of a child pursuant to section
33 13-1410, child ~~prostitution~~ SEX TRAFFICKING pursuant to section 13-3212,
34 commercial sexual exploitation of a minor pursuant to section 13-3552,
35 sexual exploitation of a minor pursuant to section 13-3553 or incest
36 pursuant to section 13-3608.
- 37 33. "Serious physical injury" means an injury that is diagnosed by
38 a medical doctor and that does any one or a combination of the following:
- 39 (a) Creates a reasonable risk of death.
 - 40 (b) Causes serious or permanent disfigurement.
 - 41 (c) Causes significant physical pain.
 - 42 (d) Causes serious impairment of health.
 - 43 (e) Causes the loss or protracted impairment of an organ or limb.

1 (f) Is the result of sexual abuse pursuant to section 13-1404,
2 sexual conduct with a minor pursuant to section 13-1405, sexual assault
3 pursuant to section 13-1406, molestation of a child pursuant to section
4 13-1410, child ~~prostitution~~ SEX TRAFFICKING pursuant to section 13-3212,
5 commercial sexual exploitation of a minor pursuant to section 13-3552,
6 sexual exploitation of a minor pursuant to section 13-3553 or incest
7 pursuant to section 13-3608.

8 34. "Shelter care" means the temporary care of a child in any
9 public or private facility or home that is licensed by this state and that
10 offers a physically nonsecure environment that is characterized by the
11 absence of physically restricting construction or hardware and that
12 provides the child access to the surrounding community.

13 Sec. 2. Section 13-701, Arizona Revised Statutes, is amended to
14 read:

15 13-701. Sentence of imprisonment for felony; presentence
16 report; aggravating and mitigating factors;
17 consecutive terms of imprisonment; definition

18 A. A sentence of imprisonment for a felony shall be a definite term
19 of years and the person sentenced, unless otherwise provided by law, shall
20 be committed to the custody of the state department of corrections.

21 B. No prisoner may be transferred to the custody of the state
22 department of corrections without a certified copy of the judgment and
23 sentence, signed by the sentencing judge, and a copy of a recent
24 presentence investigation report unless the court has waived preparation
25 of the report.

26 C. The minimum or maximum term imposed pursuant to section 13-702,
27 13-703, 13-704, 13-705, 13-708, 13-710, 13-1406, 13-3212 or 13-3419 may be
28 imposed only if one or more of the circumstances alleged to be in
29 aggravation of the crime are found to be true by the trier of fact beyond
30 a reasonable doubt or are admitted by the defendant, except that an
31 alleged aggravating circumstance under subsection D, paragraph 11 of this
32 section shall be found to be true by the court, or in mitigation of the
33 crime are found to be true by the court, on any evidence or information
34 introduced or submitted to the court or the trier of fact before
35 sentencing or any evidence presented at trial, and factual findings and
36 reasons in support of such findings are set forth on the record at the
37 time of sentencing.

38 D. For the purpose of determining the sentence pursuant to
39 subsection C of this section, the trier of fact shall determine and the
40 court shall consider the following aggravating circumstances, except that
41 the court shall determine an aggravating circumstance under paragraph 11
42 of this subsection:

- 1 1. Infliction or threatened infliction of serious physical injury,
2 except if this circumstance is an essential element of the offense of
3 conviction or has been utilized to enhance the range of punishment under
4 section 13-704.
- 5 2. Use, threatened use or possession of a deadly weapon or
6 dangerous instrument during the commission of the crime, except if this
7 circumstance is an essential element of the offense of conviction or has
8 been utilized to enhance the range of punishment under section 13-704.
- 9 3. If the offense involves the taking of or damage to property, the
10 value of the property taken or damaged.
- 11 4. Presence of an accomplice.
- 12 5. Especially heinous, cruel or depraved manner in which the
13 offense was committed.
- 14 6. The defendant committed the offense as consideration for the
15 receipt, or in the expectation of the receipt, of anything of pecuniary
16 value.
- 17 7. The defendant procured the commission of the offense by payment,
18 or promise of payment, of anything of pecuniary value.
- 19 8. At the time of the commission of the offense, the defendant was
20 a public servant and the offense involved conduct directly related to the
21 defendant's office or employment.
- 22 9. The victim or, if the victim has died as a result of the conduct
23 of the defendant, the victim's immediate family suffered physical,
24 emotional or financial harm.
- 25 10. During the course of the commission of the offense, the death
26 of an unborn child at any stage of its development occurred.
- 27 11. The defendant was previously convicted of a felony within the
28 ten years immediately preceding the date of the offense. A conviction
29 outside the jurisdiction of this state for an offense that if committed in
30 this state would be punishable as a felony is a felony conviction for the
31 purposes of this paragraph.
- 32 12. The defendant was wearing body armor as defined in section
33 13-3116.
- 34 13. The victim of the offense is at least sixty-five years of age
35 or is a person with a disability as defined in section 38-492,
36 subsection B.
- 37 14. The defendant was appointed pursuant to title 14 as a fiduciary
38 and the offense involved conduct directly related to the defendant's
39 duties to the victim as fiduciary.
- 40 15. Evidence that the defendant committed the crime out of malice
41 toward a victim because of the victim's identity in a group listed in
42 section 41-1750, subsection A, paragraph 3 or because of the defendant's
43 perception of the victim's identity in a group listed in section 41-1750,
44 subsection A, paragraph 3.

1 16. The defendant was convicted of a violation of section 13-1102,
2 section 13-1103, section 13-1104, subsection A, paragraph 3 or section
3 13-1204, subsection A, paragraph 1 or 2 arising from an act that was
4 committed while driving a motor vehicle and the defendant's alcohol
5 concentration at the time of committing the offense was 0.15 or more. For
6 the purposes of this paragraph, "alcohol concentration" has the same
7 meaning prescribed in section 28-101.

8 17. Lying in wait for the victim or ambushing the victim during the
9 commission of any felony.

10 18. The offense was committed in the presence of a child and any of
11 the circumstances exists that are set forth in section 13-3601,
12 subsection A.

13 19. The offense was committed in retaliation for a victim either
14 reporting criminal activity or being involved in an organization, other
15 than a law enforcement agency, that is established for the purpose of
16 reporting or preventing criminal activity.

17 20. The defendant was impersonating a peace officer as defined in
18 section 1-215.

19 21. The defendant was in violation of 8 United States Code section
20 1323, 1324, 1325, 1326 or 1328 at the time of the commission of the
21 offense.

22 22. The defendant used a remote stun gun or an authorized remote
23 stun gun in the commission of the offense. For the purposes of this
24 paragraph:

25 (a) "Authorized remote stun gun" means a remote stun gun that has
26 all of the following:

27 (i) An electrical discharge that is less than one hundred thousand
28 volts and less than nine joules of energy per pulse.

29 (ii) A serial or identification number on all projectiles that are
30 discharged from the remote stun gun.

31 (iii) An identification and tracking system that, on deployment of
32 remote electrodes, disperses coded material that is traceable to the
33 purchaser through records that are kept by the manufacturer on all remote
34 stun guns and all individual cartridges sold.

35 (iv) A training program that is offered by the manufacturer.

36 (b) "Remote stun gun" means an electronic device that emits an
37 electrical charge and that is designed and primarily employed to
38 incapacitate a person or animal either through contact with electrodes on
39 the device itself or remotely through wired probes that are attached to
40 the device or through a spark, plasma, ionization or other conductive
41 means emitting from the device.

42 23. During or immediately following the commission of the offense,
43 the defendant committed a violation of section 28-661, 28-662 or 28-663.

1 24. The defendant was convicted of a violation of section 13-1307
2 or 13-1308 OR SECTION 13-3212, SUBSECTION A, PARAGRAPH 9 OR 10 and the
3 defendant recruited, enticed or obtained the victim from a shelter that is
4 designed to serve runaway youth, foster children, homeless persons or
5 victims of human trafficking, domestic violence or sexual assault.

6 25. Any other factor that the state alleges is relevant to the
7 defendant's character or background or to the nature or circumstances of
8 the crime.

9 E. For the purpose of determining the sentence pursuant to
10 subsection C of this section, the court shall consider the following
11 mitigating circumstances:

12 1. The age of the defendant.

13 2. The defendant's capacity to appreciate the wrongfulness of the
14 defendant's conduct or to conform the defendant's conduct to the
15 requirements of law was significantly impaired, but not so impaired as to
16 constitute a defense to prosecution.

17 3. The defendant was under unusual or substantial duress, although
18 not to a degree that would constitute a defense to prosecution.

19 4. The degree of the defendant's participation in the crime was
20 minor, although not so minor as to constitute a defense to prosecution.

21 5. During or immediately following the commission of the offense,
22 the defendant complied with all duties imposed under sections 28-661,
23 28-662 and 28-663.

24 6. Any other factor that is relevant to the defendant's character
25 or background or to the nature or circumstances of the crime and that the
26 court finds to be mitigating.

27 F. If the trier of fact finds at least one aggravating
28 circumstance, the trial court may find by a preponderance of the evidence
29 additional aggravating circumstances. In determining what sentence to
30 impose, the court shall take into account the amount of aggravating
31 circumstances and whether the amount of mitigating circumstances is
32 sufficiently substantial to justify the lesser term. If the trier of fact
33 finds aggravating circumstances and the court does not find any mitigating
34 circumstances, the court shall impose an aggravated sentence.

35 G. The court in imposing a sentence shall consider the evidence and
36 opinions presented by the victim or the victim's immediate family at any
37 aggravation or mitigation proceeding or in the presentence report.

38 H. This section does not affect any provision of law that imposes
39 the death penalty, that expressly provides for imprisonment for life or
40 that authorizes or restricts the granting of probation and suspending the
41 execution of sentence.

42 I. The intentional failure by the court to impose the mandatory
43 sentences or probation conditions provided in this title is malfeasance.

1 J. For the purposes of this section, "trier of fact" means a jury,
2 unless the defendant and the state waive a jury in which case the trier of
3 fact means the court.

4 Sec. 3. Section 13-705, Arizona Revised Statutes, is amended to
5 read:

6 13-705. Dangerous crimes against children; sentences;
7 definitions

8 A. A person who is at least eighteen years of age and who is
9 convicted of a dangerous crime against children in the first degree
10 involving sexual assault of a minor who is twelve years of age or younger
11 or sexual conduct with a minor who is twelve years of age or younger shall
12 be sentenced to life imprisonment and is not eligible for suspension of
13 sentence, probation, pardon or release from confinement on any basis
14 except as specifically authorized by section 31-233, subsection A or B
15 until the person has served thirty-five years or the sentence is commuted.
16 This subsection does not apply to masturbatory contact.

17 B. Except as otherwise provided in this section, a person who is at
18 least eighteen years of age or who has been tried as an adult and who is
19 convicted of a dangerous crime against children in the first degree
20 involving attempted first degree murder of a minor who is under twelve
21 years of age, second degree murder of a minor who is under twelve years of
22 age, sexual assault of a minor who is under twelve years of age, sexual
23 conduct with a minor who is under twelve years of age or manufacturing
24 methamphetamine under circumstances that cause physical injury to a minor
25 who is under twelve years of age may be sentenced to life imprisonment and
26 is not eligible for suspension of sentence, probation, pardon or release
27 from confinement on any basis except as specifically authorized by section
28 31-233, subsection A or B until the person has served thirty-five years or
29 the sentence is commuted. If a life sentence is not imposed pursuant to
30 this subsection, the person shall be sentenced to a term of imprisonment
31 as follows:

<u>Minimum</u>	<u>Presumptive</u>	<u>Maximum</u>
13 years	20 years	27 years

32
33
34 C. Except as otherwise provided in this section, a person who is at
35 least eighteen years of age or who has been tried as an adult and who is
36 convicted of a dangerous crime against children in the first degree
37 involving attempted first degree murder of a minor who is twelve, thirteen
38 or fourteen years of age, second degree murder of a minor who is twelve,
39 thirteen or fourteen years of age, sexual assault of a minor who is
40 twelve, thirteen or fourteen years of age, taking a child for the purpose
41 of prostitution, child ~~prostitution~~ SEX TRAFFICKING, sexual conduct with a
42 minor who is twelve, thirteen or fourteen years of age, continuous sexual
43 abuse of a child, ~~sex trafficking of a minor who is under fifteen years of~~
44 ~~age~~ or manufacturing methamphetamine under circumstances that cause
45 physical injury to a minor who is twelve, thirteen or fourteen years of

1 age or involving or using minors in drug offenses shall be sentenced to a
 2 term of imprisonment as follows:

<u>Minimum</u>	<u>Presumptive</u>	<u>Maximum</u>
13 years	20 years	27 years

5 A person who has been previously convicted of one predicate felony shall
 6 be sentenced to a term of imprisonment as follows:

<u>Minimum</u>	<u>Presumptive</u>	<u>Maximum</u>
23 years	30 years	37 years

9 D. Except as otherwise provided in this section, a person who is at
 10 least eighteen years of age or who has been tried as an adult and who is
 11 convicted of a dangerous crime against children in the first degree
 12 involving aggravated assault, unlawful mutilation, molestation of a child,
 13 commercial sexual exploitation of a minor, sexual exploitation of a minor,
 14 aggravated luring a minor for sexual exploitation, child abuse or
 15 kidnapping shall be sentenced to a term of imprisonment as follows:

<u>Minimum</u>	<u>Presumptive</u>	<u>Maximum</u>
10 years	17 years	24 years

18 A person who has been previously convicted of one predicate felony shall
 19 be sentenced to a term of imprisonment as follows:

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

22 E. Except as otherwise provided in this section, if a person is at
 23 least eighteen years of age or has been tried as an adult and is convicted
 24 of a dangerous crime against children involving luring a minor for sexual
 25 exploitation or unlawful age misrepresentation and is sentenced to a term
 26 of imprisonment, the term of imprisonment is as follows and the person is
 27 not eligible for release from confinement on any basis except as
 28 specifically authorized by section 31-233, subsection A or B until the
 29 sentence imposed by the court has been served, the person is eligible for
 30 release pursuant to section 41-1604.07 or the sentence is commuted:

<u>Minimum</u>	<u>Presumptive</u>	<u>Maximum</u>
5 years	10 years	15 years

33 A person who has been previously convicted of one predicate felony shall
 34 be sentenced to a term of imprisonment as follows and the person is not
 35 eligible for suspension of sentence, probation, pardon or release from
 36 confinement on any basis except as specifically authorized by section
 37 31-233, subsection A or B until the sentence imposed by the court has been
 38 served, the person is eligible for release pursuant to section 41-1604.07
 39 or the sentence is commuted:

<u>Minimum</u>	<u>Presumptive</u>	<u>Maximum</u>
8 years	15 years	22 years

42 F. Except as otherwise provided in this section, if a person is at
 43 least eighteen years of age or has been tried as an adult and is convicted
 44 of a dangerous crime against children involving sexual abuse or bestiality
 45 under section 13-1411, subsection A, paragraph 2 and is sentenced to a

1 term of imprisonment, the term of imprisonment is as follows and the
 2 person is not eligible for release from confinement on any basis except as
 3 specifically authorized by section 31-233, subsection A or B until the
 4 sentence imposed by the court has been served, the person is eligible for
 5 release pursuant to section 41-1604.07 or the sentence is commuted:

<u>Minimum</u>	<u>Presumptive</u>	<u>Maximum</u>
2.5 years	5 years	7.5 years

6
 7
 8 A person who has been previously convicted of one predicate felony shall
 9 be sentenced to a term of imprisonment as follows and the person is not
 10 eligible for suspension of sentence, probation, pardon or release from
 11 confinement on any basis except as specifically authorized by section
 12 31-233, subsection A or B until the sentence imposed by the court has been
 13 served, the person is eligible for release pursuant to section 41-1604.07
 14 or the sentence is commuted:

<u>Minimum</u>	<u>Presumptive</u>	<u>Maximum</u>
8 years	15 years	22 years

15
 16
 17 G. The presumptive sentences prescribed in subsections B, C and D
 18 of this section or subsections E and F of this section if the person has
 19 previously been convicted of a predicate felony may be increased or
 20 decreased pursuant to section 13-701, subsections C, D and E.

21 H. Except as provided in subsection F of this section, a person who
 22 is sentenced for a dangerous crime against children in the first degree
 23 pursuant to this section is not eligible for suspension of sentence,
 24 probation, pardon or release from confinement on any basis except as
 25 specifically authorized by section 31-233, subsection A or B until the
 26 sentence imposed by the court has been served or commuted.

27 I. A person who is convicted of any dangerous crime against
 28 children in the first degree pursuant to subsection C or D of this section
 29 and who has been previously convicted of two or more predicate felonies
 30 shall be sentenced to life imprisonment and is not eligible for suspension
 31 of sentence, probation, pardon or release from confinement on any basis
 32 except as specifically authorized by section 31-233, subsection A or B
 33 until the person has served not fewer than thirty-five years or the
 34 sentence is commuted.

35 J. Notwithstanding chapter 10 of this title, a person who is at
 36 least eighteen years of age or who has been tried as an adult and who is
 37 convicted of a dangerous crime against children in the second degree
 38 pursuant to subsection B, C or D of this section is guilty of a class 3
 39 felony and if the person is sentenced to a term of imprisonment, the term
 40 of imprisonment is as follows and the person is not eligible for release
 41 from confinement on any basis except as specifically authorized by section
 42 31-233, subsection A or B until the person has served the sentence imposed
 43 by the court, the person is eligible for release pursuant to section
 44 41-1604.07 or the sentence is commuted:

	<u>Minimum</u>	<u>Presumptive</u>	<u>Maximum</u>
1			
2	5 years	10 years	15 years
3	K. A person who is convicted of any dangerous crime against		
4	children in the second degree and who has been previously convicted of one		
5	or more predicate felonies is not eligible for suspension of sentence,		
6	probation, pardon or release from confinement on any basis except as		
7	specifically authorized by section 31-233, subsection A or B until the		
8	sentence imposed by the court has been served, the person is eligible for		
9	release pursuant to section 41-1604.07 or the sentence is commuted.		
10	L. Section 13-704, subsection J and section 13-707, subsection B		
11	apply to the determination of prior convictions.		
12	M. The sentence imposed on a person by the court for a dangerous		
13	crime against children under subsection D of this section involving child		
14	molestation or sexual abuse pursuant to subsection F of this section may		
15	be served concurrently with other sentences if the offense involved only		
16	one victim. The sentence imposed on a person for any other dangerous		
17	crime against children in the first or second degree shall be consecutive		
18	to any other sentence imposed on the person at any time, including child		
19	molestation and sexual abuse of the same victim.		
20	N. In this section, for purposes of punishment an unborn child		
21	shall be treated like a minor who is under twelve years of age.		
22	O. A dangerous crime against children is in the first degree if it		
23	is a completed offense and is in the second degree if it is a preparatory		
24	offense, except attempted first degree murder is a dangerous crime against		
25	children in the first degree.		
26	P. For the purposes of this section:		
27	1. "Dangerous crime against children" means any of the following		
28	that is committed against a minor who is under fifteen years of age:		
29	(a) Second degree murder.		
30	(b) Aggravated assault resulting in serious physical injury or		
31	involving the discharge, use or threatening exhibition of a deadly weapon		
32	or dangerous instrument.		
33	(c) Sexual assault.		
34	(d) Molestation of a child.		
35	(e) Sexual conduct with a minor.		
36	(f) Commercial sexual exploitation of a minor.		
37	(g) Sexual exploitation of a minor.		
38	(h) Child abuse as prescribed in section 13-3623, subsection A,		
39	paragraph 1.		
40	(i) Kidnapping.		
41	(j) Sexual abuse.		
42	(k) Taking a child for the purpose of prostitution as prescribed in		
43	section 13-3206.		

1 (l) Child ~~prostitution~~ SEX TRAFFICKING as prescribed in section
2 13-3212.

3 (m) Involving or using minors in drug offenses.

4 (n) Continuous sexual abuse of a child.

5 (o) Attempted first degree murder.

6 (p) Sex trafficking.

7 (q) Manufacturing methamphetamine under circumstances that cause
8 physical injury to a minor.

9 (r) Bestiality as prescribed in section 13-1411, subsection A,
10 paragraph 2.

11 (s) Luring a minor for sexual exploitation.

12 (t) Aggravated luring a minor for sexual exploitation.

13 (u) Unlawful age misrepresentation.

14 (v) Unlawful mutilation.

15 2. "Predicate felony" means any felony involving child abuse
16 pursuant to section 13-3623, subsection A, paragraph 1, a sexual offense,
17 conduct involving the intentional or knowing infliction of serious
18 physical injury or the discharge, use or threatening exhibition of a
19 deadly weapon or dangerous instrument, or a dangerous crime against
20 children in the first or second degree.

21 Sec. 4. Section 13-706, Arizona Revised Statutes, is amended to
22 read:

23 13-706. Serious, violent or aggravated offenders; sentencing;
24 life imprisonment; definitions

25 A. A person who is at least eighteen years of age or who has been
26 tried as an adult and who is convicted of a serious offense except a drug
27 offense, first degree murder or any dangerous crime against children as
28 defined in section 13-705, whether a completed or preparatory offense, and
29 who has previously been convicted of two or more serious offenses not
30 committed on the same occasion shall be sentenced to life imprisonment and
31 is not eligible for suspension of sentence, probation, pardon or release
32 from confinement on any basis, except as specifically authorized by
33 section 31-233, subsection A or B, until the person has served at least
34 twenty-five years or the sentence is commuted.

35 B. Unless a longer term of imprisonment or death is the prescribed
36 penalty and notwithstanding any provision that establishes a shorter term
37 of imprisonment, a person who has been convicted of committing or
38 attempting or conspiring to commit any violent or aggravated felony and
39 who has previously been convicted on separate occasions of two or more
40 violent or aggravated felonies not committed on the same occasion shall be
41 sentenced to imprisonment for life and is not eligible for suspension of
42 sentence, probation, pardon or release on any basis except that the person
43 may be eligible for commutation after the person has served at least
44 thirty-five years.

1 C. In order for the penalty under subsection B of this section to
2 apply, both of the following must occur:

3 1. The aggravated or violent felonies that comprise the prior
4 convictions shall have been entered within fifteen years of the conviction
5 for the third offense, not including time spent in custody or on probation
6 for an offense or while the person is an absconder.

7 2. The sentence for the first aggravated or violent felony
8 conviction shall have been imposed before the conduct occurred that gave
9 rise to the second conviction, and the sentence for the second aggravated
10 or violent felony conviction shall have been imposed before the conduct
11 occurred that gave rise to the third conviction.

12 D. Chapter 3 of this title applies to all offenses under this
13 section.

14 E. For the purposes of this section, if a person has been convicted
15 of an offense committed in another jurisdiction that if committed in this
16 state would be a violation or attempted violation of any of the offenses
17 listed in this section and that has the same elements of an offense listed
18 in this section, the offense committed in another jurisdiction is
19 considered an offense committed in this state.

20 F. For the purposes of this section:

21 1. "Serious offense" means any of the following offenses if
22 committed in this state or any offense committed outside this state that
23 if committed in this state would constitute one of the following offenses:

24 (a) First degree murder.

25 (b) Second degree murder.

26 (c) Manslaughter.

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

30 (e) Sexual assault.

31 (f) Any dangerous crime against children.

32 (g) Arson of an occupied structure.

33 (h) Armed robbery.

34 (i) Burglary in the first degree.

35 (j) Kidnapping.

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

37 (l) Child ~~prostitution~~ SEX TRAFFICKING.

38 2. "Violent or aggravated felony" means any of the following
39 offenses:

40 (a) First degree murder.

41 (b) Second degree murder.

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

- 1 (d) Dangerous or deadly assault by prisoner.
- 2 (e) Committing assault with intent to incite to riot or participate
- 3 in riot.
- 4 (f) Drive by shooting.
- 5 (g) Discharging a firearm at a residential structure if the
- 6 structure is occupied.
- 7 (h) Kidnapping.
- 8 (i) Sexual conduct with a minor that is a class 2 felony.
- 9 (j) Sexual assault.
- 10 (k) Molestation of a child.
- 11 (l) Continuous sexual abuse of a child.
- 12 (m) Violent sexual assault.
- 13 (n) Burglary in the first degree committed in a residential
- 14 structure if the structure is occupied.
- 15 (o) Arson of an occupied structure.
- 16 (p) Arson of an occupied jail or prison facility.
- 17 (q) Armed robbery.
- 18 (r) Participating in or assisting a criminal syndicate or leading
- 19 or participating in a criminal street gang.
- 20 (s) Terrorism.
- 21 (t) Taking a child for the purpose of prostitution.
- 22 (u) Child ~~prostitution~~ SEX TRAFFICKING.
- 23 (v) Commercial sexual exploitation of a minor.
- 24 (w) Sexual exploitation of a minor.
- 25 (x) Unlawful introduction of disease or parasite as prescribed by
- 26 section 13-2912, subsection A, paragraph 2 or 3.
- 27 Sec. 5. Section 13-902, Arizona Revised Statutes, is amended to
- 28 read:
- 29 13-902. Periods of probation; monitoring; fees
- 30 A. Unless terminated sooner, probation may continue for the
- 31 following periods:
- 32 1. For a class 2 felony, seven years.
- 33 2. For a class 3 felony, five years.
- 34 3. For a class 4 felony, four years.
- 35 4. For a class 5 or 6 felony, three years.
- 36 5. For a class 1 misdemeanor, three years.
- 37 6. For a class 2 misdemeanor, two years.
- 38 7. For a class 3 misdemeanor, one year.
- 39 B. Notwithstanding subsection A of this section, unless terminated
- 40 sooner, probation may continue for the following periods:
- 41 1. For a violation of section 28-1381 or 28-1382, five years.
- 42 2. For a violation of section 28-1383, ten years.
- 43 C. When the court has required, as a condition of probation, that
- 44 the defendant make restitution for any economic loss related to the
- 45 defendant's offense and that condition has not been satisfied, the court

1 at any time before the termination or expiration of probation may extend
2 the period within the following limits:

3 1. For a felony, not more than five years.

4 2. For a misdemeanor, not more than two years.

5 D. Notwithstanding any other provision of law, justice courts and
6 municipal courts may impose the probation periods specified in subsection
7 A, paragraphs 5, 6 and 7 and subsection B, paragraph 1 of this section.

8 E. After conviction of a felony offense or an attempt to commit any
9 offense that is included in chapter 14 or 35.1 of this title or section
10 13-2308.01, 13-2923, 13-3212 or 13-3623, if probation is available,
11 probation may continue for a term of not less than the term that is
12 specified in subsection A of this section up to and including life and
13 that the court believes is appropriate for the ends of justice.

14 F. After conviction of a violation of section 13-3824, subsection
15 A, if a term of probation is imposed and the offense for which the person
16 was required to register was a felony, probation may continue for a term
17 of not less than the term that is specified in subsection A of this
18 section up to and including life and that the court believes is
19 appropriate for the ends of justice.

20 G. If a person is convicted on or after November 1, 2006 of a
21 dangerous crime against children as defined in section 13-705, a term of
22 probation is imposed, the person is required to register pursuant to
23 section 13-3821 and the person is classified as a level three offender
24 pursuant to section 13-3825, the court shall require global position
25 system or electronic monitoring for the duration of the term of probation.
26 The court may impose a fee on the probationer to offset the cost of the
27 monitoring device required by this subsection. The fee shall be deposited
28 in the adult probation services fund pursuant to section 12-267,
29 subsection A, paragraph 3. This subsection does not preclude global
30 position system or electronic monitoring of any other person who is
31 serving a term of probation.

32 Sec. 6. Section 13-1307, Arizona Revised Statutes, is amended to
33 read:

34 13-1307. Sex trafficking; classification; definitions

35 A. It is unlawful for a person to knowingly traffic another person
36 who is eighteen years of age or older with either of the following:

37 1. The intent to cause the other person to engage in any
38 prostitution or sexually explicit performance by deception, force or
39 coercion.

40 2. The knowledge that the other person will engage in any
41 prostitution or sexually explicit performance by deception, coercion or
42 force.

43 ~~B. It is unlawful for a person to traffic another person who is~~
44 ~~under eighteen years of age with either of the following:~~

1 ~~1. The intent to cause the other person to engage in any~~
2 ~~prostitution or sexually explicit performance.~~

3 ~~2. The knowledge that the other person will engage in any~~
4 ~~prostitution or sexually explicit performance.~~

5 ~~C. Notwithstanding any other law, a sentence imposed on a person~~
6 ~~for a violation of subsection B of this section shall be consecutive to~~
7 ~~any other sentence imposed on the person at any time.~~

8 ~~D. A person who violates this section is guilty of a class 2~~
9 ~~felony, except that if the offense is committed against a person who is~~
10 ~~under fifteen years of age, the offense is a dangerous crime against~~
11 ~~children punishable pursuant to section 13-705.~~

12 B. A PERSON WHO VIOLATES THIS SECTION IS GUILTY OF A CLASS 2
13 FELONY.

14 ~~E.~~ C. For the purposes of this section:

15 1. "Coercion" includes:

16 (a) Abusing or threatening to abuse the law or the legal system.

17 (b) Knowingly destroying, concealing, removing, confiscating,
18 possessing or withholding another person's actual or purported passport or
19 other immigration document, government issued identification document,
20 government record or personal property.

21 (c) Extortion.

22 (d) Causing or threatening to cause financial harm to any person.

23 (e) Facilitating or controlling another person's access to a
24 controlled substance.

25 2. "Force" includes causing or threatening to cause serious harm to
26 another person or physically restraining or threatening to physically
27 restrain another person.

28 3. "Sexually explicit performance" means a live or public act or
29 show intended to arouse or satisfy the sexual desires or appeal to the
30 prurient interest of patrons.

31 4. "Traffic" means to entice, recruit, harbor, provide, transport
32 or otherwise obtain another person.

33 Sec. 7. Section 13-1308, Arizona Revised Statutes, is amended to
34 read:

35 13-1308. Trafficking of persons for forced labor or services;
36 classification; definitions

37 A. It is unlawful for a person to either:

38 1. Knowingly traffic another person with the intent to or knowledge
39 that the other person will be subject to forced labor or services.

40 2. Knowingly benefit, financially or by receiving anything of
41 value, from participation in a venture that has engaged in an act in
42 violation of section 13-1306, section 13-1307, ~~or~~ this section OR SECTION
43 13-3212, SUBSECTION A, PARAGRAPH 9 OR 10.

44 B. A violation of this section is a class 2 felony.

1 C. For the purposes of this section:

2 1. "Forced labor or services":

3 (a) Means labor or services that are performed or provided by
4 another person and that are obtained through a person's either:

5 (i) Causing or threatening to cause serious physical injury to any
6 person.

7 (ii) Restraining or threatening to physically restrain another
8 person.

9 (iii) Knowingly destroying, concealing, removing, confiscating,
10 possessing or withholding another person's actual or purported passport or
11 other immigration document, government issued identification document,
12 government record or personal property.

13 (iv) Abusing or threatening to abuse the law or the legal system.

14 (v) Extortion.

15 (vi) Causing or threatening to cause financial harm to any person.

16 (vii) Facilitating or controlling another person's access to a
17 controlled substance.

18 (b) Does not include ordinary household chores and reasonable
19 disciplinary measures between a parent or legal guardian and the parent's
20 or legal guardian's child.

21 2. "Traffic" means to entice, recruit, harbor, provide, transport
22 or otherwise obtain another person by deception, coercion or force.

23 Sec. 8. Section 13-1309, Arizona Revised Statutes, is amended to
24 read:

25 13-1309. Restitution

26 The court shall order restitution for any violation of section
27 13-1306, 13-1307 or 13-1308 OR SECTION 13-3212, SUBSECTION A, PARAGRAPH 9
28 OR 10, including the greater of either the gross income or value to the
29 defendant of the victim's labor or services or the value of the victim's
30 labor as guaranteed under the minimum wage and overtime provisions of the
31 fair labor standards act of 1938 (52 Stat. 1060; 29 United States Code
32 sections 201 through 219).

33 Sec. 9. Section 13-2301, Arizona Revised Statutes, is amended to
34 read:

35 13-2301. Definitions

36 A. For the purposes of sections 13-2302, 13-2303 and 13-2304:

37 1. "Collect an extension of credit" means to induce in any way any
38 person to make repayment of that extension.

39 2. "Creditor" means any person making an extension of credit or any
40 person claiming by, under or through any person making an extension of
41 credit.

42 3. "Debtor" means any person to whom an extension of credit is made
43 or any person who guarantees the repayment of an extension of credit, or
44 in any manner undertakes to indemnify the creditor against loss resulting

1 from the failure of any person to whom an extension is made to repay the
2 extension.

3 4. "Extend credit" means to make or renew any loan or to enter into
4 any agreement, tacit or express, whereby the repayment or satisfaction of
5 any debt or claim, whether acknowledged or disputed, valid or invalid, and
6 however arising, may or shall be deferred.

7 5. "Extortionate extension of credit" means any extension of credit
8 with respect to which it is the understanding of the creditor and the
9 debtor at the time the extension is made that delay in making repayment or
10 failure to make repayment could result in the use of violence or other
11 criminal means to cause harm to the person or the reputation or property
12 of any person.

13 6. "Extortionate means" means the use, or an express or implicit
14 threat of use, of violence or other criminal means to cause harm to the
15 person or the reputation or property of any person.

16 7. "Repayment of any extension of credit" means the repayment,
17 satisfaction or discharge in whole or in part of any debt or claim,
18 acknowledged or disputed, valid or invalid, resulting from or in
19 connection with that extension of credit.

20 B. For the purposes of section 13-2305, 13-2306 or 13-2307:

21 1. "Dealer in property" means a person who buys and sells property
22 as a business.

23 2. "Stolen property" means property of another as defined in
24 section 13-1801 that has been the subject of any unlawful taking.

25 3. "Traffic" means to sell, transfer, distribute, dispense or
26 otherwise dispose of stolen property to another person, or to buy,
27 receive, possess or obtain control of stolen property, with the intent to
28 sell, transfer, distribute, dispense or otherwise dispose of the property
29 to another person.

30 C. For the purposes of this chapter:

31 1. "Animal activity" means a commercial enterprise that uses
32 animals for food, clothing or fiber production, agriculture or
33 biotechnology.

34 2. "Animal facility" means a building or premises where a
35 commercial activity in which the use of animals is essential takes place,
36 including a zoo, rodeo, circus, amusement park, hunting preserve and horse
37 and dog event.

38 3. "Animal or ecological terrorism" means any felony in violation
39 of section 13-2312, subsection B that involves at least three persons
40 acting in concert, that involves the intentional or knowing infliction of
41 property damage in an amount of more than ten thousand dollars to the
42 property that is used by a person for the operation of a lawfully
43 conducted animal activity or to a commercial enterprise that is engaged in
44 a lawfully operated animal facility or research facility and that involves
45 either:

1 (a) The use of a deadly weapon or dangerous instrument.

2 (b) The intentional or knowing infliction of serious physical
3 injury on a person engaged in a lawfully conducted animal activity or
4 participating in a lawfully conducted animal facility or research
5 facility.

6 4. "Biological agent" means any microorganism, virus, infectious
7 substance or biological product that may be engineered through
8 biotechnology or any naturally occurring or bioengineered component of any
9 microorganism, virus, infectious substance or biological product and that
10 is capable of causing any of the following:

11 (a) Death, disease or physical injury in a human, animal, plant or
12 other living organism.

13 (b) The deterioration or contamination of air, food, water,
14 equipment, supplies or material of any kind.

15 5. "Combination" means persons who collaborate in carrying on or
16 furthering the activities or purposes of a criminal syndicate even though
17 such persons may not know each other's identity, membership in the
18 combination changes from time to time or one or more members may stand in
19 a wholesaler-retailer or other arm's length relationship with others as to
20 activities or dealings between or among themselves in an illicit
21 operation.

22 6. "Communication service provider" has the same meaning prescribed
23 in section 13-3001.

24 7. "Criminal syndicate" means any combination of persons or
25 enterprises engaging, or having the purpose of engaging, on a continuing
26 basis in conduct that violates any one or more provisions of any felony
27 statute of this state.

28 8. "Explosive agent" means an explosive as defined in section
29 13-3101 and flammable fuels or fire accelerants in amounts over fifty
30 gallons but excludes:

31 (a) Fireworks as defined in section 36-1601.

32 (b) Firearms.

33 (c) A propellant actuated device or propellant actuated industrial
34 tool.

35 (d) A device that is commercially manufactured primarily for the
36 purpose of illumination.

37 (e) A rocket having a propellant charge of less than four ounces.

38 9. "Material support or resources" includes money or other
39 financial securities, financial services, lodging, sustenance, training,
40 safehouses, false documentation or identification, communications
41 equipment, facilities, weapons, lethal substances, explosives, personnel,
42 transportation, disguises and other physical assets but does not include
43 medical assistance, legal assistance or religious materials.

1 10. "Public establishment" means a structure that is owned, leased
2 or operated by this state or a political subdivision of this state or a
3 health care institution as defined in section 36-401.

4 11. "Research facility" means a laboratory, institution, medical
5 care facility, government facility, public or private educational
6 institution or nature preserve at which a scientific test, experiment or
7 investigation involving the use of animals is lawfully carried out,
8 conducted or attempted.

9 12. "Terrorism" means any felony, including any completed or
10 preparatory offense, that involves the use of a deadly weapon or a weapon
11 of mass destruction or the intentional or knowing infliction of serious
12 physical injury with the intent to either:

13 (a) Influence the policy or affect the conduct of this state or any
14 of the political subdivisions, agencies or instrumentalities of this
15 state.

16 (b) Cause substantial damage to or substantial interruption of
17 public communications, communication service providers, public
18 transportation, common carriers, public utilities, public establishments
19 or other public services.

20 13. "Toxin" means the toxic material of plants, animals,
21 microorganisms, viruses, fungi or infectious substances or a recombinant
22 molecule, whatever its origin or method of reproduction, including:

23 (a) Any poisonous substance or biological product that may be
24 engineered through biotechnology and that is produced by a living
25 organism.

26 (b) Any poisonous isomer or biological product, homolog or
27 derivative of such substance.

28 14. "Vector" means a living organism or molecule, including a
29 recombinant molecule or biological product that may be engineered through
30 biotechnology, that is capable of carrying a biological agent or toxin to
31 a host.

32 15. "Weapon of mass destruction" means:

33 (a) Any device or object that is designed or that the person
34 intends to use to cause multiple deaths or serious physical injuries
35 through the use of an explosive agent or the release, dissemination or
36 impact of a toxin, biological agent, poisonous chemical, or its precursor,
37 or any vector.

38 (b) Except as authorized and used in accordance with a license,
39 registration or exemption by the radiation regulatory agency pursuant to
40 section 30-672, any device or object that is designed or that the person
41 intends to use to release radiation or radioactivity at a level that is
42 dangerous to human life.

43 D. For the purposes of sections 13-2312, 13-2313, 13-2314 and
44 13-2315, unless the context otherwise requires:

1 1. "Control", in relation to an enterprise, means the possession of
2 sufficient means to permit substantial direction over the affairs of an
3 enterprise and, in relation to property, means to acquire or possess.

4 2. "Enterprise" means any corporation, partnership, association,
5 labor union or other legal entity or any group of persons associated in
6 fact although not a legal entity.

7 3. "Financial institution" means any business under the
8 jurisdiction of the department of financial institutions or a banking or
9 securities regulatory agency of the United States, a business coming
10 within the definition of a bank, financial agency or financial institution
11 as prescribed by 31 United States Code section 5312 or 31 Code of Federal
12 Regulations section 1010.100 or a business under the jurisdiction of the
13 securities division of the corporation commission, the state real estate
14 department or the department of insurance.

15 4. "Racketeering" means any act, including any preparatory or
16 completed offense, that is chargeable or indictable under the laws of the
17 state or country in which the act occurred and, if the act occurred in a
18 state or country other than this state, that would be chargeable or
19 indictable under the laws of this state if the act had occurred in this
20 state, and that would be punishable by imprisonment for more than one year
21 under the laws of this state and, if the act occurred in a state or
22 country other than this state, under the laws of the state or country in
23 which the act occurred, regardless of whether the act is charged or
24 indicted, and the act involves either:

25 (a) Terrorism, animal terrorism or ecological terrorism that
26 results or is intended to result in a risk of serious physical injury or
27 death.

28 (b) Any of the following acts if committed for financial gain:

29 (i) Homicide.

30 (ii) Robbery.

31 (iii) Kidnapping.

32 (iv) Forgery.

33 (v) Theft.

34 (vi) Bribery.

35 (vii) Gambling.

36 (viii) Usury.

37 (ix) Extortion.

38 (x) Extortionate extensions of credit.

39 (xi) Prohibited drugs, marijuana or other prohibited chemicals or
40 substances.

41 (xii) Trafficking in explosives, weapons or stolen property.

42 (xiii) Participating in a criminal syndicate.

43 (xiv) Obstructing or hindering criminal investigations or
44 prosecutions.

- 1 (xv) Asserting false claims including, ~~but not limited to,~~ false
2 claims asserted through fraud or arson.
- 3 (xvi) Intentional or reckless false statements or publications
4 concerning land for sale or lease or sale of subdivided lands or sale and
5 mortgaging of unsubdivided lands.
- 6 (xvii) Resale of realty with intent to defraud.
- 7 (xviii) Intentional or reckless fraud in the purchase or sale of
8 securities.
- 9 (xix) Intentional or reckless sale of unregistered securities or
10 real property securities.
- 11 (xx) A scheme or artifice to defraud.
- 12 (xxi) Obscenity.
- 13 (xxii) Sexual exploitation of a minor.
- 14 (xxiii) Prostitution.
- 15 (xxiv) Restraint of trade or commerce in violation of section
16 34-252.
- 17 (xxv) Terrorism.
- 18 (xxvi) Money laundering.
- 19 (xxvii) Obscene or indecent telephone communications to minors for
20 commercial purposes.
- 21 (xxviii) Counterfeiting marks as proscribed in section 44-1453.
- 22 (xxix) Animal terrorism or ecological terrorism.
- 23 (xxx) Smuggling of human beings.
- 24 (xxxii) Child ~~prostitution~~ SEX TRAFFICKING.
- 25 (xxxiii) Sex trafficking.
- 26 (xxxiiii) Trafficking of persons for forced labor or services.
- 27 (xxxv) Manufacturing, selling or distributing misbranded drugs in
28 violation of section 13-3406, subsection A, paragraph 9.
- 29 5. "Records" means any book, paper, writing, computer program,
30 data, image or information that is collected, recorded, preserved or
31 maintained in any form of storage medium.
- 32 6. "Remedy racketeering" means to enter a civil judgment pursuant
33 to this chapter or chapter 39 of this title against property or a person
34 who is subject to liability, including liability for injury to the state
35 that is caused by racketeering or by actions in concert with racketeering.
- 36 E. For the purposes of sections 13-2316, 13-2316.01 and 13-2316.02:
- 37 1. "Access" means to instruct, communicate with, store data in,
38 retrieve data from or otherwise make use of any resources of a computer,
39 computer system or network.
- 40 2. "Access device" means any card, token, code, account number,
41 electronic serial number, mobile or personal identification number,
42 password, encryption key, biometric identifier or other means of account
43 access, including a canceled or revoked access device, that can be used
44 alone or in conjunction with another access device to obtain money, goods.

1 services, computer or network access or any other thing of value or that
2 can be used to initiate a transfer of any thing of value.

3 3. "Computer" means an electronic device that performs logic,
4 arithmetic or memory functions by the manipulations of electronic or
5 magnetic impulses and includes all input, output, processing, storage,
6 software or communication facilities that are connected or related to such
7 a device in a system or network.

8 4. "Computer contaminant" means any set of computer instructions
9 that is designed to modify, damage, destroy, record or transmit
10 information within a computer, computer system or network without the
11 intent or permission of the owner of the information, computer system or
12 network. Computer contaminant includes a group of computer instructions,
13 such as viruses or worms, that is self-replicating or self-propagating and
14 that is designed to contaminate other computer programs or computer data,
15 to consume computer resources, to modify, destroy, record or transmit data
16 or in some other fashion to usurp the normal operation of the computer,
17 computer system or network.

18 5. "Computer program" means a series of instructions or statements,
19 in a form acceptable to a computer, that permits the functioning of a
20 computer system in a manner designed to provide appropriate products from
21 the computer system.

22 6. "Computer software" means a set of computer programs, procedures
23 and associated documentation concerned with the operation of a computer
24 system.

25 7. "Computer system" means a set of related, connected or
26 unconnected computer equipment, devices and software, including storage,
27 media and peripheral devices.

28 8. "Critical infrastructure resource" means any computer or
29 communications system or network that is involved in providing services
30 necessary to ensure or protect the public health, safety or welfare,
31 including services that are provided by any of the following:

- 32 (a) Medical personnel and institutions.
33 (b) Emergency services agencies.
34 (c) Public and private utilities, including water, power,
35 communications and transportation services.
36 (d) Fire departments, districts or volunteer organizations.
37 (e) Law enforcement agencies.
38 (f) Financial institutions.
39 (g) Public educational institutions.
40 (h) Government agencies.

41 9. "False or fraudulent pretense" means the unauthorized use of an
42 access device or the use of an access device to exceed authorized access.

43 10. "Financial instrument" means any check, draft, money order,
44 certificate of deposit, letter of credit, bill of exchange, credit card or

1 marketable security or any other written instrument as defined in section
2 13-2001 that is transferable for value.

3 11. "Network" includes a complex of interconnected computer or
4 communication systems of any type.

5 12. "Property" means financial instruments, information, including
6 electronically produced data, computer software and programs in either
7 machine or human readable form, and anything of value, tangible or
8 intangible.

9 13. "Proprietary or confidential computer security information"
10 means information about a particular computer, computer system or network
11 that relates to its access devices, security practices, methods and
12 systems, architecture, communications facilities, encryption methods and
13 system vulnerabilities and that is not made available to the public by its
14 owner or operator.

15 14. "Services" includes computer time, data processing, storage
16 functions and all types of communication functions.

17 Sec. 10. Section 13-3212, Arizona Revised Statutes, is amended to
18 read:

19 13-3212. Child sex trafficking; classification; increased
20 punishment; definition

21 A. A person commits child ~~prostitution~~ SEX TRAFFICKING by
22 knowingly:

- 23 1. Causing any minor to engage in prostitution.
- 24 2. Using any minor for the purposes of prostitution.
- 25 3. Permitting a minor who is under the person's custody or control
26 to engage in prostitution.
- 27 4. Receiving any benefit for or on account of procuring or placing
28 a minor in any place or in the charge or custody of any person for the
29 purpose of prostitution.
- 30 5. Receiving any benefit pursuant to an agreement to participate in
31 the proceeds of prostitution of a minor.
- 32 6. Financing, managing, supervising, controlling or owning, either
33 alone or in association with others, prostitution activity involving a
34 minor.
- 35 7. Transporting or financing the transportation of any minor with
36 the intent that the minor engage in prostitution.
- 37 8. Providing a means by which a minor engages in prostitution.
- 38 9. ENTICING, RECRUITING, HARBORING, PROVIDING, TRANSPORTING, MAKING
39 AVAILABLE TO ANOTHER OR OTHERWISE OBTAINING A MINOR WITH THE INTENT TO
40 CAUSE THE MINOR TO ENGAGE IN PROSTITUTION OR ANY SEXUALLY EXPLICIT
41 PERFORMANCE.
- 42 10. ENTICING, RECRUITING, HARBORING, PROVIDING, TRANSPORTING,
43 MAKING AVAILABLE TO ANOTHER OR OTHERWISE OBTAINING A MINOR WITH THE
44 KNOWLEDGE THAT THE MINOR WILL ENGAGE IN PROSTITUTION OR ANY SEXUALLY
45 EXPLICIT PERFORMANCE.

1 B. A person who is at least eighteen years of age commits child
2 ~~prostitution~~ SEX TRAFFICKING by knowingly:

3 1. Engaging in prostitution with a minor who is under fifteen years
4 of age.

5 2. Engaging in prostitution with a minor who the person knows or
6 should have known is fifteen, sixteen or seventeen years of age.

7 3. Engaging in prostitution with a minor who is fifteen, sixteen or
8 seventeen years of age.

9 C. It is not a defense to a prosecution under subsection A and
10 subsection B, paragraphs 1 and 2 of this section that the other person is
11 a peace officer posing as a minor or a person assisting a peace officer
12 posing as a minor.

13 D. Notwithstanding any other law, a sentence imposed on a person
14 for ANY OF THE FOLLOWING SHALL BE CONSECUTIVE TO ANY OTHER SENTENCE
15 IMPOSED ON THE PERSON AT ANY TIME:

16 1. A violation of subsection A or subsection B, paragraph 2 of this
17 section involving a minor who is fifteen, sixteen or seventeen years of
18 age ~~shall be consecutive to any other sentence imposed on the person at~~
19 ~~any time.~~

20 2. A VIOLATION OF SUBSECTION A, PARAGRAPH 9 OR 10 OF THIS SECTION.

21 E. Child ~~prostitution~~ SEX TRAFFICKING pursuant to subsection A of
22 this section is a class 2 felony if the minor is under fifteen years of
23 age and is punishable pursuant to section 13-705.

24 F. Child ~~prostitution~~ SEX TRAFFICKING pursuant to subsection B,
25 paragraph 1 of this section is a class 2 felony and is punishable pursuant
26 to section 13-705.

27 G. If the minor is fifteen, sixteen or seventeen years of age,
28 child ~~prostitution~~ SEX TRAFFICKING pursuant to subsection A, PARAGRAPH 1,
29 2, 3, 4, 5, 6, 7 OR 8 of this section is a class 2 felony, the person
30 convicted shall be sentenced pursuant to this section and the person is
31 not eligible for suspension of sentence, probation, pardon or release from
32 confinement on any basis except as specifically authorized by section
33 31-233, subsection A or B until the sentence imposed by the court has been
34 served or commuted. The presumptive term may be aggravated or mitigated
35 within the range under this section pursuant to section 13-701,
36 subsections C, D and E. The terms are as follows:

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

<u>Minimum</u>	<u>Presumptive</u>	<u>Maximum</u>
10 years	13.5 years	24 years

40 2. The term for a defendant who has one historical prior felony
41 conviction is as follows:

<u>Minimum</u>	<u>Presumptive</u>	<u>Maximum</u>
17 years	24 years	31 years

1 3. The term for a defendant who has two or more historical prior
2 felony convictions is as follows:

<u>Minimum</u>	<u>Presumptive</u>	<u>Maximum</u>
24 years	31 years	38 years

5 H. IF THE MINOR IS FIFTEEN, SIXTEEN OR SEVENTEEN YEARS OF AGE,
6 CHILD SEX TRAFFICKING PURSUANT TO SUBSECTION A, PARAGRAPH 9 OR 10 OF THIS
7 SECTION IS A CLASS 2 FELONY.

8 ~~H.~~ I. If the minor is fifteen, sixteen or seventeen years of age,
9 child ~~prostitution~~ SEX TRAFFICKING pursuant to subsection B, paragraph 2
10 of this section is a class 2 felony, the person convicted shall be
11 sentenced pursuant to this section and the person is not eligible for
12 suspension of sentence, probation, pardon or release from confinement on
13 any basis except as specifically authorized by section 31-233, subsection
14 A or B until the sentence imposed by the court has been served or
15 commuted. The presumptive term may be aggravated or mitigated within the
16 range under this section pursuant to section 13-701, subsections C, D
17 and E. The terms are as follows:

18 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

21 2. The term for a defendant who has one historical prior felony
22 conviction is as follows:

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

25 3. The term for a defendant who has two or more historical prior
26 felony convictions is as follows:

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

29 ~~I.~~ J. Child ~~prostitution~~ SEX TRAFFICKING pursuant to subsection B,
30 paragraph 3 of this section is a class 6 felony. If the court sentences
31 the person to a term of probation, the court shall order that as an
32 initial term of probation the person be imprisoned in the county jail for
33 not less than one hundred eighty consecutive days. This jail term shall
34 commence on the date of sentencing. The court may suspend ninety days of
35 the jail sentence if the person has not previously been convicted of a
36 violation of this section, a violation of section 13-3214 or a violation
37 of any city or town ordinance that prohibits prostitution and that has the
38 same or substantially similar elements as section 13-3214 and the person
39 successfully completes an appropriate court ordered education or treatment
40 program.

41 ~~J.~~ K. This section does not preclude the state from alleging and
42 proving any other sentencing enhancements as provided by law.

43 L. FOR THE PURPOSES OF THIS SECTION, "SEXUALLY EXPLICIT
44 PERFORMANCE" MEANS A LIVE OR PUBLIC ACT OR SHOW INTENDED TO AROUSE OR
45 SATISFY THE SEXUAL DESIRES OR APPEAL TO THE PRURIENT INTEREST OF PATRONS.

1 Sec. 11. Section 13-3620, Arizona Revised Statutes, is amended to
2 read:

3 13-3620. Duty to report abuse, physical injury, neglect and
4 denial or deprivation of medical or surgical care
5 or nourishment of minors; medical records;
6 exception; violation; classification; definitions

7 A. Any person who reasonably believes that a minor is or has been
8 the victim of physical injury, abuse, child abuse, a reportable offense or
9 neglect that appears to have been inflicted on the minor by other than
10 accidental means or that is not explained by the available medical history
11 as being accidental in nature or who reasonably believes there has been a
12 denial or deprivation of necessary medical treatment or surgical care or
13 nourishment with the intent to cause or allow the death of an infant who
14 is protected under section 36-2281 shall immediately report or cause
15 reports to be made of this information to a peace officer, to the
16 department of child safety or to a tribal law enforcement or social
17 services agency for any Indian minor who resides on an Indian reservation,
18 except if the report concerns a person who does not have care, custody or
19 control of the minor, the report shall be made to a peace officer only. A
20 member of the clergy, a Christian Science practitioner or a priest who has
21 received a confidential communication or a confession in that person's
22 role as a member of the clergy, as a Christian Science practitioner or as
23 a priest in the course of the discipline enjoined by the church to which
24 the member of the clergy, the Christian Science practitioner or the priest
25 belongs may withhold reporting of the communication or confession if the
26 member of the clergy, the Christian Science practitioner or the priest
27 determines that it is reasonable and necessary within the concepts of the
28 religion. This exemption applies only to the communication or confession
29 and not to personal observations the member of the clergy, the Christian
30 Science practitioner or the priest may otherwise make of the minor. For
31 the purposes of this subsection, "person" means:

32 1. Any physician, physician's assistant, optometrist, dentist,
33 osteopath, chiropractor, podiatrist, behavioral health professional,
34 nurse, psychologist, counselor or social worker who develops the
35 reasonable belief in the course of treating a patient.

36 2. Any peace officer, child welfare investigator, child safety
37 worker, member of the clergy, priest or Christian Science practitioner.

38 3. The parent, stepparent or guardian of the minor.

39 4. School personnel or domestic violence victim advocates who
40 develop the reasonable belief in the course of their employment.

41 5. Any other person who has responsibility for the care or
42 treatment of the minor.

43 B. A report is not required under this section either:

44 1. For conduct prescribed by sections 13-1404 and 13-1405 if the
45 conduct involves only minors who are fourteen, fifteen, sixteen or

1 seventeen years of age and there is nothing to indicate that the conduct
2 is other than consensual.

3 2. If a minor is of elementary school age, the physical injury
4 occurs accidentally in the course of typical playground activity during a
5 school day, occurs on the premises of the school that the minor attends
6 and is reported to the legal parent or guardian of the minor and the
7 school maintains a written record of the incident.

8 C. If a physician, psychologist or behavioral health professional
9 receives a statement from a person other than a parent, stepparent,
10 guardian or custodian of the minor during the course of providing sex
11 offender treatment that is not court ordered or that does not occur while
12 the offender is incarcerated in the state department of corrections or the
13 department of juvenile corrections, the physician, psychologist or
14 behavioral health professional may withhold the reporting of that
15 statement if the physician, psychologist or behavioral health professional
16 determines it is reasonable and necessary to accomplish the purposes of
17 the treatment.

18 D. Reports shall be made immediately either electronically or by
19 telephone. The reports shall contain the following information, if known:

20 1. The names and addresses of the minor and the minor's parents or
21 the person or persons having custody of the minor.

22 2. The minor's age and the nature and extent of the minor's abuse,
23 child abuse, physical injury or neglect, including any evidence of
24 previous abuse, child abuse, physical injury or neglect.

25 3. Any other information that the person believes might be helpful
26 in establishing the cause of the abuse, child abuse, physical injury or
27 neglect.

28 E. A health care professional who is regulated pursuant to title 32
29 and who, after a routine newborn physical assessment of a newborn infant's
30 health status or following notification of positive toxicology screens of
31 a newborn infant, reasonably believes that the newborn infant may be
32 affected by the presence of alcohol or a drug listed in section 13-3401
33 shall immediately report this information, or cause a report to be made,
34 to the department of child safety. For the purposes of this subsection,
35 "newborn infant" means a newborn infant who is under thirty days of age.

36 F. Any person other than one required to report or cause reports to
37 be made under subsection A of this section who reasonably believes that a
38 minor is or has been a victim of abuse, child abuse, physical injury, a
39 reportable offense or neglect may report the information to a peace
40 officer or to the department of child safety, except if the report
41 concerns a person who does not have care, custody or control of the minor,
42 the report shall be made to a peace officer only.

43 G. A person who has custody or control of medical records of a
44 minor for whom a report is required or authorized under this section shall
45 make the records, or a copy of the records, available to a peace officer,

1 child welfare investigator or child safety worker investigating the
2 minor's neglect, child abuse, physical injury or abuse on written request
3 for the records signed by the peace officer, child welfare investigator or
4 child safety worker. Records disclosed pursuant to this subsection are
5 confidential and may be used only in a judicial or administrative
6 proceeding or investigation resulting from a report required or authorized
7 under this section.

8 H. When reports are received by a peace officer, the officer shall
9 immediately notify the department of child safety. Notwithstanding any
10 other statute, when the department receives these reports, it shall
11 immediately notify a peace officer in the appropriate jurisdiction.

12 I. Any person who is required to receive reports pursuant to
13 subsection A of this section may take or cause to be taken photographs of
14 the minor and the vicinity involved. Medical examinations of the involved
15 minor may be performed.

16 J. A person who furnishes a report, information or records required
17 or authorized under this section, or a person who participates in a
18 judicial or administrative proceeding or investigation resulting from a
19 report, information or records required or authorized under this section,
20 is immune from any civil or criminal liability by reason of that action
21 unless the person acted with malice or unless the person has been charged
22 with or is suspected of abusing or neglecting the child or children in
23 question.

24 K. Except for the attorney client privilege or the privilege under
25 subsection L of this section, no privilege applies to any:

26 1. Civil or criminal litigation or administrative proceeding in
27 which a minor's neglect, dependency, abuse, child abuse, physical injury
28 or abandonment is an issue.

29 2. Judicial or administrative proceeding resulting from a report,
30 information or records submitted pursuant to this section.

31 3. Investigation of a minor's child abuse, physical injury, neglect
32 or abuse conducted by a peace officer or the department of child safety.

33 L. In any civil or criminal litigation in which a child's neglect,
34 dependency, physical injury, abuse, child abuse or abandonment is an
35 issue, a member of the clergy, a Christian Science practitioner or a
36 priest shall not, without his consent, be examined as a witness concerning
37 any confession made to him in his role as a member of the clergy, a
38 Christian Science practitioner or a priest in the course of the discipline
39 enjoined by the church to which he belongs. This subsection does not
40 discharge a member of the clergy, a Christian Science practitioner or a
41 priest from the duty to report pursuant to subsection A of this section.

42 M. If psychiatric records are requested pursuant to subsection G of
43 this section, the custodian of the records shall notify the attending
44 psychiatrist, who may excise from the records, before they are made
45 available:

1 1. Personal information about individuals other than the patient.

2 2. Information regarding specific diagnosis or treatment of a
3 psychiatric condition, if the attending psychiatrist certifies in writing
4 that release of the information would be detrimental to the patient's
5 health or treatment.

6 N. If any portion of a psychiatric record is excised pursuant to
7 subsection M of this section, a court, on application of a peace officer,
8 child welfare investigator or child safety worker, may order that the
9 entire record or any portion of the record that contains information
10 relevant to the reported abuse, child abuse, physical injury or neglect be
11 made available to the peace officer, child welfare investigator or child
12 safety worker investigating the abuse, child abuse, physical injury or
13 neglect.

14 O. A person who violates this section is guilty of a class 1
15 misdemeanor, except if the failure to report involves a reportable
16 offense, the person is guilty of a class 6 felony.

17 P. For the purposes of this section:

18 1. "Abuse" has the same meaning prescribed in section 8-201.

19 2. "Child abuse" means child abuse pursuant to section 13-3623.

20 3. "Neglect" has the same meaning prescribed in section 8-201.

21 4. "Reportable offense" means any of the following:

22 (a) Any offense listed in chapters 14 and 35.1 of this title or
23 section 13-3506.01.

24 (b) Surreptitious photographing, videotaping, filming or digitally
25 recording or viewing a minor pursuant to section 13-3019.

26 (c) Child ~~prostitution~~ SEX TRAFFICKING pursuant to section 13-3212.

27 (d) Incest pursuant to section 13-3608.

28 (e) Unlawful mutilation pursuant to section 13-1214.

29 Sec. 12. Section 13-3821, Arizona Revised Statutes, is amended to
30 read:

31 13-3821. Persons required to register; procedure;
32 identification card; assessment; definitions

33 A. A person who has been convicted of or adjudicated guilty except
34 insane for a violation or attempted violation of any of the following
35 offenses or who has been convicted of or adjudicated guilty except insane
36 or not guilty by reason of insanity for an offense committed in another
37 jurisdiction that if committed in this state would be a violation or
38 attempted violation of any of the following offenses or an offense that
39 was in effect before September 1, 1978 and that, if committed on or after
40 September 1, 1978, has the same elements of an offense listed in this
41 section or who is required to register by the convicting or adjudicating
42 jurisdiction, within ten days after the conviction or adjudication or
43 within ten days after entering and remaining in any county of this state,
44 shall register with the sheriff of that county:

- 1 1. Unlawful imprisonment pursuant to section 13-1303 if the victim
- 2 is under eighteen years of age and the unlawful imprisonment was not
- 3 committed by the child's parent.
- 4 2. Kidnapping pursuant to section 13-1304 if the victim is under
- 5 eighteen years of age and the kidnapping was not committed by the child's
- 6 parent.
- 7 3. Sexual abuse pursuant to section 13-1404 if the victim is under
- 8 eighteen years of age.
- 9 4. Sexual conduct with a minor pursuant to section 13-1405.
- 10 5. Sexual assault pursuant to section 13-1406.
- 11 6. Sexual assault of a spouse if the offense was committed before
- 12 August 12, 2005.
- 13 7. Molestation of a child pursuant to section 13-1410.
- 14 8. Continuous sexual abuse of a child pursuant to section 13-1417.
- 15 9. Taking a child for the purpose of prostitution pursuant to
- 16 section 13-3206.
- 17 10. Child prostitution pursuant to section 13-3212, subsection A or
- 18 subsection B, paragraph 1 or 2 COMMITTED BEFORE THE EFFECTIVE DATE OF THIS
- 19 AMENDMENT TO THIS SECTION.
- 20 11. CHILD SEX TRAFFICKING PURSUANT TO SECTION 13-3212, SUBSECTION A
- 21 OR SUBSECTION B, PARAGRAPH 1 OR 2 COMMITTED ON OR AFTER THE EFFECTIVE DATE
- 22 OF THIS AMENDMENT TO THIS SECTION.
- 23 ~~11.~~ 12. Commercial sexual exploitation of a minor pursuant to
- 24 section 13-3552.
- 25 ~~12.~~ 13. Sexual exploitation of a minor pursuant to section
- 26 13-3553.
- 27 ~~13.~~ 14. Luring a minor for sexual exploitation pursuant to section
- 28 13-3554.
- 29 ~~14. Sex trafficking of a minor pursuant to section 13-1307.~~
- 30 15. A second or subsequent violation of indecent exposure to a
- 31 person under fifteen years of age pursuant to section 13-1402.
- 32 16. A second or subsequent violation of public sexual indecency to
- 33 a minor under the age of fifteen years pursuant to section 13-1403,
- 34 subsection B.
- 35 17. A third or subsequent violation of indecent exposure pursuant
- 36 to section 13-1402.
- 37 18. A third or subsequent violation of public sexual indecency
- 38 pursuant to section 13-1403.
- 39 19. A violation of section 13-3822 or 13-3824.
- 40 20. Unlawful age misrepresentation.
- 41 21. Aggravated luring a minor for sexual exploitation pursuant to
- 42 section 13-3560.
- 43 B. Before the person is released from confinement the state
- 44 department of corrections in conjunction with the department of public
- 45 safety and each county sheriff shall complete the registration of any

1 person who was convicted of or adjudicated guilty except insane for a
2 violation of any offense listed under subsection A of this section.
3 Within three days after the person's release from confinement, the state
4 department of corrections shall forward the registered person's records to
5 the department of public safety and to the sheriff of the county in which
6 the registered person intends to reside. Registration pursuant to this
7 subsection shall be consistent with subsection E of this section.

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

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

18 E. A person who has been convicted, adjudicated guilty except
19 insane or adjudicated delinquent and who is required to register in the
20 convicting or adjudicating state for an act that would constitute an
21 offense specified in subsection A or C of this section and who is not a
22 resident of this state shall be required to register pursuant to this
23 section if the person is either:

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

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

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

35 G. The court may order the termination of any duty to register
36 under this section on successful completion of probation if the person was
37 under eighteen years of age when the offense for which the person was
38 convicted or adjudicated guilty except insane was committed.

39 H. The court may order the suspension or termination of any duty to
40 register under this section after a hearing held pursuant to section
41 13-923.

42 I. At the time of registering, the person shall sign or affix an
43 electronic fingerprint to a statement giving such information as required
44 by the director of the department of public safety, including all names by
45 which the person is known, any required online identifier and the name of

1 any website or internet communication service where the identifier is
2 being used. The sheriff shall fingerprint and photograph the person and
3 within three days thereafter shall send copies of the statement,
4 fingerprints and photographs to the department of public safety and the
5 chief of police, if any, of the place where the person resides. The
6 information that is required by this subsection shall include the physical
7 location of the person's residence and the person's address. If the
8 person has a place of residence that is different from the person's
9 address, the person shall provide the person's address, the physical
10 location of the person's residence and the name of the owner of the
11 residence if the residence is privately owned and not offered for rent or
12 lease. If the person receives mail at a post office box, the person shall
13 provide the location and number of the post office box. If the person has
14 more than one residence or does not have an address or a permanent place
15 of residence, the person shall provide a description and physical location
16 of any temporary residence and shall register as a transient not less than
17 every ninety days with the sheriff in whose jurisdiction the transient is
18 physically present.

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

35 K. Except as provided in subsection E or L of this section, the
36 clerk of the superior court in the county in which a person has been
37 convicted of or adjudicated guilty except insane for a violation of any
38 offense listed under subsection A of this section or has been ordered to
39 register pursuant to subsection C or D of this section shall notify the
40 sheriff in that county of the conviction or adjudication within ten days
41 after entry of the judgment.

42 L. Within ten days after entry of judgment, a court not of record
43 shall notify the arresting law enforcement agency of an offender's
44 conviction of or adjudication of guilty except insane for a violation of
45 section 13-1402. Within ten days after receiving this information, the

1 law enforcement agency shall determine if the offender is required to
2 register pursuant to this section. If the law enforcement agency
3 determines that the offender is required to register, the law enforcement
4 agency shall provide the information required by section 13-3825 to the
5 department of public safety and shall make community notification as
6 required by law.

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

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

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

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

44 Q. On conviction of or adjudication of guilty except insane for any
45 offense for which a person is required to register pursuant to this

1 section, in addition to any other penalty prescribed by law, the court
2 shall order the person to pay an additional assessment of two hundred
3 fifty dollars. This assessment is not subject to any surcharge. The
4 court shall transmit the monies received pursuant to this section to the
5 county treasurer. The county treasurer shall transmit the monies received
6 to the state treasurer. The state treasurer shall deposit the monies
7 received in the state general fund. Notwithstanding any other law, the
8 court shall not waive the assessment imposed pursuant to this section.

9 R. A person who is required to register pursuant to this section
10 shall verify the person's address if requested by the department of public
11 safety pursuant to section 13-3827, subsection G.

12 S. For the purposes of this section:

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

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

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

20 Sec. 13. Section 13-3827, Arizona Revised Statutes, is amended to
21 read:

22 13-3827. Internet sex offender website; investigation of
23 records; immunity; exception; definition

24 A. The department of public safety shall establish and maintain an
25 internet sex offender website for the purpose of providing sex offender
26 information to the public. The internet sex offender website shall
27 include the following offenders:

28 1. Any offender whose risk assessment has been determined to be a
29 level two or level three.

30 2. Unless included under paragraph 1 of this subsection, any
31 offender who was convicted of or adjudicated guilty except insane for any
32 of the following completed offenses or the same or A substantially similar
33 offense in another state or jurisdiction:

34 (a) Sexual assault pursuant to section 13-1406.

35 (b) Sexual exploitation of a minor pursuant to section 13-3553 if
36 the offender is at least twenty-one years of age and is sentenced pursuant
37 to section 13-705.

38 (c) Commercial sexual exploitation of a minor pursuant to section
39 13-3552.

40 (d) Sexual abuse pursuant to section 13-1404 if the victim is under
41 twelve years of age.

42 (e) Molestation of a child pursuant to section 13-1410 if the
43 victim is under twelve years of age.

44 (f) Sexual conduct with a minor pursuant to section 13-1405 if the
45 victim is under twelve years of age.

1 (g) Child prostitution pursuant to section 13-3212, subsection A or
2 subsection B, paragraph 1 or 2 COMMITTED BEFORE THE EFFECTIVE DATE OF THIS
3 AMENDMENT TO THIS SECTION.

4 (h) CHILD SEX TRAFFICKING PURSUANT TO SECTION 13-3212, SUBSECTION
5 A, PARAGRAPH 1, 2, 3, 4, 5, 6, 7 OR 8 OR SUBSECTION B, PARAGRAPH 1 OR 2
6 COMMITTED ON OR AFTER THE EFFECTIVE DATE OF THIS AMENDMENT TO THIS
7 SECTION.

8 ~~(i)~~ (i) Taking a child for the purpose of prostitution pursuant to
9 section 13-3206 if the victim is under twelve years of age.

10 ~~(j)~~ (j) Luring a minor for sexual exploitation pursuant to section
11 13-3554 if the victim is under twelve years of age.

12 ~~(k)~~ (k) Aggravated luring a minor for sexual exploitation pursuant
13 to section 13-3560 if the victim is under twelve years of age.

14 ~~(l)~~ (l) Continuous sexual abuse of a child pursuant to section
15 13-1417 if the victim is under twelve years of age.

16 B. The internet sex offender website shall include the following
17 information for each convicted or adjudicated guilty except insane sex
18 offender in this state who is required to register pursuant to section
19 13-3821:

20 1. The offender's name, address and age.

21 2. A current photograph.

22 3. The offense committed and notification level pursuant to section
23 13-3825, subsection C, if a risk assessment has been completed pursuant to
24 section 13-3825.

25 C. The department of public safety shall annually update on the
26 website the name, address and photograph of each sex offender.

27 D. The department of public safety shall maintain a separate
28 database and search function on the website that contains any required
29 online identifier of sex offenders whose risk assessments have been
30 determined to be a level two or level three and the name of any website or
31 internet communication service where the required online identifier is
32 being used. This information shall not be publicly connected to the name,
33 address and photograph of a registered sex offender on the website.

34 E. The department of public safety may disseminate a registered sex
35 offender's required online identifier and the name of any corresponding
36 website or internet communication service to a business or organization
37 that offers electronic communication services for comparison with
38 information that is held by the requesting business or organization. The
39 requesting business or organization shall notify the department of public
40 safety when a comparison of the information indicates that a registered
41 sex offender's required online identifier is being used on the business's
42 or organization's system. The requesting business or organization shall
43 not further disseminate that the person is a registered sex offender.

44 F. The motor vehicle division of the department of transportation
45 shall send copies of each sex offender's nonoperating identification

1 license or driver license photograph to the department of public safety
2 for inclusion on the sex offender website.

3 G. The department of public safety shall annually verify the
4 addresses of all sex offender registration records contained within the
5 Arizona criminal justice information system. Before including the address
6 of a sex offender on the website, the department of public safety shall
7 confirm that the address is correct. To confirm a sex offender's address,
8 the department shall conduct a search of the Arizona criminal justice
9 information system. If this search does not provide the necessary
10 confirmation, the department shall use alternative public and private
11 sector resources that are currently used for criminal investigation
12 purposes to confirm the address. The department of public safety is
13 prohibited from using or releasing the information from the alternative
14 public and private sector resources except pursuant to this section. A
15 custodian or public or private sector resource that releases information
16 pursuant to this subsection is not civilly or criminally liable in any
17 action alleging a violation of confidentiality.

18 H. The department of public safety may petition the superior court
19 for enforcement of subsection G of this section if a public or private
20 sector resource refuses to comply. The court shall grant enforcement if
21 the department has reasonable grounds to believe the records sought to be
22 inspected are relevant to confirming the identity and address of a sex
23 offender.

24 I. Except for a person who is required to register pursuant to
25 section 13-3821, a person who provides or fails to provide information
26 required by this section is not civilly or criminally liable unless the
27 act or omission is wanton or wilful.

28 J. This section does not apply to an offender during any time that
29 the offender is incarcerated in the state department of corrections.

30 K. For the purpose of this section, "required online identifier"
31 means any ~~electronic~~ e-mail address information or instant message, chat,
32 social networking or other similar internet communication name, but does
33 not include a social security number, date of birth or pin number.

34 Sec. 14. Section 41-114, Arizona Revised Statutes, is amended to
35 read:

36 41-114. Human trafficking victim assistance fund; definition

37 A. The human trafficking victim assistance fund is established
38 consisting of monies received pursuant to sections 9-500.10 and 32-4260.
39 The director shall administer the fund for the purposes prescribed in this
40 section.

41 B. The governor's office for children, youth and families shall
42 establish program priorities for the fund. The office shall spend monies
43 in the fund to provide assistance to victims of sex trafficking prescribed
44 in section 13-1307, CHILD SEX TRAFFICKING PRESCRIBED IN SECTION 13-3212,

1 SUBSECTION A, PARAGRAPH 9 OR 10 and trafficking of persons for forced
2 labor or services prescribed in section 13-1308.

3 C. Monies in the fund do not revert to the state general fund.

4 D. For the purposes of this section, "director" means the director
5 of the governor's office for children, youth and families.

6 Sec. 15. Section 41-1758.03, Arizona Revised Statutes, is amended
7 to read:

8 41-1758.03. Fingerprint clearance cards; issuance; immunity

9 A. On receiving the state and federal criminal history record of a
10 person, the division shall compare the record with the list of criminal
11 offenses that preclude the person from receiving a fingerprint clearance
12 card. If the person's criminal history record does not contain any of the
13 offenses listed in subsections B and C of this section, the division shall
14 issue the person a fingerprint clearance card.

15 B. A person who is subject to registration as a sex offender in
16 this state or any other jurisdiction or who is awaiting trial on or who
17 has been convicted of committing or attempting, soliciting, facilitating
18 or conspiring to commit one or more of the following offenses in this
19 state or the same or similar offenses in another state or jurisdiction is
20 precluded from receiving a fingerprint clearance card pursuant to this
21 section:

- 22 1. Sexual abuse of a vulnerable adult.
- 23 2. Incest.
- 24 3. First or second degree murder.
- 25 4. Sexual assault.
- 26 5. Sexual exploitation of a minor.
- 27 6. Sexual exploitation of a vulnerable adult.
- 28 7. Commercial sexual exploitation of a minor.
- 29 8. Commercial sexual exploitation of a vulnerable adult.
- 30 9. Child ~~prostitution~~ SEX TRAFFICKING as prescribed in section
31 13-3212.
- 32 10. Child abuse.
- 33 11. Abuse of a vulnerable adult.
- 34 12. Sexual conduct with a minor.
- 35 13. Molestation of a child.
- 36 14. Molestation of a vulnerable adult.
- 37 15. A dangerous crime against children as defined in section
38 13-705.
- 39 16. Exploitation of minors involving drug offenses.
- 40 17. Taking a child for the purpose of prostitution as prescribed in
41 section 13-3206.
- 42 18. Neglect or abuse of a vulnerable adult.
- 43 19. Sex trafficking.
- 44 20. Sexual abuse.

- 1 21. Production, publication, sale, possession and presentation of
- 2 obscene items as prescribed in section 13-3502.
- 3 22. Furnishing harmful items to minors as prescribed in section
- 4 13-3506.
- 5 23. Furnishing harmful items to minors by internet activity as
- 6 prescribed in section 13-3506.01.
- 7 24. Obscene or indecent telephone communications to minors for
- 8 commercial purposes as prescribed in section 13-3512.
- 9 25. Luring a minor for sexual exploitation.
- 10 26. Enticement of persons for purposes of prostitution.
- 11 27. Procurement by false pretenses of person for purposes of
- 12 prostitution.
- 13 28. Procuring or placing persons in a house of prostitution.
- 14 29. Receiving earnings of a prostitute.
- 15 30. Causing one's spouse to become a prostitute.
- 16 31. Detention of persons in a house of prostitution for debt.
- 17 32. Keeping or residing in a house of prostitution or employment in
- 18 prostitution.
- 19 33. Pandering.
- 20 34. Transporting persons for the purpose of prostitution, polygamy
- 21 and concubinage.
- 22 35. Portraying adult as a minor as prescribed in section 13-3555.
- 23 36. Admitting minors to public displays of sexual conduct as
- 24 prescribed in section 13-3558.
- 25 37. Unlawful sale or purchase of children.
- 26 38. Child bigamy.
- 27 39. Trafficking of persons for forced labor or services.
- 28 C. A person who is awaiting trial on or who has been convicted of
- 29 committing or attempting, soliciting, facilitating or conspiring to commit
- 30 one or more of the following offenses in this state or the same or similar
- 31 offenses in another state or jurisdiction is precluded from receiving a
- 32 fingerprint clearance card, except that the person may petition the board
- 33 of fingerprinting for a good cause exception pursuant to section
- 34 41-619.55:
- 35 1. Manslaughter.
- 36 2. Endangerment.
- 37 3. Threatening or intimidating.
- 38 4. Assault.
- 39 5. Unlawfully administering intoxicating liquors, narcotic drugs or
- 40 dangerous drugs.
- 41 6. Assault by vicious animals.
- 42 7. Drive by shooting.
- 43 8. Assaults on officers or fire fighters.
- 44 9. Discharging a firearm at a structure.
- 45 10. Indecent exposure.

- 1 11. Public sexual indecency.
- 2 12. Aggravated criminal damage.
- 3 13. Theft.
- 4 14. Theft by extortion.
- 5 15. Shoplifting.
- 6 16. Forgery.
- 7 17. Criminal possession of a forgery device.
- 8 18. Obtaining a signature by deception.
- 9 19. Criminal impersonation.
- 10 20. Theft of a credit card or obtaining a credit card by fraudulent
- 11 means.
- 12 21. Receipt of anything of value obtained by fraudulent use of a
- 13 credit card.
- 14 22. Forgery of a credit card.
- 15 23. Fraudulent use of a credit card.
- 16 24. Possession of any machinery, plate or other contrivance or
- 17 incomplete credit card.
- 18 25. False statement as to financial condition or identity to obtain
- 19 a credit card.
- 20 26. Fraud by persons authorized to provide goods or services.
- 21 27. Credit card transaction record theft.
- 22 28. Misconduct involving weapons.
- 23 29. Misconduct involving explosives.
- 24 30. Depositing explosives.
- 25 31. Misconduct involving simulated explosive devices.
- 26 32. Concealed weapon violation.
- 27 33. Possession and sale of peyote.
- 28 34. Possession and sale of a vapor-releasing substance containing a
- 29 toxic substance.
- 30 35. Sale of precursor chemicals.
- 31 36. Possession, use or sale of marijuana, dangerous drugs or
- 32 narcotic drugs.
- 33 37. Manufacture or distribution of an imitation controlled
- 34 substance.
- 35 38. Manufacture or distribution of an imitation prescription-only
- 36 drug.
- 37 39. Manufacture or distribution of an imitation over-the-counter
- 38 drug.
- 39 40. Possession or possession with intent to use an imitation
- 40 controlled substance.
- 41 41. Possession or possession with intent to use an imitation
- 42 prescription-only drug.
- 43 42. Possession or possession with intent to use an imitation
- 44 over-the-counter drug.
- 45 43. Manufacture of certain substances and drugs by certain means.

- 1 44. Adding poison or other harmful substance to food, drink or
- 2 medicine.
- 3 45. A criminal offense involving criminal trespass under title 13,
- 4 chapter 15.
- 5 46. A criminal offense involving burglary under title 13,
- 6 chapter 15.
- 7 47. A criminal offense under title 13, chapter 23.
- 8 48. Child neglect.
- 9 49. Misdemeanor offenses involving contributing to the delinquency
- 10 of a minor.
- 11 50. Offenses involving domestic violence.
- 12 51. Arson.
- 13 52. Kidnapping.
- 14 53. Felony offenses involving sale, distribution or transportation
- 15 of, offer to sell, transport or distribute or conspiracy to sell,
- 16 transport or distribute marijuana, dangerous drugs or narcotic drugs.
- 17 54. Robbery.
- 18 55. Aggravated assault.
- 19 56. Felony offenses involving contributing to the delinquency of a
- 20 minor.
- 21 57. Negligent homicide.
- 22 58. Criminal damage.
- 23 59. Misappropriation of charter school monies as prescribed in
- 24 section 13-1818.
- 25 60. Taking identity of another person or entity.
- 26 61. Aggravated taking identity of another person or entity.
- 27 62. Trafficking in the identity of another person or entity.
- 28 63. Cruelty to animals.
- 29 64. Prostitution.
- 30 65. Sale or distribution of material harmful to minors through
- 31 vending machines as prescribed in section 13-3513.
- 32 66. Welfare fraud.
- 33 D. A person who is awaiting trial on or who has been convicted of
- 34 committing or attempting to commit a misdemeanor or felony violation of
- 35 section 28-1381, 28-1382 or 28-1383 in this state or the same or similar
- 36 offense in another state or jurisdiction within five years from the date
- 37 of applying for a fingerprint clearance card is precluded from driving any
- 38 vehicle to transport employees or clients of the employing agency as part
- 39 of the person's employment. The division shall place a notation on the
- 40 fingerprint clearance card that indicates this driving restriction. This
- 41 subsection does not preclude a person from driving a vehicle alone as part
- 42 of the person's employment. This subsection does not apply to a person
- 43 who is licensed pursuant to title 32, chapter 20, except if the person is
- 44 employed by an agency as defined in section 41-1758.

1 E. Notwithstanding subsection C of this section, on receiving
2 written notice from the board of fingerprinting that a good cause
3 exception was granted pursuant to section 41-619.55, the division shall
4 issue a fingerprint clearance card to the person.

5 F. If the division denies a person's application for a fingerprint
6 clearance card pursuant to subsection C of this section and a good cause
7 exception is requested pursuant to section 41-619.55, the division shall
8 release, on request by the board of fingerprinting, the person's criminal
9 history record to the board of fingerprinting.

10 G. A person shall be granted a fingerprint clearance card if either
11 of the following applies:

12 1. An agency granted a good cause exception before August 16, 1999
13 and no new precluding offense is identified. The fingerprint clearance
14 card shall specify only the program that granted the good cause exception.
15 On the request of the applicant, the agency that granted the prior good
16 cause exception shall notify the division in writing of the date on which
17 the prior good cause exception was granted and the date of the conviction
18 and the name of the offense for which the good cause exception was
19 granted.

20 2. The board granted a good cause exception and no new precluding
21 offense is identified.

22 H. The licensee or contract provider shall assume the costs of
23 fingerprint checks and may charge these costs to persons who are required
24 to be fingerprinted.

25 I. A person who is under eighteen years of age or who is at least
26 ninety-nine years of age is exempt from the fingerprint clearance card
27 requirements of this section. At all times the person shall be under the
28 direct visual supervision of personnel who have valid fingerprint
29 clearance cards.

30 J. The division shall conduct periodic state criminal history
31 records checks and may conduct federal criminal history records checks
32 when authorized pursuant to federal law for the purpose of updating the
33 clearance status of current fingerprint clearance card holders and may
34 notify the board of fingerprinting and the agency employing the person of
35 the results of the records check.

36 K. The division shall revoke a person's fingerprint clearance card
37 on receipt of a written request for revocation from the board of
38 fingerprinting pursuant to section 41-619.55.

39 L. If a person's criminal history record contains an offense listed
40 in subsection B or C of this section and the final disposition is not
41 recorded on the record, the division shall conduct research to obtain the
42 disposition within thirty business days after receipt of the record. If
43 the division cannot determine, within thirty business days after receipt
44 of the person's state and federal criminal history record information,
45 whether the person is awaiting trial on or has been convicted of

1 committing or attempting, soliciting, facilitating or conspiring to commit
2 any of the offenses listed in subsection B or C of this section in this
3 state or the same or a similar offense in another state or jurisdiction,
4 the division shall not issue a fingerprint clearance card to the person.
5 If the division is unable to make the determination required by this
6 section and does not issue a fingerprint clearance card to a person, the
7 person may request a good cause exception pursuant to section 41-619.55.

8 M. Except as provided in subsection N of this section, if after
9 conducting a state and federal criminal history records check the division
10 determines that it is not authorized to issue a fingerprint clearance card
11 to a person, the division shall notify the agency that licenses or employs
12 the person that the division is not authorized to issue a fingerprint
13 clearance card. This notice shall include the criminal history
14 information on which the denial was based. This criminal history
15 information is subject to dissemination restrictions pursuant to section
16 41-1750 and Public Law 92-544.

17 N. If, after conducting a state and federal criminal history
18 records check on a person who requests a fingerprint clearance card
19 pursuant to section 15-1881, the division determines that it is not
20 authorized to issue a fingerprint clearance card to the person, the
21 division shall not notify the agency. The division shall notify the
22 person who requested the card that the division is not authorized to issue
23 a fingerprint clearance card. The notice shall include the criminal
24 history information on which the denial was based. This criminal history
25 information is subject to dissemination restrictions pursuant to section
26 41-1750 and Public Law 92-544.

27 O. The division is not liable for damages resulting from:

28 1. The issuance of a fingerprint clearance card to a person who is
29 later found to have been ineligible to receive a fingerprint clearance
30 card at the time the card was issued.

31 2. The denial of a fingerprint clearance card to a person who is
32 later found to have been eligible to receive a fingerprint clearance card
33 at the time issuance of the card was denied.

34 P. The issuance of a fingerprint clearance card does not entitle a
35 person to employment.

36 Q. Notwithstanding any law to the contrary, a person may apply for
37 and receive a level I fingerprint clearance card pursuant to section
38 41-1758.07 to satisfy a requirement that the person have a valid
39 fingerprint clearance card issued pursuant to this section.

40 Sec. 16. Section 41-1758.07, Arizona Revised Statutes, is amended
41 to read:

42 41-1758.07. Level I fingerprint clearance cards; definitions

43 A. On receiving the state and federal criminal history record of a
44 person who is required to be fingerprinted pursuant to this section, the
45 fingerprinting division in the department of public safety shall compare

1 the record with the list of criminal offenses that preclude the person
2 from receiving a level I fingerprint clearance card. If the person's
3 criminal history record does not contain any of the offenses listed in
4 subsections B and C of this section, the fingerprinting division shall
5 issue the person a level I fingerprint clearance card.

6 B. A person who is subject to registration as a sex offender in
7 this state or any other jurisdiction or who is awaiting trial on or who
8 has been convicted of committing or attempting, soliciting, facilitating
9 or conspiring to commit one or more of the following offenses in this
10 state or the same or similar offenses in another state or jurisdiction is
11 precluded from receiving a level I fingerprint clearance card:

- 12 1. Sexual abuse of a vulnerable adult.
- 13 2. Incest.
- 14 3. Homicide, including first or second degree murder, manslaughter
15 and negligent homicide.
- 16 4. Sexual assault.
- 17 5. Sexual exploitation of a minor.
- 18 6. Sexual exploitation of a vulnerable adult.
- 19 7. Commercial sexual exploitation of a minor.
- 20 8. Commercial sexual exploitation of a vulnerable adult.
- 21 9. Child ~~prostitution~~ SEX TRAFFICKING as prescribed in section
22 13-3212.
- 23 10. Child abuse.
- 24 11. Felony child neglect.
- 25 12. Abuse of a vulnerable adult.
- 26 13. Sexual conduct with a minor.
- 27 14. Molestation of a child.
- 28 15. Molestation of a vulnerable adult.
- 29 16. Dangerous crimes against children as defined in section 13-705.
- 30 17. Exploitation of minors involving drug offenses.
- 31 18. Taking a child for the purpose of prostitution as prescribed in
32 section 13-3206.
- 33 19. Neglect or abuse of a vulnerable adult.
- 34 20. Sex trafficking.
- 35 21. Sexual abuse.
- 36 22. Production, publication, sale, possession and presentation of
37 obscene items as prescribed in section 13-3502.
- 38 23. Furnishing harmful items to minors as prescribed in section
39 13-3506.
- 40 24. Furnishing harmful items to minors by internet activity as
41 prescribed in section 13-3506.01.
- 42 25. Obscene or indecent telephone communications to minors for
43 commercial purposes as prescribed in section 13-3512.
- 44 26. Luring a minor for sexual exploitation.
- 45 27. Enticement of persons for purposes of prostitution.

- 1 28. Procurement by false pretenses of person for purposes of
- 2 prostitution.
- 3 29. Procuring or placing persons in a house of prostitution.
- 4 30. Receiving earnings of a prostitute.
- 5 31. Causing one's spouse to become a prostitute.
- 6 32. Detention of persons in a house of prostitution for debt.
- 7 33. Keeping or residing in a house of prostitution or employment in
- 8 prostitution.
- 9 34. Pandering.
- 10 35. Transporting persons for the purpose of prostitution, polygamy
- 11 and concubinage.
- 12 36. Portraying adult as a minor as prescribed in section 13-3555.
- 13 37. Admitting minors to public displays of sexual conduct as
- 14 prescribed in section 13-3558.
- 15 38. Any felony offense involving contributing to the delinquency of
- 16 a minor.
- 17 39. Unlawful sale or purchase of children.
- 18 40. Child bigamy.
- 19 41. Any felony offense involving domestic violence as defined in
- 20 section 13-3601 except for a felony offense only involving criminal damage
- 21 in an amount of more than two hundred fifty dollars but less than one
- 22 thousand dollars if the offense was committed before June 29, 2009.
- 23 42. Any felony offense in violation of title 13, chapter 12 if
- 24 committed within five years before the date of applying for a level I
- 25 fingerprint clearance card.
- 26 43. Felony drug or alcohol related offenses if committed within
- 27 five years before the date of applying for a level I fingerprint clearance
- 28 card.
- 29 44. Felony indecent exposure.
- 30 45. Felony public sexual indecency.
- 31 46. Terrorism.
- 32 47. Any offense involving a violent crime as defined in section
- 33 13-901.03.
- 34 48. Trafficking of persons for forced labor or services.
- 35 C. A person who is awaiting trial on or who has been convicted of
- 36 committing or attempting, soliciting, facilitating or conspiring to commit
- 37 one or more of the following offenses in this state or the same or similar
- 38 offenses in another state or jurisdiction is precluded from receiving a
- 39 level I fingerprint clearance card, except that the person may petition
- 40 the board of fingerprinting for a good cause exception pursuant to section
- 41 41-619.55:
- 42 1. Any misdemeanor offense in violation of title 13, chapter 12.
- 43 2. Misdemeanor indecent exposure.
- 44 3. Misdemeanor public sexual indecency.
- 45 4. Aggravated criminal damage.

- 1 5. Theft.
- 2 6. Theft by extortion.
- 3 7. Shoplifting.
- 4 8. Forgery.
- 5 9. Criminal possession of a forgery device.
- 6 10. Obtaining a signature by deception.
- 7 11. Criminal impersonation.
- 8 12. Theft of a credit card or obtaining a credit card by fraudulent
- 9 means.
- 10 13. Receipt of anything of value obtained by fraudulent use of a
- 11 credit card.
- 12 14. Forgery of a credit card.
- 13 15. Fraudulent use of a credit card.
- 14 16. Possession of any machinery, plate or other contrivance or
- 15 incomplete credit card.
- 16 17. False statement as to financial condition or identity to obtain
- 17 a credit card.
- 18 18. Fraud by persons authorized to provide goods or services.
- 19 19. Credit card transaction record theft.
- 20 20. Misconduct involving weapons.
- 21 21. Misconduct involving explosives.
- 22 22. Depositing explosives.
- 23 23. Misconduct involving simulated explosive devices.
- 24 24. Concealed weapon violation.
- 25 25. Misdemeanor possession and misdemeanor sale of peyote.
- 26 26. Felony possession and felony sale of peyote if committed more
- 27 than five years before the date of applying for a level I fingerprint
- 28 clearance card.
- 29 27. Misdemeanor possession and misdemeanor sale of a
- 30 vapor-releasing substance containing a toxic substance.
- 31 28. Felony possession and felony sale of a vapor-releasing
- 32 substance containing a toxic substance if committed more than five years
- 33 before the date of applying for a level I fingerprint clearance card.
- 34 29. Misdemeanor sale of precursor chemicals.
- 35 30. Felony sale of precursor chemicals if committed more than five
- 36 years before the date of applying for a level I fingerprint clearance
- 37 card.
- 38 31. Misdemeanor possession, misdemeanor use or misdemeanor sale of
- 39 marijuana, dangerous drugs or narcotic drugs.
- 40 32. Felony possession, felony use or felony sale of marijuana,
- 41 dangerous drugs or narcotic drugs if committed more than five years before
- 42 the date of applying for a level I fingerprint clearance card.
- 43 33. Misdemeanor manufacture or misdemeanor distribution of an
- 44 imitation controlled substance.

1 34. Felony manufacture or felony distribution of an imitation
2 controlled substance if committed more than five years before the date of
3 applying for a level I fingerprint clearance card.

4 35. Misdemeanor manufacture or misdemeanor distribution of an
5 imitation prescription-only drug.

6 36. Felony manufacture or felony distribution of an imitation
7 prescription-only drug if committed more than five years before the date
8 of applying for a level I fingerprint clearance card.

9 37. Misdemeanor manufacture or misdemeanor distribution of an
10 imitation over-the-counter drug.

11 38. Felony manufacture or felony distribution of an imitation
12 over-the-counter drug if committed more than five years before the date of
13 applying for a level I fingerprint clearance card.

14 39. Misdemeanor possession or misdemeanor possession with intent to
15 use an imitation controlled substance.

16 40. Felony possession or felony possession with intent to use an
17 imitation controlled substance if committed more than five years before
18 the date of applying for a level I fingerprint clearance card.

19 41. Misdemeanor possession or misdemeanor possession with intent to
20 use an imitation prescription-only drug.

21 42. Felony possession or felony possession with intent to use an
22 imitation prescription-only drug if committed more than five years before
23 the date of applying for a level I fingerprint clearance card.

24 43. Misdemeanor possession or misdemeanor possession with intent to
25 use an imitation over-the-counter drug.

26 44. Felony possession or felony possession with intent to use an
27 imitation over-the-counter drug if committed more than five years before
28 the date of applying for a level I fingerprint clearance card.

29 45. Misdemeanor manufacture of certain substances and drugs by
30 certain means.

31 46. Felony manufacture of certain substances and drugs by certain
32 means if committed more than five years before the date of applying for a
33 level I fingerprint clearance card.

34 47. Adding poison or other harmful substance to food, drink or
35 medicine.

36 48. A criminal offense involving criminal trespass under title 13,
37 chapter 15.

38 49. A criminal offense involving burglary under title 13,
39 chapter 15.

40 50. A criminal offense under title 13, chapter 23, except
41 terrorism.

42 51. Misdemeanor offenses involving child neglect.

43 52. Misdemeanor offenses involving contributing to the delinquency
44 of a minor.

1 53. Misdemeanor offenses involving domestic violence as defined in
2 section 13-3601.

3 54. Felony offenses involving domestic violence if the offense only
4 involved criminal damage in an amount of more than two hundred fifty
5 dollars but less than one thousand dollars and the offense was committed
6 before June 29, 2009.

7 55. Arson.

8 56. Felony offenses involving sale, distribution or transportation
9 of, offer to sell, transport or distribute or conspiracy to sell,
10 transport or distribute marijuana, dangerous drugs or narcotic drugs if
11 committed more than five years before the date of applying for a level I
12 fingerprint clearance card.

13 57. Criminal damage.

14 58. Misappropriation of charter school monies as prescribed in
15 section 13-1818.

16 59. Taking identity of another person or entity.

17 60. Aggravated taking identity of another person or entity.

18 61. Trafficking in the identity of another person or entity.

19 62. Cruelty to animals.

20 63. Prostitution, as prescribed in section 13-3214.

21 64. Sale or distribution of material harmful to minors through
22 vending machines as prescribed in section 13-3513.

23 65. Welfare fraud.

24 66. Any felony offense in violation of title 13, chapter 12 if
25 committed more than five years before the date of applying for a level I
26 fingerprint clearance card.

27 67. Kidnapping.

28 68. Robbery, aggravated robbery or armed robbery.

29 D. A person who is awaiting trial on or who has been convicted of
30 committing or attempting to commit a misdemeanor violation of section
31 28-1381, 28-1382 or 28-1383 in this state or the same or a similar offense
32 in another state or jurisdiction within five years from the date of
33 applying for a level I fingerprint clearance card is precluded from
34 driving any vehicle to transport employees or clients of the employing
35 agency as part of the person's employment. The division shall place a
36 notation on the level I fingerprint clearance card that indicates this
37 driving restriction. This subsection does not preclude a person from
38 driving a vehicle alone as part of the person's employment.

39 E. Notwithstanding subsection C of this section, on receiving
40 written notice from the board of fingerprinting that a good cause
41 exception was granted pursuant to section 41-619.55, the fingerprinting
42 division shall issue a level I fingerprint clearance card to the
43 applicant.

44 F. If the fingerprinting division denies a person's application for
45 a level I fingerprint clearance card pursuant to subsection C of this

1 section and a good cause exception is requested pursuant to section
2 41-619.55, the fingerprinting division shall release, on request by the
3 board of fingerprinting, the person's criminal history record to the board
4 of fingerprinting.

5 G. A person shall be granted a level I fingerprint clearance card
6 pursuant to this section if either of the following applies:

7 1. An agency granted a good cause exception before August 16, 1999
8 and no new precluding offense is identified. The fingerprint clearance
9 card shall specify only the program that granted the good cause exception.
10 On the request of the applicant, the agency that granted the prior good
11 cause exception shall notify the fingerprinting division in writing of the
12 date on which the prior good cause exception was granted, the date of the
13 conviction and the name of the offense for which the good cause exception
14 was granted.

15 2. The board granted a good cause exception and no new precluding
16 offense is identified.

17 H. The licensee or contract provider shall assume the costs of
18 fingerprint checks conducted pursuant to this section and may charge these
19 costs to persons who are required to be fingerprinted.

20 I. A person who is under eighteen years of age or who is at least
21 ninety-nine years of age is exempt from the level I fingerprint clearance
22 card requirements of this section. At all times the person shall be under
23 the direct visual supervision of personnel who have valid level I
24 fingerprint clearance cards.

25 J. The fingerprinting division shall conduct periodic state
26 criminal history records checks and may conduct federal criminal history
27 records checks when authorized pursuant to federal law for the purpose of
28 updating the clearance status of current level I fingerprint clearance
29 cardholders pursuant to this section and may notify the board of
30 fingerprinting and the agency of the results of the records check.

31 K. The fingerprinting division shall revoke a person's level I
32 fingerprint clearance card on receipt of a written request for revocation
33 from the board of fingerprinting pursuant to section 41-619.55.

34 L. If a person's criminal history record contains an offense listed
35 in subsection B or C of this section and the final disposition is not
36 recorded on the record, the division shall conduct research to obtain the
37 disposition within thirty business days after receipt of the record. If
38 the division cannot determine, within thirty business days after receipt
39 of the person's state and federal criminal history record information,
40 whether the person is awaiting trial on or has been convicted of
41 committing or attempting, soliciting, facilitating or conspiring to commit
42 any of the offenses listed in subsection B or C of this section in this
43 state or the same or A similar offense in another state or jurisdiction,
44 the division shall not issue a level I fingerprint clearance card to the
45 person. If the division is unable to make the determination required by

1 this section and does not issue a level I fingerprint clearance card to a
2 person, the person may request a good cause exception pursuant to section
3 41-619.55.

4 M. If after conducting a state and federal criminal history records
5 check the fingerprinting division determines that it is not authorized to
6 issue a level I fingerprint clearance card to an applicant, the division
7 shall notify the agency that the fingerprinting division is not authorized
8 to issue a level I fingerprint clearance card. This notice shall include
9 the criminal history information on which the denial was based. This
10 criminal history information is subject to dissemination restrictions
11 pursuant to section 41-1750 and Public Law 92-544.

12 N. The fingerprinting division is not liable for damages resulting
13 from:

14 1. The issuance of a level I fingerprint clearance card to an
15 applicant who is later found to have been ineligible to receive a level I
16 fingerprint clearance card at the time the card was issued.

17 2. The denial of a level I fingerprint clearance card to an
18 applicant who is later found to have been eligible to receive a level I
19 fingerprint clearance card at the time issuance of the card was denied.

20 O. Notwithstanding any law to the contrary, an individual may apply
21 for and receive a level I fingerprint clearance card pursuant to this
22 section to satisfy a requirement that the person have a valid fingerprint
23 clearance card issued pursuant to section 41-1758.03.

24 P. Notwithstanding any law to the contrary, except as prescribed
25 pursuant to subsection Q of this section, an individual who receives a
26 level I fingerprint clearance card pursuant to this section also satisfies
27 a requirement that the individual have a valid fingerprint clearance card
28 issued pursuant to section 41-1758.03.

29 Q. Unless a cardholder commits an offense listed in subsection B or
30 C of this section after June 29, 2009, a fingerprint clearance card issued
31 pursuant to section 41-1758.03 before June 29, 2009 and its renewals are
32 valid for all requirements for a level I fingerprint clearance card except
33 those relating to the requirements of section 8-105 or 8-509. A
34 fingerprint clearance card issued before June 29, 2009 to meet the
35 requirements of section 8-105 or 8-509 and its renewals are valid after
36 June 29, 2009 to meet all requirements for a level I fingerprint clearance
37 card, including the requirements of section 8-105 or 8-509, if the
38 cardholder has been certified by the court to adopt or has been issued a
39 foster home license before June 29, 2009.

40 R. The issuance of a level I fingerprint clearance card does not
41 entitle a person to employment.

42 S. For the purposes of this section:

43 1. "Person" means a person who is fingerprinted pursuant to:

1 (a) Section 8-105, 8-463, 8-509, 8-802, 17-215, 36-207, 36-594.01,
2 36-594.02, 36-882, 36-883.02, 36-897.01, 36-897.03, 41-619.52, 41-619.53,
3 41-1964, 41-1967.01, 41-1968, 41-1969 or 46-141.

4 (b) Subsection 0 of this section.

5 2. "Renewal" means the issuance of a fingerprint clearance card to
6 an existing fingerprint clearance cardholder who applies before the
7 person's existing fingerprint clearance card expires.

APPROVED BY THE GOVERNOR APRIL 18, 2017.

FILED IN THE OFFICE OF THE SECRETARY OF STATE APRIL 18, 2017.



Passed the House February 9, 2017

Passed the Senate March 23, 2017

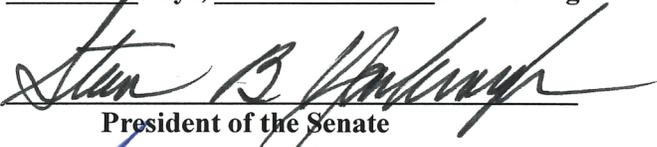
by the following vote: 58 Ayes,

by the following vote: 29 Ayes,

0 Nays, 2 Not Voting

0 Nays, 1 Not Voting


Speaker of the House


President of the Senate

Jin Drake
Chief Clerk of the House

Susan Owens
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 CONCURS IN SENATE
AMENDMENTS AND FINAL PASSAGE

April 13, 2017,

by the following vote: 57 Ayes,

0 Nays, 3 Not Voting

[Signature]
Speaker of the House
Jim Drake
Chief Clerk of the House

EXECUTIVE DEPARTMENT OF ARIZONA
OFFICE OF GOVERNOR

This Bill was received by the Governor this
17th day of April, 2017,

at 8:52 o'clock A M.

[Signature]
Secretary to the Governor

Approved this 18th day of

April, 2017,

at 10:25 o'clock A. M.

[Signature]
Governor of Arizona

H.B. 2238

EXECUTIVE DEPARTMENT OF ARIZONA
OFFICE OF SECRETARY OF STATE

This Bill was received by the Secretary of State
this 18 day of April, 2017,

at 4:12 o'clock P M.

[Signature]
Secretary of State