

REFERENCE TITLE: causing; benefitting from child prostitution

State of Arizona
House of Representatives
Fifty-first Legislature
Second Regular Session
2014

HB 2626

Introduced by
Representatives Orr: Coleman

AN ACT

AMENDING SECTIONS 8-201, 13-701, 13-705, 13-706 AND 13-3212, ARIZONA REVISED STATUTES; AMENDING TITLE 13, CHAPTER 32, ARIZONA REVISED STATUTES, BY ADDING SECTION 13-3213; AMENDING SECTIONS 13-3620, 13-3821, 41-1758.03 AND 41-1758.07, ARIZONA REVISED STATUTES; RELATING TO CHILD PROSTITUTION.

(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 reasonable
7 support and to maintain regular contact with the child, including providing
8 normal supervision. Abandoned includes a judicial finding that a parent has
9 made only minimal efforts to support and communicate with the child. Failure
10 to maintain a normal parental relationship with the child without just cause
11 for a period of six months constitutes prima facie evidence of abandonment.
12 2. "Abuse" means the infliction or allowing of physical injury,
13 impairment of bodily function or disfigurement or the infliction of or
14 allowing another person to cause serious emotional damage as evidenced by
15 severe anxiety, depression, withdrawal or untoward aggressive behavior and
16 which emotional damage is diagnosed by a medical doctor or psychologist and
17 is caused by the acts or omissions of an individual ~~having~~ WHO HAS THE care,
18 custody and control of a child. Abuse includes:
19 (a) Inflicting or allowing sexual abuse pursuant to section 13-1404,
20 sexual conduct with a minor pursuant to section 13-1405, sexual assault
21 pursuant to section 13-1406, molestation of a child pursuant to section
22 13-1410, commercial sexual exploitation of a minor pursuant to section
23 13-3552, sexual exploitation of a minor pursuant to section 13-3553, incest
24 pursuant to section 13-3608, ~~or~~ child prostitution pursuant to section
25 13-3212 OR CAUSING OR BENEFITTING FROM CHILD PROSTITUTION PURSUANT TO SECTION
26 13-3213.
27 (b) Physical injury that results from permitting a child to enter or
28 remain in any structure or vehicle in which volatile, toxic or flammable
29 chemicals are found or equipment is possessed by any person for the purpose
30 of manufacturing a dangerous drug as defined in section 13-3401.
31 (c) Unreasonable confinement of a child.
32 3. "Adult" means a person who is eighteen years of age or older.
33 4. "Adult court" means the appropriate justice court, municipal court
34 or criminal division of the superior court that has jurisdiction to hear
35 proceedings concerning offenses committed by juveniles as provided in
36 sections 8-327 and 13-501.
37 5. "Award" or "commit" means to assign legal custody.
38 6. "Child", "youth" or "juvenile" means an individual who is under the
39 age of eighteen years.
40 7. "Complaint" means a written statement of the essential facts
41 constituting a public offense that is any of the following:
42 (a) Made on an oath before a judge or commissioner of the superior
43 court or an authorized juvenile hearing officer.
44 (b) Made pursuant to section 13-3903.

1 (c) Accompanied by an affidavit of a law enforcement officer or
2 employee that swears on information and belief to the accuracy of the
3 complaint pursuant to section 13-4261.

4 8. "Custodian" means a person, other than a parent or legal guardian,
5 who stands in loco parentis to the child or a person to whom legal custody of
6 the child has been given by order of the juvenile court.

7 9. "Delinquency hearing" means a proceeding in the juvenile court to
8 determine whether a juvenile has committed a specific delinquent act as set
9 forth in a petition.

10 10. "Delinquent act" means an act by a juvenile that if committed by an
11 adult would be a criminal offense or a petty offense, a violation of any law
12 of this state, or of another state if the act occurred in that state, or a
13 law of the United States, or a violation of any law that can only be violated
14 by a minor and that has been designated as a delinquent offense, or any
15 ordinance of a city, county or political subdivision of this state defining
16 crime. Delinquent act does not include an offense under section 13-501,
17 subsection A or B if the offense is filed in adult court. Any juvenile who
18 is prosecuted as an adult or who is remanded for prosecution as an adult
19 shall not be adjudicated as a delinquent juvenile for the same offense.

20 11. "Delinquent juvenile" means a child who is adjudicated to have
21 committed a delinquent act.

22 12. "Department" means the department of economic security.

23 13. "Dependent child":

24 (a) Means a child who is adjudicated to be:

25 (i) In need of proper and effective parental care and control and who
26 has no parent or guardian, or one who has no parent or guardian willing to
27 exercise or capable of exercising such care and control.

28 (ii) Destitute or who is not provided with the necessities of life,
29 including adequate food, clothing, shelter or medical care.

30 (iii) A child whose home is unfit by reason of abuse, neglect, cruelty
31 or depravity by a parent, a guardian or any other person having custody or
32 care of the child.

33 (iv) Under eight years of age and who is found to have committed an
34 act that would result in adjudication as a delinquent juvenile or
35 incorrigible child if committed by an older juvenile or child.

36 (v) Incompetent or not restorable to competency and who is alleged to
37 have committed a serious offense as defined in section 13-706.

38 (b) Does not include a child who in good faith is being furnished
39 Christian Science treatment by a duly accredited practitioner if none of the
40 circumstances described in subdivision (a) of this paragraph exists.

41 14. "Detention" means the temporary confinement of a juvenile who
42 requires secure care in a physically restricting facility that is completely
43 surrounded by a locked and physically secure barrier with restricted ingress
44 and egress for the protection of the juvenile or the community pending court
45 disposition or as a condition of probation.

1 15. "Health professional" has the same meaning prescribed in section
2 32-3201.

3 16. "Incorrigible child" means a child who:

4 (a) Is adjudicated as a child who refuses to obey the reasonable and
5 proper orders or directions of a parent, guardian or custodian and who is
6 beyond the control of that person.

7 (b) Is habitually truant from school as defined in section 15-803,
8 subsection C.

9 (c) Is a runaway from the child's home or parent, guardian or
10 custodian.

11 (d) Habitually behaves in such a manner as to injure or endanger the
12 morals or health of self or others.

13 (e) Commits any act constituting an offense that can only be committed
14 by a minor and that is not designated as a delinquent act.

15 (f) Fails to obey any lawful order of a court of competent
16 jurisdiction given in a noncriminal action.

17 17. "Independent living program" includes a residential program with
18 supervision of less than twenty-four hours a day.

19 18. "Juvenile court" means the juvenile division of the superior court
20 when exercising its jurisdiction over children in any proceeding relating to
21 delinquency, dependency or incorrigibility.

22 19. "Law enforcement officer" means a peace officer, sheriff, deputy
23 sheriff, municipal police officer or constable.

24 20. "Medical director of a mental health agency" means a psychiatrist,
25 or licensed physician experienced in psychiatric matters, who is designated
26 in writing by the governing body of the agency as the person in charge of the
27 medical services of the agency, or a psychiatrist designated by the governing
28 body to act for the director. The term includes the superintendent of the
29 state hospital.

30 21. "Mental health agency" means any private or public facility that is
31 licensed by this state as a mental health treatment agency, a psychiatric
32 hospital, a psychiatric unit of a general hospital or a residential treatment
33 center for emotionally disturbed children and that uses secure settings or
34 mechanical restraints.

35 22. "Neglect" or "neglected" means:

36 (a) The inability or unwillingness of a parent, guardian or custodian
37 of a child to provide that child with supervision, food, clothing, shelter or
38 medical care if that inability or unwillingness causes unreasonable risk of
39 harm to the child's health or welfare, except if the inability of a parent,
40 guardian or custodian to provide services to meet the needs of a child with a
41 disability or chronic illness is solely the result of the unavailability of
42 reasonable services.

43 (b) Permitting a child to enter or remain in any structure or vehicle
44 in which volatile, toxic or flammable chemicals are found or equipment is

1 possessed by any person for the purposes of manufacturing a dangerous drug as
2 defined in section 13-3401.

3 (c) A determination by a health professional that a newborn infant was
4 exposed prenatally to a drug or substance listed in section 13-3401 and that
5 this exposure was not the result of a medical treatment administered to the
6 mother or the newborn infant by a health professional. This subdivision does
7 not expand a health professional's duty to report neglect based on prenatal
8 exposure to a drug or substance listed in section 13-3401 beyond the
9 requirements prescribed pursuant to section 13-3620, subsection E. The
10 determination by the health professional shall be based on one or more of the
11 following:

12 (i) Clinical indicators in the prenatal period including maternal and
13 newborn presentation.

14 (ii) History of substance use or abuse.

15 (iii) Medical history.

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

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

21 (e) Deliberate exposure of a child by a parent, guardian or custodian
22 to sexual conduct as defined in section 13-3551 or to sexual contact, oral
23 sexual contact or sexual intercourse as defined in section 13-1401,
24 bestiality as prescribed in section 13-1411 or explicit sexual materials as
25 defined in section 13-3507.

26 (f) Any of the following acts committed by the child's parent,
27 guardian or custodian with reckless disregard as to whether the child is
28 physically present:

29 (i) Sexual contact as defined in section 13-1401.

30 (ii) Oral sexual contact as defined in section 13-1401.

31 (iii) Sexual intercourse as defined in section 13-1401.

32 (iv) Bestiality as prescribed in section 13-1411.

33 23. "Newborn infant" means a child who is under thirty days of age.

34 24. "Petition" means a written statement of the essential facts that
35 allege delinquency, incorrigibility or dependency.

36 25. "Prevention" means the creation of conditions, opportunities and
37 experiences that encourage and develop healthy, self-sufficient children and
38 that occur before the onset of problems.

39 26. "Protective supervision" means supervision that is ordered by the
40 juvenile court of children who are found to be dependent or incorrigible.

41 27. "Referral" means a report that is submitted to the juvenile court
42 and that alleges that a child is dependent or incorrigible or that a juvenile
43 has committed a delinquent or criminal act.

1 28. "Secure care" means confinement in a facility that is completely
2 surrounded by a locked and physically secure barrier with restricted ingress
3 and egress.

4 29. "Serious emotional injury" means an injury that is diagnosed by a
5 medical doctor or a psychologist and that does any one or a combination of
6 the following:

7 (a) Seriously impairs mental faculties.

8 (b) Causes serious anxiety, depression, withdrawal or social
9 dysfunction behavior to the extent that the child suffers dysfunction that
10 requires treatment.

11 (c) Is the result of sexual abuse pursuant to section 13-1404, sexual
12 conduct with a minor pursuant to section 13-1405, sexual assault pursuant to
13 section 13-1406, molestation of a child pursuant to section 13-1410, child
14 prostitution pursuant to section 13-3212, **CAUSING OR BENEFITTING FROM CHILD**
15 **PROSTITUTION PURSUANT TO SECTION 13-3213**, commercial sexual exploitation of a
16 minor pursuant to section 13-3552, sexual exploitation of a minor pursuant to
17 section 13-3553 or incest pursuant to section 13-3608.

18 30. "Serious physical injury" means an injury that is diagnosed by a
19 medical doctor and that does any one or a combination of the following:

20 (a) Creates a reasonable risk of death.

21 (b) Causes serious or permanent disfigurement.

22 (c) Causes significant physical pain.

23 (d) Causes serious impairment of health.

24 (e) Causes the loss or protracted impairment of an organ or limb.

25 (f) Is the result of sexual abuse pursuant to section 13-1404, sexual
26 conduct with a minor pursuant to section 13-1405, sexual assault pursuant to
27 section 13-1406, molestation of a child pursuant to section 13-1410, child
28 prostitution pursuant to section 13-3212, **CAUSING OR BENEFITTING FROM CHILD**
29 **PROSTITUTION PURSUANT TO SECTION 13-3213**, commercial sexual exploitation of a
30 minor pursuant to section 13-3552, sexual exploitation of a minor pursuant to
31 section 13-3553 or incest pursuant to section 13-3608.

32 31. "Shelter care" means the temporary care of a child in any public or
33 private facility or home that is licensed by this state and that offers a
34 physically nonsecure environment that is characterized by the absence of
35 physically restricting construction or hardware and that provides the child
36 access to the surrounding community.

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

38 13-701. Sentence of imprisonment for felony; presentence
39 report; aggravating and mitigating factors;
40 consecutive terms of imprisonment; definition

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

1 B. No prisoner may be transferred to the custody of the state
2 department of corrections without a certified copy of the judgment and
3 sentence, signed by the sentencing judge, and a copy of a recent presentence
4 investigation report unless the court has waived preparation of the report.

5 C. The minimum or maximum term imposed pursuant to section 13-702,
6 13-703, 13-704, 13-705, 13-708, 13-710, 13-1406, 13-3212, 13-3213 or 13-3419
7 may be imposed only if one or more of the circumstances alleged to be in
8 aggravation of the crime are found to be true by the trier of fact beyond a
9 reasonable doubt or are admitted by the defendant, except that an alleged
10 aggravating circumstance under subsection D, paragraph 11 of this section
11 shall be found to be true by the court, or in mitigation of the crime are
12 found to be true by the court, on any evidence or information introduced or
13 submitted to the court or the trier of fact before sentencing or any evidence
14 presented at trial, and factual findings and reasons in support of such
15 findings are set forth on the record at the time of sentencing.

16 D. For the purpose of determining the sentence pursuant to subsection
17 C of this section, the trier of fact shall determine and the court shall
18 consider the following aggravating circumstances, except that the court shall
19 determine an aggravating circumstance under paragraph 11 of this subsection:

20 1. Infliction or threatened infliction of serious physical injury,
21 except if this circumstance is an essential element of the offense of
22 conviction or has been utilized to enhance the range of punishment under
23 section 13-704.

24 2. Use, threatened use or possession of a deadly weapon or dangerous
25 instrument during the commission of the crime, except if this circumstance is
26 an essential element of the offense of conviction or has been utilized to
27 enhance the range of punishment under section 13-704.

28 3. If the offense involves the taking of or damage to property, the
29 value of the property taken or damaged.

30 4. Presence of an accomplice.

31 5. Especially heinous, cruel or depraved manner in which the offense
32 was committed.

33 6. The defendant committed the offense as consideration for the
34 receipt, or in the expectation of the receipt, of anything of pecuniary
35 value.

36 7. The defendant procured the commission of the offense by payment, or
37 promise of payment, of anything of pecuniary value.

38 8. At the time of the commission of the offense, the defendant was a
39 public servant and the offense involved conduct directly related to the
40 defendant's office or employment.

41 9. The victim or, if the victim has died as a result of the conduct of
42 the defendant, the victim's immediate family suffered physical, emotional or
43 financial harm.

44 10. During the course of the commission of the offense, the death of an
45 unborn child at any stage of its development occurred.

1 11. The defendant was previously convicted of a felony within the ten
2 years immediately preceding the date of the offense. A conviction outside
3 the jurisdiction of this state for an offense that if committed in this state
4 would be punishable as a felony is a felony conviction for the purposes of
5 this paragraph.

6 12. The defendant was wearing body armor as defined in section 13-3116.

7 13. The victim of the offense is at least sixty-five years of age or is
8 a disabled person as defined in section 38-492, subsection B.

9 14. The defendant was appointed pursuant to title 14 as a fiduciary and
10 the offense involved conduct directly related to the defendant's duties to
11 the victim as fiduciary.

12 15. Evidence that the defendant committed the crime out of malice
13 toward a victim because of the victim's identity in a group listed in section
14 41-1750, subsection A, paragraph 3 or because of the defendant's perception
15 of the victim's identity in a group listed in section 41-1750, subsection A,
16 paragraph 3.

17 16. The defendant was convicted of a violation of section 13-1102,
18 section 13-1103, section 13-1104, subsection A, paragraph 3 or section
19 13-1204, subsection A, paragraph 1 or 2 arising from an act that was
20 committed while driving a motor vehicle and the defendant's alcohol
21 concentration at the time of committing the offense was 0.15 or more. For
22 the purposes of this paragraph, "alcohol concentration" has the same meaning
23 prescribed in section 28-101.

24 17. Lying in wait for the victim or ambushing the victim during the
25 commission of any felony.

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

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

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

34 21. The defendant was in violation of 8 United States Code section
35 1323, 1324, 1325, 1326 or 1328 at the time of the commission of the offense.

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

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

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

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

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

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

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

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

14 24. Any other factor that the state alleges is relevant to the
15 defendant's character or background or to the nature or circumstances of the
16 crime.

17 E. For the purpose of determining the sentence pursuant to subsection
18 C of this section, the court shall consider the following mitigating
19 circumstances:

20 1. The age of the defendant.

21 2. The defendant's capacity to appreciate the wrongfulness of the
22 defendant's conduct or to conform the defendant's conduct to the requirements
23 of law was significantly impaired, but not so impaired as to constitute a
24 defense to prosecution.

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

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

29 5. During or immediately following the commission of the offense, the
30 defendant complied with all duties imposed under sections 28-661, 28-662 and
31 28-663.

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

35 F. If the trier of fact finds at least one aggravating circumstance,
36 the trial court may find by a preponderance of the evidence additional
37 aggravating circumstances. In determining what sentence to impose, the court
38 shall take into account the amount of aggravating circumstances and whether
39 the amount of mitigating circumstances is sufficiently substantial to justify
40 the lesser term. If the trier of fact finds aggravating circumstances and
41 the court does not find any mitigating circumstances, the court shall impose
42 an aggravated sentence.

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

1 H. This section does not affect any provision of law that imposes the
2 death penalty, that expressly provides for imprisonment for life or that
3 authorizes or restricts the granting of probation and suspending the
4 execution of sentence.

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

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

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

11 13-705. Dangerous crimes against children; sentences;
12 definitions

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

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

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

38 C. Except as otherwise provided in this section, a person who is at
39 least eighteen years of age or who has been tried as an adult and who is
40 convicted of a dangerous crime against children in the first degree involving
41 attempted first degree murder of a minor who is twelve, thirteen or fourteen
42 years of age, second degree murder of a minor who is twelve, thirteen or
43 fourteen years of age, sexual assault of a minor who is twelve, thirteen or
44 fourteen years of age, taking a child for the purpose of prostitution, child
45 prostitution, CAUSING OR BENEFITTING FROM CHILD PROSTITUTION, sexual conduct

1 with a minor who is twelve, thirteen or fourteen years of age, continuous
2 sexual abuse of a child, sex trafficking of a minor who is under fifteen
3 years of age or manufacturing methamphetamine under circumstances that cause
4 physical injury to a minor who is twelve, thirteen or fourteen years of age
5 or involving or using minors in drug offenses shall be sentenced to a term of
6 imprisonment as follows:

| | | | |
|---|----------------|--------------------|----------------|
| 7 | <u>Minimum</u> | <u>Presumptive</u> | <u>Maximum</u> |
| 8 | 13 years | 20 years | 27 years |

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

| | | | |
|----|----------------|--------------------|----------------|
| 11 | <u>Minimum</u> | <u>Presumptive</u> | <u>Maximum</u> |
| 12 | 23 years | 30 years | 37 years |

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

| | | | |
|----|----------------|--------------------|----------------|
| 20 | <u>Minimum</u> | <u>Presumptive</u> | <u>Maximum</u> |
| 21 | 10 years | 17 years | 24 years |

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

| | | | |
|----|----------------|--------------------|----------------|
| 24 | <u>Minimum</u> | <u>Presumptive</u> | <u>Maximum</u> |
| 25 | 21 years | 28 years | 35 years |

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

| | | | |
|----|----------------|--------------------|----------------|
| 35 | <u>Minimum</u> | <u>Presumptive</u> | <u>Maximum</u> |
| 36 | 5 years | 10 years | 15 years |

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

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

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

6
7
8 K. A person who is convicted of any dangerous crime against children
9 in the second degree and who has been previously convicted of one or more
10 predicate felonies is not eligible for suspension of sentence, probation,
11 pardon or release from confinement on any basis except as specifically
12 authorized by section 31-233, subsection A or B until the sentence imposed by
13 the court has been served, the person is eligible for release pursuant to
14 section 41-1604.07 or the sentence is commuted.

15 L. Section 13-704, subsection J and section 13-707, subsection B apply
16 to the determination of prior convictions.

17 M. The sentence imposed on a person by the court for a dangerous crime
18 against children under subsection D of this section involving child
19 molestation or sexual abuse pursuant to subsection F of this section may be
20 served concurrently with other sentences if the offense involved only one
21 victim. The sentence imposed on a person for any other dangerous crime
22 against children in the first or second degree shall be consecutive to any
23 other sentence imposed on the person at any time, including child molestation
24 and sexual abuse of the same victim.

25 N. In this section, for purposes of punishment an unborn child shall
26 be treated like a minor who is under twelve years of age.

27 O. A dangerous crime against children is in the first degree if it is
28 a completed offense and is in the second degree if it is a preparatory
29 offense, except attempted first degree murder is a dangerous crime against
30 children in the first degree.

31 P. For the purposes of this section:

32 1. "Dangerous crime against children" means any of the following that
33 is committed against a minor who is under fifteen years of age:

34 (a) Second degree murder.

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

38 (c) Sexual assault.

39 (d) Molestation of a child.

40 (e) Sexual conduct with a minor.

41 (f) Commercial sexual exploitation of a minor.

42 (g) Sexual exploitation of a minor.

43 (h) Child abuse as prescribed in section 13-3623, subsection A,
44 paragraph 1.

45 (i) Kidnapping.

- 1 (j) Sexual abuse.
- 2 (k) Taking a child for the purpose of prostitution as prescribed in
- 3 section 13-3206.
- 4 (l) Child prostitution as prescribed in section 13-3212.
- 5 (m) Involving or using minors in drug offenses.
- 6 (n) Continuous sexual abuse of a child.
- 7 (o) Attempted first degree murder.
- 8 (p) Sex trafficking.
- 9 (q) Manufacturing methamphetamine under circumstances that cause
- 10 physical injury to a minor.
- 11 (r) Bestiality as prescribed in section 13-1411, subsection A,
- 12 paragraph 2.
- 13 (s) Luring a minor for sexual exploitation.
- 14 (t) Aggravated luring a minor for sexual exploitation.
- 15 (u) Unlawful age misrepresentation.
- 16 (v) CAUSING OR BENEFITTING FROM CHILD PROSTITUTION AS PRESCRIBED IN
- 17 SECTION 13-3213.

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

24 Sec. 4. Section 13-706, Arizona Revised Statutes, is amended to read:
25 13-706. Serious, violent or aggravated offenders; sentencing;
26 life imprisonment; definitions

27 A. A person who is at least eighteen years of age or who has been
28 tried as an adult and who is convicted of a serious offense except a drug
29 offense, first degree murder or any dangerous crime against children as
30 defined in section 13-705, whether a completed or preparatory offense, and
31 who has previously been convicted of two or more serious offenses not
32 committed on the same occasion shall be sentenced to life imprisonment and is
33 not eligible for suspension of sentence, probation, pardon or release from
34 confinement on any basis, except as specifically authorized by section
35 31-233, subsection A or B, until the person has served at least twenty-five
36 years or the sentence is commuted.

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

1 eligible for commutation after the person has served at least thirty-five
2 years.

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

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

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

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

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

21 F. For the purposes of this section:

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

25 (a) First degree murder.

26 (b) Second degree murder.

27 (c) Manslaughter.

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

31 (e) Sexual assault.

32 (f) Any dangerous crime against children.

33 (g) Arson of an occupied structure.

34 (h) Armed robbery.

35 (i) Burglary in the first degree.

36 (j) Kidnapping.

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

38 (l) Child prostitution.

39 (m) CAUSING OR BENEFITTING FROM CHILD PROSTITUTION AS PRESCRIBED IN
40 SECTION 13-3213.

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

42 (a) First degree murder.

43 (b) Second degree murder.

- 1 (c) Aggravated assault resulting in serious physical injury or
- 2 involving the discharge, use or threatening exhibition of a deadly weapon or
- 3 dangerous instrument.
- 4 (d) Dangerous or deadly assault by prisoner.
- 5 (e) Committing assault with intent to incite to riot or participate in
- 6 riot.
- 7 (f) Drive by shooting.
- 8 (g) Discharging a firearm at a residential structure if the structure
- 9 is occupied.
- 10 (h) Kidnapping.
- 11 (i) Sexual conduct with a minor that is a class 2 felony.
- 12 (j) Sexual assault.
- 13 (k) Molestation of a child.
- 14 (l) Continuous sexual abuse of a child.
- 15 (m) Violent sexual assault.
- 16 (n) Burglary in the first degree committed in a residential structure
- 17 if the structure is occupied.
- 18 (o) Arson of an occupied structure.
- 19 (p) Arson of an occupied jail or prison facility.
- 20 (q) Armed robbery.
- 21 (r) Participating in or assisting a criminal syndicate or leading or
- 22 participating in a criminal street gang.
- 23 (s) Terrorism.
- 24 (t) Taking a child for the purpose of prostitution.
- 25 (u) Child prostitution.
- 26 (v) CAUSING OR BENEFITTING FROM CHILD PROSTITUTION AS PRESCRIBED IN
- 27 SECTION 13-3213.
- 28 ~~(v)~~ (w) Commercial sexual exploitation of a minor.
- 29 ~~(w)~~ (x) Sexual exploitation of a minor.
- 30 ~~(x)~~ (y) Unlawful introduction of disease or parasite as prescribed by
- 31 section 13-2912, subsection A, paragraph 2 or 3.
- 32 Sec. 5. Section 13-3212, Arizona Revised Statutes, is amended to read:
- 33 13-3212. Child prostitution; classification; increased
- 34 punishment
- 35 ~~A. A person commits child prostitution by knowingly:~~
- 36 ~~1. Causing any minor to engage in prostitution.~~
- 37 ~~2. Using any minor for the purposes of prostitution.~~
- 38 ~~3. Permitting a minor who is under the person's custody or control to~~
- 39 ~~engage in prostitution.~~
- 40 ~~4. Receiving any benefit for or on account of procuring or placing a~~
- 41 ~~minor in any place or in the charge or custody of any person for the purpose~~
- 42 ~~of prostitution.~~
- 43 ~~5. Receiving any benefit pursuant to an agreement to participate in~~
- 44 ~~the proceeds of prostitution of a minor.~~

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

3 ~~7. Transporting or financing the transportation of any minor with the~~
4 ~~intent that the minor engage in prostitution.~~

5 ~~B.~~ A. A person who is at least eighteen years of age commits child
6 prostitution by knowingly:

7 1. Engaging in prostitution with a minor who is under fifteen years of
8 age.

9 2. Engaging in prostitution with a minor who the person knows is
10 fifteen, sixteen or seventeen years of age.

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

13 ~~C.~~ B. It is not a defense to a prosecution under subsection A ~~and~~
14 ~~subsection B~~, paragraphs 1 and 2 of this section that the other person is a
15 peace officer posing as a minor or a person assisting a peace officer posing
16 as a minor.

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

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

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

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

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

| | | | |
|----|----------------|--------------------|----------------|
| 38 | <u>Minimum</u> | <u>Presumptive</u> | <u>Maximum</u> |
| 39 | 7 years | 10.5 years | 21 years |

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

| | | | |
|----|----------------|--------------------|----------------|
| 42 | <u>Minimum</u> | <u>Presumptive</u> | <u>Maximum</u> |
| 43 | 14 years | 15.75 years | 28 years |

1 D. CAUSING OR BENEFITTING FROM CHILD PROSTITUTION IS A CLASS 2 FELONY
2 AND THE PERSON CONVICTED SHALL BE SENTENCED PURSUANT TO THIS SECTION AS
3 FOLLOWS:

4 1. IF THE MINOR IS UNDER FIFTEEN YEARS OF AGE, THE VIOLATION IS
5 PUNISHABLE PURSUANT TO SECTION 13-705.

6 2. IF THE MINOR IS FIFTEEN, SIXTEEN OR SEVENTEEN YEARS OF AGE, THE
7 PERSON CONVICTED SHALL BE SENTENCED PURSUANT TO THIS SECTION AND THE PERSON
8 IS NOT ELIGIBLE FOR SUSPENSION OF SENTENCE, PROBATION, PARDON OR RELEASE FROM
9 CONFINEMENT ON ANY BASIS EXCEPT AS SPECIFICALLY AUTHORIZED BY SECTION 31-233,
10 SUBSECTION A OR B UNTIL THE SENTENCE IMPOSED BY THE COURT HAS BEEN SERVED OR
11 COMMUTED. THE PRESUMPTIVE TERM MAY BE AGGRAVATED OR MITIGATED WITHIN THE
12 RANGE UNDER THIS SECTION PURSUANT TO SECTION 13-701, SUBSECTIONS C, D AND E.
13 THE TERMS ARE AS FOLLOWS:

14 (a) THE TERM FOR A FIRST OFFENSE IS AS FOLLOWS:

| | | | |
|----|----------------|--------------------|----------------|
| 15 | <u>MINIMUM</u> | <u>PRESUMPTIVE</u> | <u>MAXIMUM</u> |
| 16 | 7 YEARS | 10.5 YEARS | 21 YEARS |

17 (b) THE TERM FOR A DEFENDANT WHO HAS ONE HISTORICAL PRIOR FELONY
18 CONVICTION IS AS FOLLOWS:

| | | | |
|----|----------------|--------------------|----------------|
| 19 | <u>MINIMUM</u> | <u>PRESUMPTIVE</u> | <u>MAXIMUM</u> |
| 20 | 14 YEARS | 15.75 YEARS | 28 YEARS |

21 (c) THE TERM FOR A DEFENDANT WHO HAS TWO OR MORE HISTORICAL PRIOR
22 FELONY CONVICTIONS IS AS FOLLOWS:

| | | | |
|----|----------------|--------------------|----------------|
| 23 | <u>MINIMUM</u> | <u>PRESUMPTIVE</u> | <u>MAXIMUM</u> |
| 24 | 21 YEARS | 28 YEARS | 35 YEARS |

25 E. FOR A SECOND OR SUBSEQUENT VIOLATION OF THIS SECTION WITHIN A
26 PERIOD OF EIGHTY-FOUR MONTHS, THE VIOLATION IS A CLASS 2 FELONY, THE PERSON
27 CONVICTED SHALL BE SENTENCED PURSUANT TO THIS SECTION AND THE PERSON IS NOT
28 ELIGIBLE FOR SUSPENSION OF SENTENCE, PROBATION, PARDON OR RELEASE FROM
29 CONFINEMENT ON ANY BASIS EXCEPT AS SPECIFICALLY AUTHORIZED BY SECTION 31-233,
30 SUBSECTION A OR B UNTIL THE SENTENCE IMPOSED BY THE COURT HAS BEEN SERVED OR
31 COMMUTED. THE PRESUMPTIVE TERM MAY BE AGGRAVATED OR MITIGATED WITHIN THE
32 RANGE UNDER THIS SECTION PURSUANT TO SECTION 13-701, SUBSECTIONS C, D AND E.
33 THE TERMS ARE AS FOLLOWS:

34 1. THE TERM FOR A DEFENDANT WHO HAS NO HISTORICAL PRIOR FELONY
35 CONVICTIONS OTHER THAN FOR A FIRST VIOLATION OF THIS SECTION IS AS FOLLOWS:

| | | | |
|----|----------------|--------------------|----------------|
| 36 | <u>MINIMUM</u> | <u>PRESUMPTIVE</u> | <u>MAXIMUM</u> |
| 37 | 13 YEARS | 20 YEARS | 27 YEARS |

38 2. THE TERM FOR A DEFENDANT WHO HAS TWO OR MORE HISTORICAL PRIOR
39 FELONY CONVICTIONS IS AS FOLLOWS:

| | | | |
|----|----------------|--------------------|----------------|
| 40 | <u>MINIMUM</u> | <u>PRESUMPTIVE</u> | <u>MAXIMUM</u> |
| 41 | 23 YEARS | 30 YEARS | 37 YEARS |

42 F. THIS SECTION DOES NOT PRECLUDE THE STATE FROM ALLEGING AND PROVING
43 ANY OTHER SENTENCING ENHANCEMENTS AS PROVIDED BY LAW.

1 Sec. 7. Section 13-3620, Arizona Revised Statutes, is amended to read:
2 13-3620. Duty to report abuse, physical injury, neglect and
3 denial or deprivation of medical or surgical care or
4 nourishment of minors; medical records; exception;
5 violation; classification; definitions

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

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

33 2. Any peace officer, child welfare investigator, child protective
34 services worker, member of the clergy, priest or christian science
35 practitioner.

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

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

39 5. Any other person who has responsibility for the care or treatment
40 of the minor.

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

42 1. For conduct prescribed by sections 13-1404 and 13-1405 if the
43 conduct involves only minors who are fourteen, fifteen, sixteen or seventeen
44 years of age and there is nothing to indicate that the conduct is other than
45 consensual.

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

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

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

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

19 2. The minor's age and the nature and extent of the minor's abuse,
20 child abuse, physical injury or neglect, including any evidence of previous
21 abuse, child abuse, physical injury or neglect.

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

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

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

40 G. A person who has custody or control of medical records of a minor
41 for whom a report is required or authorized under this section shall make the
42 records, or a copy of the records, available to a peace officer, child
43 welfare investigator or child protective services worker investigating the
44 minor's neglect, child abuse, physical injury or abuse on written request for
45 the records signed by the peace officer, child welfare investigator or child

1 protective services worker. Records disclosed pursuant to this subsection
2 are confidential and may be used only in a judicial or administrative
3 proceeding or investigation resulting from a report required or authorized
4 under this section.

5 H. When reports are received by a peace officer, the officer shall
6 immediately notify child protective services in the department of economic
7 security and make the information available to child protective services.
8 Notwithstanding any other statute, when child protective services receives
9 these reports, it shall immediately notify a peace officer in the appropriate
10 jurisdiction and the office of child welfare investigations in the department
11 of economic security.

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 the
14 minor and the vicinity involved. Medical examinations of the involved minor
15 may be performed.

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

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

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

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

30 3. Investigation of a minor's child abuse, physical injury, neglect or
31 abuse conducted by a peace officer or child protective services in the
32 department of economic security.

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 issue, a
35 member of the clergy, a christian science practitioner or a priest shall not,
36 without his consent, be examined as a witness concerning any confession made
37 to him in his role as a member of the clergy, a christian science
38 practitioner or a priest in the course of the discipline enjoined by the
39 church to which he belongs. This subsection does not discharge a member of
40 the clergy, a christian science practitioner or a priest from the duty to
41 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 health
- 5 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 protective services worker, may order

9 that the 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 protective services worker investigating the abuse, child abuse, physical

13 injury or 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 offense,

16 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 pursuant to section 13-3212.

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

28 (e) **CAUSING OR BENEFITTING FROM CHILD PROSTITUTION PURSUANT TO SECTION**

29 **13-3213.**

30 Sec. 8. Section 13-3821, Arizona Revised Statutes, is amended to 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 or

36 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 was

39 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 section

41 or who is required to register by the convicting or adjudicating

42 jurisdiction, within ten days after the conviction or adjudication or within

43 ten days after entering and remaining in any county of this state, shall

44 register with the sheriff of that county:

- 1 1. Unlawful imprisonment pursuant to section 13-1303 if the victim is
- 2 under eighteen years of age and the unlawful imprisonment was not committed
- 3 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 section
- 16 13-3206.
- 17 10. Child prostitution pursuant to section 13-3212, subsection A ~~or~~
- 18 ~~subsection B~~, paragraph 1 or 2.
- 19 11. CAUSING OR BENEFITTING FROM CHILD PROSTITUTION PURSUANT TO SECTION
- 20 13-3213.
- 21 ~~11.~~ 12. Commercial sexual exploitation of a minor pursuant to section
- 22 13-3552.
- 23 ~~12.~~ 13. Sexual exploitation of a minor pursuant to section 13-3553.
- 24 ~~13.~~ 14. Luring a minor for sexual exploitation pursuant to section
- 25 13-3554.
- 26 ~~14.~~ 15. Sex trafficking of a minor pursuant to section 13-1307.
- 27 ~~15.~~ 16. A second or subsequent violation of indecent exposure to a
- 28 person under fifteen years of age pursuant to section 13-1402.
- 29 ~~16.~~ 17. A second or subsequent violation of public sexual indecency to
- 30 a minor under the age of fifteen years pursuant to section 13-1403,
- 31 subsection B.
- 32 ~~17.~~ 18. A third or subsequent violation of indecent exposure pursuant
- 33 to section 13-1402.
- 34 ~~18.~~ 19. A third or subsequent violation of public sexual indecency
- 35 pursuant to section 13-1403.
- 36 ~~19.~~ 20. A violation of section 13-3822 or 13-3824.
- 37 ~~20.~~ 21. Unlawful age misrepresentation.
- 38 ~~21.~~ 22. Aggravated luring a minor for sexual exploitation pursuant to
- 39 section 13-3560.
- 40 B. Before the person is released from confinement the state department
- 41 of corrections in conjunction with the department of public safety and each
- 42 county sheriff shall complete the registration of any person who was
- 43 convicted of or adjudicated guilty except insane for a violation of any
- 44 offense listed under subsection A of this section. Within three days after
- 45 the person's release from confinement, the state department of corrections

1 shall forward the registered person's records to the department of public
2 safety and to the sheriff of the county in which the registered person
3 intends to reside. Registration pursuant to this subsection shall be
4 consistent with subsection E of this section.

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

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

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

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

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

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

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

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

38 I. At the time of registering, the person shall sign or affix an
39 electronic fingerprint to a statement giving such information as required by
40 the director of the department of public safety, including all names by which
41 the person is known, any required online identifier and the name of any
42 website or internet communication service where the identifier is being used.
43 The sheriff shall fingerprint and photograph the person and within three days
44 thereafter shall send copies of the statement, fingerprints and photographs
45 to the department of public safety and the chief of police, if any, of the

1 place where the person resides. The information that is required by this
2 subsection shall include the physical location of the person's residence and
3 the person's address. If the person has a place of residence that is
4 different from the person's address, the person shall provide the person's
5 address, the physical location of the person's residence and the name of the
6 owner of the residence if the residence is privately owned and not offered
7 for rent or lease. If the person receives mail at a post office box, the
8 person shall provide the location and number of the post office box. If the
9 person has more than one residence or does not have an address or a permanent
10 place of residence, the person shall provide a description and physical
11 location of any temporary residence and shall register as a transient not
12 less than every ninety days with the sheriff in whose jurisdiction the
13 transient is physically present.

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

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

36 L. Within ten days after entry of judgment, a court not of record
37 shall notify the arresting law enforcement agency of an offender's conviction
38 of or adjudication of guilty except insane for a violation of section
39 13-1402. Within ten days after receiving this information, the law
40 enforcement agency shall determine if the offender is required to register
41 pursuant to this section. If the law enforcement agency determines that the
42 offender is required to register, the law enforcement agency shall provide
43 the information required by section 13-3825 to the department of public
44 safety and shall make community notification as required by law.

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

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

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

31 P. Any person who is required to register under subsection A of this
32 section shall register the person's required online identifier and the name
33 of any website or internet communication service where the identifier is
34 being used or is intended to be used with the sheriff from and after December
35 31, 2007, regardless of whether the person was required to register an
36 identifier at the time of the person's initial registration under this
37 section.

38 Q. On conviction of or adjudication of guilty except insane for any
39 offense for which a person is required to register pursuant to this section,
40 in addition to any other penalty prescribed by law, the court shall order the
41 person to pay an additional assessment of two hundred fifty dollars. This
42 assessment is not subject to any surcharge. The court shall transmit the
43 monies received pursuant to this section to the county treasurer. The county
44 treasurer shall transmit the monies received to the state treasurer. The
45 state treasurer shall deposit the monies received in the state general fund.

1 Notwithstanding any other law, the court shall not waive the assessment
2 imposed pursuant to this section.

3 R. For the purposes of this section:

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

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

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

11 Sec. 9. Section 41-1758.03, Arizona Revised Statutes, is amended to
12 read:

13 41-1758.03. Fingerprint clearance cards; issuance; immunity

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

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

26 1. Sexual abuse of a vulnerable adult.

27 2. Incest.

28 3. First or second degree murder.

29 4. Sexual assault.

30 5. Sexual exploitation of a minor.

31 6. Sexual exploitation of a vulnerable adult.

32 7. Commercial sexual exploitation of a minor.

33 8. Commercial sexual exploitation of a vulnerable adult.

34 9. Child prostitution as prescribed in section 13-3212.

35 10. Child abuse.

36 11. Abuse of a vulnerable adult.

37 12. Sexual conduct with a minor.

38 13. Molestation of a child.

39 14. Molestation of a vulnerable adult.

40 15. A dangerous crime against children as defined in section 13-705.

41 16. Exploitation of minors involving drug offenses.

42 17. Taking a child for the purpose of prostitution as prescribed in
43 section 13-3206.

44 18. Neglect or abuse of a vulnerable adult.

45 19. Sex trafficking.

- 1 20. Sexual abuse.
- 2 21. Production, publication, sale, possession and presentation of
3 obscene items as prescribed in section 13-3502.
- 4 22. Furnishing harmful items to minors as prescribed in section
5 13-3506.
- 6 23. Furnishing harmful items to minors by internet activity as
7 prescribed in section 13-3506.01.
- 8 24. Obscene or indecent telephone communications to minors for
9 commercial purposes as prescribed in section 13-3512.
- 10 25. Luring a minor for sexual exploitation.
- 11 26. Enticement of persons for purposes of prostitution.
- 12 27. Procurement by false pretenses of person for purposes of
13 prostitution.
- 14 28. Procuring or placing persons in a house of prostitution.
- 15 29. Receiving earnings of a prostitute.
- 16 30. Causing one's spouse to become a prostitute.
- 17 31. Detention of persons in a house of prostitution for debt.
- 18 32. Keeping or residing in a house of prostitution or employment in
19 prostitution.
- 20 33. Pandering.
- 21 34. Transporting persons for the purpose of prostitution, polygamy and
22 concubinage.
- 23 35. Portraying adult as a minor as prescribed in section 13-3555.
- 24 36. Admitting minors to public displays of sexual conduct as prescribed
25 in section 13-3558.
- 26 37. Unlawful sale or purchase of children.
- 27 38. Child bigamy.
- 28 39. CAUSING OR BENEFITTING FROM CHILD PROSTITUTION PURSUANT TO SECTION
29 13-3213.
- 30 C. A person who is awaiting trial on or who has been convicted of
31 committing or attempting, soliciting, facilitating or conspiring to commit
32 one or more of the following offenses in this state or the same or similar
33 offenses in another state or jurisdiction is precluded from receiving a
34 fingerprint clearance card, except that the person may petition the board of
35 fingerprinting for a good cause exception pursuant to section 41-619.55:
 - 36 1. Manslaughter.
 - 37 2. Endangerment.
 - 38 3. Threatening or intimidating.
 - 39 4. Assault.
 - 40 5. Unlawfully administering intoxicating liquors, narcotic drugs or
41 dangerous drugs.
 - 42 6. Assault by vicious animals.
 - 43 7. Drive by shooting.
 - 44 8. Assaults on officers or fire fighters.
 - 45 9. Discharging a firearm at a structure.

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

- 1 45. A criminal offense involving criminal trespass and burglary under
- 2 title 13, chapter 15.
- 3 46. A criminal offense under title 13, chapter 23.
- 4 47. Child neglect.
- 5 48. Misdemeanor offenses involving contributing to the delinquency of a
- 6 minor.
- 7 49. Offenses involving domestic violence.
- 8 50. Arson.
- 9 51. Kidnapping.
- 10 52. Felony offenses involving sale, distribution or transportation of,
- 11 offer to sell, transport or distribute or conspiracy to sell, transport or
- 12 distribute marijuana, dangerous drugs or narcotic drugs.
- 13 53. Robbery.
- 14 54. Aggravated assault.
- 15 55. Felony offenses involving contributing to the delinquency of a
- 16 minor.
- 17 56. Negligent homicide.
- 18 57. Criminal damage.
- 19 58. Misappropriation of charter school monies as prescribed in section
- 20 13-1818.
- 21 59. Taking identity of another person or entity.
- 22 60. Aggravated taking identity of another person or entity.
- 23 61. Trafficking in the identity of another person or entity.
- 24 62. Cruelty to animals.
- 25 63. Prostitution.
- 26 64. Sale or distribution of material harmful to minors through vending
- 27 machines as prescribed in section 13-3513.
- 28 65. Welfare fraud.
- 29 D. A person who is awaiting trial on or who has been convicted of
- 30 committing or attempting to commit a violation of section 28-1381, 28-1382 or
- 31 28-1383 in this state or the same or similar offense in another state or
- 32 jurisdiction within five years from the date of applying for a fingerprint
- 33 clearance card is precluded from driving any vehicle to transport employees
- 34 or clients of the employing agency as part of the person's employment. The
- 35 division shall place a notation on the fingerprint clearance card that
- 36 indicates this driving restriction. This subsection does not preclude a
- 37 person from driving a vehicle alone as part of the person's employment.
- 38 E. Notwithstanding subsection C of this section, on receiving written
- 39 notice from the board of fingerprinting that a good cause exception was
- 40 granted pursuant to section 41-619.55, the division shall issue a fingerprint
- 41 clearance card to the person.
- 42 F. If the division denies a person's application for a fingerprint
- 43 clearance card pursuant to subsection C of this section and a good cause
- 44 exception is requested pursuant to section 41-619.55, the division shall

1 release, on request by the board of fingerprinting, the person's criminal
2 history record to the board of fingerprinting.

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

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

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

14 H. The licensee or contract provider shall assume the costs of
15 fingerprint checks and may charge these costs to persons WHO ARE required to
16 be fingerprinted.

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

22 J. The division may conduct periodic state criminal history records
23 checks for the purpose of updating the clearance status of current
24 fingerprint clearance card holders and may notify the board of fingerprinting
25 and the agency employing the person of the results of the records check.

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

29 L. The division shall not issue a fingerprint clearance card to a
30 person if the division cannot determine, within thirty business days after
31 receipt of the person's state and federal criminal history record
32 information, whether the person is awaiting trial on or has been convicted of
33 committing any of the offenses listed in subsection B or C of this section.
34 If the division is unable to make the determination required by this section
35 and does not issue a fingerprint clearance card to a person, the person may
36 request a good cause exception pursuant to section 41-619.55.

37 M. Except as provided in subsection N of this section, if after
38 conducting a state and federal criminal history records check the division
39 determines that it is not authorized to issue a fingerprint clearance card to
40 a person, the division shall notify the agency that licenses or employs the
41 person that the division is not authorized to issue a fingerprint clearance
42 card. This notice shall include the criminal history information on which
43 the denial was based. This criminal history information is subject to
44 dissemination restrictions pursuant to section 41-1750 and Public Law 92-544.

1 N. If, after conducting a state and federal criminal history records
2 check on a person who requests a fingerprint clearance card pursuant to
3 section 15-1881, the division determines that it is not authorized to issue a
4 fingerprint clearance card to the person, the division shall not notify the
5 agency. The division shall notify the person who requested the card that the
6 division is not authorized to issue a fingerprint clearance card.

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

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

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

14 P. The issuance of a fingerprint clearance card does not entitle a
15 person to employment.

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

20 Sec. 10. Section 41-1758.07, Arizona Revised Statutes, is amended to
21 read:

22 41-1758.07. Level I fingerprint clearance cards; definitions

23 A. On receiving the state and federal criminal history record of a
24 person who is required to be fingerprinted pursuant to this section, the
25 fingerprinting division in the department of public safety shall compare the
26 record with the list of criminal offenses that preclude the person from
27 receiving a level I fingerprint clearance card. If the person's criminal
28 history record does not contain any of the offenses listed in subsections B
29 and C of this section, the fingerprinting division shall issue the person a
30 level I fingerprint clearance card.

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

37 1. Sexual abuse of a vulnerable adult.

38 2. Incest.

39 3. Homicide, including first or second degree murder, manslaughter and
40 negligent homicide.

41 4. Sexual assault.

42 5. Sexual exploitation of a minor.

43 6. Sexual exploitation of a vulnerable adult.

44 7. Commercial sexual exploitation of a minor.

45 8. Commercial sexual exploitation of a vulnerable adult.

- 1 9. Child prostitution as prescribed in section 13-3212.
- 2 10. Child abuse.
- 3 11. Felony child neglect.
- 4 12. Abuse of a vulnerable adult.
- 5 13. Sexual conduct with a minor.
- 6 14. Molestation of a child.
- 7 15. Molestation of a vulnerable adult.
- 8 16. Dangerous crimes against children as defined in section 13-705.
- 9 17. Exploitation of minors involving drug offenses.
- 10 18. Taking a child for the purpose of prostitution as prescribed in
- 11 section 13-3206.
- 12 19. Neglect or abuse of a vulnerable adult.
- 13 20. Sex trafficking.
- 14 21. Sexual abuse.
- 15 22. Production, publication, sale, possession and presentation of
- 16 obscene items as prescribed in section 13-3502.
- 17 23. Furnishing harmful items to minors as prescribed in section
- 18 13-3506.
- 19 24. Furnishing harmful items to minors by internet activity as
- 20 prescribed in section 13-3506.01.
- 21 25. Obscene or indecent telephone communications to minors for
- 22 commercial purposes as prescribed in section 13-3512.
- 23 26. Luring a minor for sexual exploitation.
- 24 27. Enticement of persons for purposes of prostitution.
- 25 28. Procurement by false pretenses of person for purposes of
- 26 prostitution.
- 27 29. Procuring or placing persons in a house of prostitution.
- 28 30. Receiving earnings of a prostitute.
- 29 31. Causing one's spouse to become a prostitute.
- 30 32. Detention of persons in a house of prostitution for debt.
- 31 33. Keeping or residing in a house of prostitution or employment in
- 32 prostitution.
- 33 34. Pandering.
- 34 35. Transporting persons for the purpose of prostitution, polygamy and
- 35 concubinage.
- 36 36. Portraying adult as a minor as prescribed in section 13-3555.
- 37 37. Admitting minors to public displays of sexual conduct as prescribed
- 38 in section 13-3558.
- 39 38. Any felony offense involving contributing to the delinquency of a
- 40 minor.
- 41 39. Unlawful sale or purchase of children.
- 42 40. Child bigamy.
- 43 41. Any felony offense involving domestic violence as defined in
- 44 section 13-3601 except for a felony offense only involving criminal damage in

1 an amount of more than two hundred fifty dollars but less than one thousand
2 dollars if the offense was committed before June 29, 2009.

3 42. Any felony offense in violation of title 13, chapter 12 if
4 committed within five years before the date of applying for a level I
5 fingerprint clearance card.

6 43. Felony drug or alcohol related offenses if committed within five
7 years before the date of applying for a level I fingerprint clearance card.

8 44. Felony indecent exposure.

9 45. Felony public sexual indecency.

10 46. Terrorism.

11 47. Any offense involving a violent crime as defined in section
12 13-901.03.

13 48. CAUSING OR BENEFITTING FROM CHILD PROSTITUTION PURSUANT TO SECTION
14 13-3213.

15 C. A person who is awaiting trial on or who has been convicted of
16 committing or attempting, soliciting, facilitating or conspiring to commit
17 one or more of the following offenses in this state or the same or similar
18 offenses in another state or jurisdiction is precluded from receiving a level
19 I fingerprint clearance card, except that the person may petition the board
20 of fingerprinting for a good cause exception pursuant to section 41-619.55:

21 1. Any misdemeanor offense in violation of title 13, chapter 12.

22 2. Misdemeanor indecent exposure.

23 3. Misdemeanor public sexual indecency.

24 4. Aggravated criminal damage.

25 5. Theft.

26 6. Theft by extortion.

27 7. Shoplifting.

28 8. Forgery.

29 9. Criminal possession of a forgery device.

30 10. Obtaining a signature by deception.

31 11. Criminal impersonation.

32 12. Theft of a credit card or obtaining a credit card by fraudulent
33 means.

34 13. Receipt of anything of value obtained by fraudulent use of a credit
35 card.

36 14. Forgery of a credit card.

37 15. Fraudulent use of a credit card.

38 16. Possession of any machinery, plate or other contrivance or
39 incomplete credit card.

40 17. False statement as to financial condition or identity to obtain a
41 credit card.

42 18. Fraud by persons authorized to provide goods or services.

43 19. Credit card transaction record theft.

44 20. Misconduct involving weapons.

45 21. Misconduct involving explosives.

- 1 22. Depositing explosives.
- 2 23. Misconduct involving simulated explosive devices.
- 3 24. Concealed weapon violation.
- 4 25. Misdemeanor possession and misdemeanor sale of peyote.
- 5 26. Felony possession and felony sale of peyote if committed more than
6 five years before the date of applying for a level I fingerprint clearance
7 card.
- 8 27. Misdemeanor possession and misdemeanor sale of a vapor-releasing
9 substance containing a toxic substance.
- 10 28. Felony possession and felony sale of a vapor-releasing substance
11 containing a toxic substance if committed more than five years before the
12 date of applying for a level I fingerprint clearance card.
- 13 29. Misdemeanor sale of precursor chemicals.
- 14 30. Felony sale of precursor chemicals if committed more than five
15 years before the date of applying for a level I fingerprint clearance card.
- 16 31. Misdemeanor possession, misdemeanor use or misdemeanor sale of
17 marijuana, dangerous drugs or narcotic drugs.
- 18 32. Felony possession, felony use or felony sale of marijuana,
19 dangerous drugs or narcotic drugs if committed more than five years before
20 the date of applying for a level I fingerprint clearance card.
- 21 33. Misdemeanor manufacture or misdemeanor distribution of an imitation
22 controlled substance.
- 23 34. Felony manufacture or felony distribution of an imitation
24 controlled substance if committed more than five years before the date of
25 applying for a level I fingerprint clearance card.
- 26 35. Misdemeanor manufacture or misdemeanor distribution of an imitation
27 prescription-only drug.
- 28 36. Felony manufacture or felony distribution of an imitation
29 prescription-only drug if committed more than five years before the date of
30 applying for a level I fingerprint clearance card.
- 31 37. Misdemeanor manufacture or misdemeanor distribution of an imitation
32 over-the-counter drug.
- 33 38. Felony manufacture or felony distribution of an imitation
34 over-the-counter drug if committed more than five years before the date of
35 applying for a level I fingerprint clearance card.
- 36 39. Misdemeanor possession or misdemeanor possession with intent to use
37 an imitation controlled substance.
- 38 40. Felony possession or felony possession with intent to use an
39 imitation controlled substance if committed more than five years before the
40 date of applying for a level I fingerprint clearance card.
- 41 41. Misdemeanor possession or misdemeanor possession with intent to use
42 an imitation prescription-only drug.
- 43 42. Felony possession or felony possession with intent to use an
44 imitation prescription-only drug if committed more than five years before the
45 date of applying for a level I fingerprint clearance card.

- 1 43. Misdemeanor possession or misdemeanor possession with intent to use
2 an imitation over-the-counter drug.
- 3 44. Felony possession or felony possession with intent to use an
4 imitation over-the-counter drug if committed more than five years before the
5 date of applying for a level I fingerprint clearance card.
- 6 45. Misdemeanor manufacture of certain substances and drugs by certain
7 means.
- 8 46. Felony manufacture of certain substances and drugs by certain means
9 if committed more than five years before the date of applying for a level I
10 fingerprint clearance card.
- 11 47. Adding poison or other harmful substance to food, drink or
12 medicine.
- 13 48. A criminal offense involving criminal trespass and burglary under
14 title 13, chapter 15.
- 15 49. A criminal offense under title 13, chapter 23, except terrorism.
- 16 50. Misdemeanor offenses involving child neglect.
- 17 51. Misdemeanor offenses involving contributing to the delinquency of a
18 minor.
- 19 52. Misdemeanor offenses involving domestic violence as defined in
20 section 13-3601.
- 21 53. Felony offenses involving domestic violence if the offense only
22 involved criminal damage in an amount of more than two hundred fifty dollars
23 but less than one thousand dollars and the offense was committed before June
24 29, 2009.
- 25 54. Arson.
- 26 55. Felony offenses involving sale, distribution or transportation of,
27 offer to sell, transport or distribute or conspiracy to sell, transport or
28 distribute marijuana, dangerous drugs or narcotic drugs if committed more
29 than five years before the date of applying for a level I fingerprint
30 clearance card.
- 31 56. Criminal damage.
- 32 57. Misappropriation of charter school monies as prescribed in section
33 13-1818.
- 34 58. Taking identity of another person or entity.
- 35 59. Aggravated taking identity of another person or entity.
- 36 60. Trafficking in the identity of another person or entity.
- 37 61. Cruelty to animals.
- 38 62. Prostitution, as prescribed in section 13-3214.
- 39 63. Sale or distribution of material harmful to minors through vending
40 machines as prescribed in section 13-3513.
- 41 64. Welfare fraud.
- 42 65. Any felony offense in violation of title 13, chapter 12 if
43 committed more than five years before the date of applying for a level I
44 fingerprint clearance card.
- 45 66. Kidnapping.

1 67. Robbery, aggravated robbery or armed robbery.
2 D. A person who is awaiting trial on or who has been convicted of
3 committing or attempting to commit a misdemeanor violation of section
4 28-1381, 28-1382 or 28-1383 in this state or the same or a similar offense in
5 another state or jurisdiction within five years from the date of applying for
6 a level I fingerprint clearance card is precluded from driving any vehicle to
7 transport employees or clients of the employing agency as part of the
8 person's employment. The division shall place a notation on the level I
9 fingerprint clearance card that indicates this driving restriction. This
10 subsection does not preclude a person from driving a vehicle alone as part of
11 the person's employment.
12 E. Notwithstanding subsection C of this section, on receiving written
13 notice from the board of fingerprinting that a good cause exception was
14 granted pursuant to section 41-619.55, the fingerprinting division shall
15 issue a level I fingerprint clearance card to the applicant.
16 F. If the fingerprinting division denies a person's application for a
17 level I fingerprint clearance card pursuant to subsection C of this section
18 and a good cause exception is requested pursuant to section 41-619.55, the
19 fingerprinting division shall release, on request by the board of
20 fingerprinting, the person's criminal history record to the board of
21 fingerprinting.
22 G. A person shall be granted a level I fingerprint clearance card
23 pursuant to this section if either of the following applies:
24 1. An agency granted a good cause exception before August 16, 1999 and
25 no new precluding offense is identified. The fingerprint clearance card
26 shall specify only the program that granted the good cause exception. On the
27 request of the applicant, the agency that granted the prior good cause
28 exception shall notify the fingerprinting division in writing of the date on
29 which the prior good cause exception was granted, the date of the conviction
30 and the name of the offense for which the good cause exception was granted.
31 2. The board granted a good cause exception and no new precluding
32 offense is identified.
33 H. The licensee or contract provider shall assume the costs of
34 fingerprint checks conducted pursuant to this section and may charge these
35 costs to persons required to be fingerprinted.
36 I. A person who is under eighteen years of age or who is at least
37 ninety-nine years of age is exempt from the level I fingerprint clearance
38 card requirements of this section. At all times the person shall be under
39 the direct visual supervision of personnel who have valid level I fingerprint
40 clearance cards.
41 J. The fingerprinting division may conduct periodic state criminal
42 history records checks for the purpose of updating the clearance status of
43 current level I fingerprint clearance cardholders pursuant to this section
44 and may notify the board of fingerprinting and the agency of the results of
45 the records check.

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

4 L. The fingerprinting division shall not issue a level I fingerprint
5 clearance card to an applicant if the division cannot determine, within
6 thirty business days after receipt of the person's state and federal criminal
7 history record information, whether the person is awaiting trial on or has
8 been convicted of committing any of the offenses listed in subsection B or C
9 of this section. If the division is unable to make the determination
10 required by this section and does not issue a level I fingerprint clearance
11 card to a person, the person may request a good cause exception pursuant to
12 section 41-619.55.

13 M. If after conducting a state and federal criminal history records
14 check the fingerprinting division determines that it is not authorized to
15 issue a level I fingerprint clearance card to an applicant, the division
16 shall notify the agency that the fingerprinting division is not authorized to
17 issue a level I fingerprint clearance card. This notice shall include the
18 criminal history information on which the denial was based. This criminal
19 history information is subject to dissemination restrictions pursuant to
20 section 41-1750 and Public Law 92-544.

21 N. The fingerprinting division is not liable for damages resulting
22 from:

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

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

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

33 P. Notwithstanding any law to the contrary, except as prescribed
34 pursuant to subsection Q of this section, an individual who receives a
35 level I fingerprint clearance card pursuant to this section also satisfies a
36 requirement that the individual have a valid fingerprint clearance card
37 issued pursuant to section 41-1758.03.

38 Q. Unless a cardholder commits an offense listed in subsection B or C
39 of this section after June 29, 2009, a fingerprint clearance card issued
40 pursuant to section 41-1758.03 before June 29, 2009 and its renewals are
41 valid for all requirements for a level I fingerprint clearance card except
42 those relating to the requirements of section 8-105 or 8-509. A fingerprint
43 clearance card issued before June 29, 2009 to meet the requirements of
44 section 8-105 or 8-509 and its renewals are valid after June 29, 2009 to meet
45 all requirements for a level I fingerprint clearance card, including the

1 requirements of section 8-105 or 8-509 if the cardholder has been certified
2 by the court to adopt or has been issued a foster home license before June
3 29, 2009.

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

6 S. For the purposes of this section:

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

8 (a) Section 8-105, 8-509, 8-802, 36-207, 36-594.01, 36-594.02, 36-882,
9 36-883.02, 36-897.01, 36-897.03, 41-619.52, 41-619.53, 41-1964, 41-1967.01,
10 41-1968, 41-1969 or 46-141.

11 (b) Subsection 0 of this section.

12 2. "Renewal" means the issuance of a fingerprint clearance card to an
13 existing fingerprint clearance cardholder who applies before the person's
14 existing fingerprint clearance card expires.