START\_STATUTE13-706.  Serious, violent or aggravated offenders; sentencing; life imprisonment; definitions

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

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

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

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

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

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

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

F.  For the purposes of this section:

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

(a)  First degree murder.

(b)  Second degree murder.

(c)  Manslaughter.

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

(e)  Sexual assault.

(f)  Any dangerous crime against children.

(g)  Arson of an occupied structure.

(h)  Armed robbery.

(i)  Burglary in the first degree.

(j)  Kidnapping.

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

(l)  Child sex trafficking.

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

(a)  First degree murder.

(b)  Second degree murder.

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

(d)  Dangerous or deadly assault by prisoner.

(e)  Committing assault with intent to incite to riot or participate in riot.

(f)  Drive by shooting.

(g)  Discharging a firearm at a residential structure if the structure is occupied.

(h)  Kidnapping.

(i)  Sexual conduct with a minor that is a class 2 felony.

(j)  Sexual assault.

(k)  Molestation of a child.

(l)  Continuous sexual abuse of a child.

(m)  Violent sexual assault.

(n)  Burglary in the first degree committed in a residential structure if the structure is occupied.

(o)  Arson of an occupied structure.

(p)  Arson of an occupied jail or prison facility.

(q)  Armed robbery.

(r)  Participating in or assisting a criminal syndicate or leading or participating in a criminal street gang.

(s)  Terrorism.

(t)  Taking a child for the purpose of prostitution.

(u)  Child sex trafficking.

(v)  Commercial sexual exploitation of a minor.

(w)  Sexual exploitation of a minor.

(x)  Unlawful introduction of disease or parasite as prescribed by section 13‑2912, subsection A, paragraph 2 or 3. END\_STATUTE