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REFERENCE TITLE: **child abuse; restitution**

State of Arizona  
Senate  
Forty-seventh Legislature  
First Regular Session  
2005

## **SB 1306**

Introduced by  
Senators Johnson, Blendu, Gray, Harper; Representative Chase: Senators  
Bee, Jarrett, Verschoor; Representatives Burges, Pearce, Weiers JP

**AN ACT**

**AMENDING SECTION 13-3623, ARIZONA REVISED STATUTES; RELATING TO CHILD ABUSE.**

(TEXT OF BILL BEGINS ON NEXT PAGE)

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

2 Section 1. Section 13-3623, Arizona Revised Statutes, is amended to  
3 read:

4 13-3623. Child or vulnerable adult abuse; emotional abuse;  
5 classification; exception; definitions

6 A. Under circumstances likely to produce death or serious physical  
7 injury, any person who causes a child or vulnerable adult to suffer physical  
8 injury or, having the care or custody of a child or vulnerable adult, who  
9 causes or permits the person or health of the child or vulnerable adult to be  
10 injured or who causes or permits a child or vulnerable adult to be placed in  
11 a situation where the person or health of the child or vulnerable adult is  
12 endangered is guilty of an offense as follows:

13 1. If done intentionally or knowingly, the offense is a class 2 felony  
14 and if the victim is under fifteen years of age it is punishable pursuant to  
15 section 13-604.01.

16 2. If done recklessly, the offense is a class 3 felony.

17 3. If done with criminal negligence, the offense is a class 4 felony.

18 B. Under circumstances other than those likely to produce death or  
19 serious physical injury to a child or vulnerable adult, any person who causes  
20 a child or vulnerable adult to suffer physical injury or abuse or, having the  
21 care or custody of a child or vulnerable adult, who causes or permits the  
22 person or health of the child or vulnerable adult to be injured or who causes  
23 or permits a child or vulnerable adult to be placed in a situation where the  
24 person or health of the child or vulnerable adult is endangered is guilty of  
25 an offense as follows:

26 1. If done intentionally or knowingly, the offense is a class 4  
27 felony.

28 2. If done recklessly, the offense is a class 5 felony.

29 3. If done with criminal negligence, the offense is a class 6 felony.

30 C. For the purposes of subsections A and B of this section, the terms  
31 endangered and abuse include but are not limited to circumstances in which a  
32 child or vulnerable adult is permitted to enter or remain in any structure or  
33 vehicle in which volatile, toxic or flammable chemicals are found or  
34 equipment is possessed by any person for the purpose of manufacturing a  
35 dangerous drug in violation of section 13-3407, subsection A, paragraph 4.

36 D. A person who intentionally or knowingly engages in emotional abuse  
37 of a vulnerable adult who is a patient or resident in any setting in which  
38 health care, health-related services or assistance with one or more of the  
39 activities of daily living is provided or, having the care or custody of a  
40 vulnerable adult, who intentionally or knowingly subjects or permits the  
41 vulnerable adult to be subjected to emotional abuse is guilty of a class 6  
42 felony.

43 E. IF A PARENT IS CONVICTED OF A VIOLATION OF THIS SECTION INVOLVING  
44 CHILD ABUSE AGAINST THE PARENT'S MINOR CHILD, THE COURT SHALL ENTER A  
45 CRIMINAL RESTITUTION ORDER IN FAVOR OF THE STATE FOR ANY COSTS INCURRED BY  
46 THE STATE IN SUPPORTING THE ABUSED CHILD, INCLUDING MEDICAL COSTS.

1           ~~E.~~ F. This section does not apply to:

2           1. A health care provider as defined in section 36-3201 who permits a  
3 patient to die or the patient's condition to deteriorate by not providing  
4 health care if that patient refuses that care directly or indirectly through  
5 a health care directive as defined in section 36-3201, through a surrogate  
6 pursuant to section 36-3231 or through a court appointed guardian as provided  
7 for in title 14, chapter 5, article 3.

8           2. A vulnerable adult who is being furnished spiritual treatment  
9 through prayer alone and who would not otherwise be considered to be abused,  
10 neglected or endangered if medical treatment were being furnished.

11           ~~F.~~ G. For the purposes of this section:

12           1. "Abuse", when used in reference to a child, means abuse as defined  
13 in section 8-201, except for those acts in the definition that are declared  
14 unlawful by another statute of this title and, when used in reference to a  
15 vulnerable adult, means:

- 16           (a) Intentional infliction of physical harm.
- 17           (b) Injury caused by criminally negligent acts or omissions.
- 18           (c) Unlawful imprisonment, as described in section 13-1303.
- 19           (d) Sexual abuse or sexual assault.

20           2. "Child" means an individual who is under eighteen years of age.

21           3. "Emotional abuse" means a pattern of ridiculing or demeaning a  
22 vulnerable adult, making derogatory remarks to a vulnerable adult, verbally  
23 harassing a vulnerable adult or threatening to inflict physical or emotional  
24 harm on a vulnerable adult.

25           4. "Physical injury" means the impairment of physical condition and  
26 includes any skin bruising, pressure sores, bleeding, failure to thrive,  
27 malnutrition, dehydration, burns, fracture of any bone, subdural hematoma,  
28 soft tissue swelling, injury to any internal organ or any physical condition  
29 that imperils health or welfare.

30           5. "Serious physical injury" means physical injury that creates a  
31 reasonable risk of death or that causes serious or permanent disfigurement,  
32 serious impairment of health or loss or protracted impairment of the function  
33 of any bodily organ or limb.

34           6. "Vulnerable adult" means an individual who is eighteen years of age  
35 or older and who is unable to protect himself from abuse, neglect or  
36 exploitation by others because of a mental or physical impairment.