

**PROPOSITION 103**  
**OFFICIAL TITLE**

**SENATE CONCURRENT RESOLUTION 1011**

PROPOSING AN AMENDMENT TO THE CONSTITUTION OF ARIZONA; AMENDING ARTICLE II, SECTION 22, CONSTITUTION OF ARIZONA; RELATING TO BAILABLE OFFENSES.

**TEXT OF THE PROPOSED AMENDMENT**

Be it resolved by the Senate of the State of Arizona, the House of Representatives concurring:

1. Article II, section 22, Constitution of Arizona, is proposed to be amended as follows if approved by the voters and on proclamation of the Governor:

**22. Bailable offenses**

Section 22. A. All persons charged with crime shall be bailable by sufficient sureties, except for:

1. Capital offenses, SEXUAL ASSAULT, SEXUAL CONDUCT WITH A MINOR UNDER FIFTEEN YEARS OF AGE OR MOLESTATION OF A CHILD UNDER FIFTEEN YEARS OF AGE when the proof is evident or the presumption great.

2. Felony offenses—committed when the person charged is already admitted to bail on a separate felony charge and where the proof is evident or the presumption great as to the present charge.

3. Felony offenses if the person charged poses a substantial danger to any other person or the community, if no conditions of release which may be imposed will reasonably assure the safety of the other person or the community and if the proof is evident or the presumption great as to the present charge.

B. THE PURPOSES OF BAIL AND ANY CONDITIONS OF RELEASE THAT ARE SET BY A JUDICIAL OFFICER INCLUDE:

1. ASSURING THE APPEARANCE OF THE ACCUSED.

2. PROTECTING AGAINST THE INTIMIDATION OF WITNESSES.

3. PROTECTING THE SAFETY OF THE VICTIM, ANY OTHER PERSON OR THE COMMUNITY.

2. The Secretary of State shall submit this proposition to the voters at the next general election as provided by article XXI, Constitution of Arizona.

**ANALYSIS BY LEGISLATIVE COUNCIL**

The Arizona Constitution provides that all persons who are charged with a crime are eligible for bail, subject to certain exceptions. Bail is not allowed for any person who is charged with a crime if the court finds proof that the person committed the crime is evident or the presumption that the person committed the crime is great and the charged crime is: (1) a capital offense (an offense punishable by death), (2) a felony offense committed when the person charged is already admitted to bail on a separate felony charge or (3) a felony offense if the person charged poses a substantial danger to any other person or the community and no condition of release will reasonably assure the safety of the other person or community.

Proposition 103 would amend the Arizona Constitution to additionally prohibit bail for any person who is charged with a crime if the court finds proof that the person committed the crime is evident or the presumption that the person committed the crime is great and the charged crime is: (1) sexual assault, (2) sexual conduct with a minor under fifteen years of age or (3) molestation of a child under fifteen years of age.

Proposition 103 would also amend the Constitution to specify that the purposes of bail and any conditions of release that are set by a judicial officer include assuring the appearance of the accused, protecting against the intimidation of witnesses and protecting the safety of the victim, any other person or the community.

**ARGUMENTS “FOR” PROPOSITION 103**

Last year, the US Supreme Court ruled that sexual predators can be held even after their criminal sentence if they still pose a danger to the community. Now, when sexual predators are caught, they know they could be facing lifetime incarceration.

Slick defense lawyers have been able to reduce million dollar bonds, allowing predators back on the street for just a few hundred dollars. A sexual predator who knows he is guilty, facing life behind bars, has no incentive to ever return. It has happened time and again.

The Constitution currently allows judges to hold murderers without bond “when the proof is evident or the presumption is great.” Using this high standard, false accusations or circumstantial evidence cannot be used to deny bail. With Proposition 103, we will treat sexual predators who destroy lives the same way we treat those who take them away.

Here’s how it would work if Proposition 103 passes: When a sexual predator is arrested, a special hearing may be requested by prosecutors to present evidence (i.e. DNA is found where it should not be found, photographic or video evidence). If the judge decides that “the proof is evident or the presumption is great”, persons charged with the following crimes would be ineligible for bail: sexual assault (rape), sexual conduct (intercourse) with a minor under 15 years old, or molestation of a child under 15.

Proposition 103 also gives better tools to judges to set bail conditions beyond just money. Judges will be able to set any conditions of release to protect the community, the victim or their family, or protect against the intimidation of witnesses.

Visit [www.YesOnBailReform.org](http://www.YesOnBailReform.org) for more information.

Please vote YES on Proposition 103 to help keep dangerous sexual predators off our streets.

*Senator Dean Martin, Sponsor of Legislation, Phoenix*

Arizona has an opportunity with Proposition 103 to enhance its laws and be a greater protector of the innocent. Proposition 103 will give the proper weight to the crime of rape and child molestation.

There is a tremendous problem in our country with sexual assault on children and adults and our state is no exception. Southern Arizona Center Against Sexual Assault reports that one in every three girls and one in every six boys will be sexually abused before the age of eighteen.

We have learned a great deal in recent years about these types of offenders and we need to begin to have our laws reflect what we now know. A behavioral analysis done by a 27-year veteran FBI Special Agent, who dealt with sexual predators, reveals that 33% of sexual predators who are released on bail will commit a new sex offense, commit another crime or otherwise violate their terms of release.

Many studies now tell us that these types of offenders have a long-term persistent pattern of behavior. They make ritual or need-driven decisions that often overwhelm their sense of community restraint and certainly their willingness to adhere to bail requirements. Proposition 103 will help seal the crack in the justice system and can prevent the worst sexual predators from jumping bail or even simply walking our neighborhoods while they await trial.

Proposition 103 also saves money in our criminal justice system. It only costs \$45 per day to incarcerate a prisoner. Proposition 103 accelerates the trial schedule, saving money on attorneys, judges and court costs. This monetary savings is above and beyond the untold savings of mental anguish to victims and their families and provides peace of mind that we will ALL be safer.

Please Vote Yes on Proposition 103.

*Julie Lind, Tempe*

Vote Yes on Proposition 103, Bailable Offenses

Nothing undermines public confidence in our criminal justice system more severely than reports about violent crimes committed by offenders who have been arrested for an earlier crime and then released back into the community. When this happens, it is an inexcusable failure of the justice system. The studies confirm the high recidivism rates among rapists and child molesters. This amendment is therefore a critically needed reform if we are to protect the rights and safety of crime victims. The United States Supreme Court has provided that the United States Constitution does not prohibit courts from considering the safety of victims in making pretrial detention decisions. The time has long passed for Arizona to conform its constitution in this way. On behalf of crime victims and law-abiding citizens throughout Arizona, I urge you to vote yes on this important proposition.

*Mr. Steve Twist, Victim's Advocate, Phoenix*

My name is Chris Cottrell, I am 13 years old, and I am the "Chris" of "Chris' Law," now Proposition 103. This issue has touched my family, and I want to do whatever I can to prevent others from going through the same suffering.

Last year I wrote a bill in a student legislature regarding bail reform for sexual predators. As part of the student legislature, I met with Senator Dean Martin. Senator Martin agreed that this was a very important issue and we spent last summer working with legal experts, prosecutors, and victims' organizations drafting a version which Senator Martin introduced during the 2002 Legislative Session.

We worked very hard on the bill, which became known as Chris' Law. We met with individual legislators, and told them how innocent people were being hurt because of loopholes in our bail system. We testified before committees in the Senate and the House of Representatives, which both passed Chris' Law.

Because "Chris' Law" is a constitutional amendment, it must also be approved by the voters.

Proposition 103 amends the Arizona Constitution to treat bail for rapists and child molesters the same way we treat bail for accused murderers.

Many people have asked me what they can do to help stop sexual predators in our neighborhoods.

I tell them to vote YES on Prop 103.

It's one thing that you can do to help prevent more families from being hurt by sexual predators.

*Chris Cottrell, Phoenix*

Paid for by Susan Cottrell

Former Congressman and gubernatorial candidate Matt Salmon strongly supports Prop. 103. As a Congressman, Matt Salmon wrote "Aimee's Law" which helps keep convicted murderers, rapists, and child predators behind bars and out of our neighborhoods. Matt believes that the system is too focused on the rights of the criminal to the detriment of safe streets and the rights of victims. Judges often set low bail that allows potentially dangerous suspects to go free pending trial. It is long past time that we amend the Arizona Constitution so that bail for rapists and child molesters can be treated like bail for murderers. Recent history proves the need for Prop. 103:

- Last January, bail was set at \$26,000 for a person charged with Indecent Exposure, Sexual Conduct with a Minor, and Child Molestation. Reports by those present at the Madison Street Jail Courtroom said "bail was low because the Judge was in a good mood that night."
- In December, a Maricopa County Superior Court Judge lowered a suspect's bail from \$2.5 million to \$100,000. The suspect, who had allegedly raped an 11 year-old boy, did not show up for trial.
- That same month, the director of a church-based teen group was charged with having illicit sex with at least three minors. The suspect was charged with 15 counts of sexual conduct with a minor and one count of furnishing obscene materials to a minor. He was freed on a \$21,240 bond.
- In November, after a 19-month search by Tucson police to locate a suspect charged with breaking into the apartment of an 11 year-old girl and raping her, Pima County Justice Pro Tem Walter Weber set bail at just \$5,500.

I hope that you will join former Congressman Matt Salmon in voting yes on this important Proposition.

*James B. Morse Jr., Policy Director for Salmon for Governor, Tempe*

Paid for by Andrew E. Chasin

### ARGUMENTS "AGAINST" PROPOSITION 103

The Secretary of State did not receive any arguments "against" Proposition 103.

**BALLOT FORMAT****PROPOSITION 103****PROPOSED AMENDMENT TO THE CONSTITUTION  
BY THE LEGISLATURE****OFFICIAL TITLE**

SENATE CONCURRENT RESOLUTION 1011  
PROPOSING AN AMENDMENT TO THE CONSTITUTION OF ARIZONA; AMENDING ARTICLE II, SECTION 22, CONSTITUTION OF ARIZONA; RELATING TO BAILABLE OFFENSES.

**DESCRIPTIVE TITLE**

ADDS SEXUAL ASSAULT, SEXUAL CONDUCT WITH MINOR UNDER AGE 15 AND MOLESTATION OF CHILD UNDER AGE 15 TO LIST OF NON-BAILABLE OFFENSES; STATES PURPOSE OF BAIL RELEASE CONDITIONS IS TO ASSURE APPEARANCE OF ACCUSED, PROTECT AGAINST WITNESS INTIMIDATION AND PROTECT SAFETY OF VICTIM AND OTHERS IN COMMUNITY.

**PROPOSITION 103**

A "yes" vote shall have the effect of providing that sexual assault, sexual conduct with a minor under age 15 and molestation of a child under age 15 are non-bailable offenses.	<b>YES</b> <input type="checkbox"/>
A "no" vote shall have the effect that these offenses will not be added to the list of offenses for which bail is not available.	<b>NO</b> <input type="checkbox"/>