

State of Arizona  
House of Representatives  
Fifty-third Legislature  
Second Regular Session  
2018

**CHAPTER 181**  
**HOUSE BILL 2244**

AN ACT

AMENDING SECTIONS 13-705, 31-412, 41-1604.11 AND 41-1604.13, ARIZONA REVISED STATUTES; RELATING TO DANGEROUS CRIMES AGAINST CHILDREN.

(TEXT OF BILL BEGINS ON NEXT PAGE)

1 Be it enacted by the Legislature of the State of Arizona:  
2 Section 1. Section 13-705, Arizona Revised Statutes, is amended to  
3 read:

4       13-705. Dangerous crimes against children; sentences;  
5       definitions

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

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

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

30       C. Except as otherwise provided in this section, a person who is at  
31 least eighteen years of age or who has been tried as an adult and who is  
32 convicted of a dangerous crime against children in the first degree  
33 involving attempted first degree murder of a minor who is twelve, thirteen  
34 or fourteen years of age, second degree murder of a minor who is twelve,  
35 thirteen or fourteen years of age, sexual assault of a minor who is  
36 twelve, thirteen or fourteen years of age, taking a child for the purpose  
37 of prostitution, child sex trafficking, sexual conduct with a minor who is  
38 twelve, thirteen or fourteen years of age, continuous sexual abuse of a  
39 child or manufacturing methamphetamine under circumstances that cause  
40 physical injury to a minor who is twelve, thirteen or fourteen years of  
41 age or involving or using minors in drug offenses shall be sentenced to a  
42 term of imprisonment as follows:

	<u>Minimum</u>	<u>Presumptive</u>	<u>Maximum</u>	
2	13 years	20 years	27 years	
3	A person who has been previously convicted of one predicate felony shall be sentenced to a term of imprisonment as follows:			
5	<u>Minimum</u>	<u>Presumptive</u>	<u>Maximum</u>	
6	23 years	30 years	37 years	
7	D. Except as otherwise provided in this section, a person who is at least eighteen years of age or who has been tried as an adult and who is convicted of a dangerous crime against children in the first degree involving aggravated assault, unlawful mutilation, molestation of a child, commercial sexual exploitation of a minor, sexual exploitation of a minor, aggravated luring a minor for sexual exploitation, child abuse or kidnapping shall be sentenced to a term of imprisonment as follows:			
14	<u>Minimum</u>	<u>Presumptive</u>	<u>Maximum</u>	
15	10 years	17 years	24 years	
16	A person who has been previously convicted of one predicate felony shall be sentenced to a term of imprisonment as follows:			
18	<u>Minimum</u>	<u>Presumptive</u>	<u>Maximum</u>	
19	21 years	28 years	35 years	
20	E. Except as otherwise provided in this section, if a person is at least eighteen years of age or has been tried as an adult and is convicted of a dangerous crime against children involving luring a minor for sexual exploitation or unlawful age misrepresentation and is sentenced to a term of imprisonment, the term of imprisonment is as follows and the person is not eligible for release from confinement on any basis except as specifically authorized by section 31-233, subsection A or B until the sentence imposed by the court has been served, the person is eligible for release pursuant to section 41-1604.07 or the sentence is commuted:			
29	<u>Minimum</u>	<u>Presumptive</u>	<u>Maximum</u>	
30	5 years	10 years	15 years	
31	A person who has been previously convicted of one predicate felony shall be sentenced to a term of imprisonment as follows and the person is not eligible for suspension of sentence, probation, pardon or release from confinement on any basis except as specifically authorized by section 31-233, subsection A or B until the sentence imposed by the court has been served, the person is eligible for release pursuant to section 41-1604.07 or the sentence is commuted:			
38	<u>Minimum</u>	<u>Presumptive</u>	<u>Maximum</u>	
39	8 years	15 years	22 years	
40	F. Except as otherwise provided in this section, if a person is at least eighteen years of age or has been tried as an adult and is convicted of a dangerous crime against children involving sexual abuse or bestiality under section 13-1411, subsection A, paragraph 2 and is sentenced to a term of imprisonment, the term of imprisonment is as follows and the person is not eligible for release from confinement on any basis except as			

1 specifically authorized by section 31-233, subsection A or B until the  
2 sentence imposed by the court has been served, the person is eligible for  
3 release pursuant to section 41-1604.07 or the sentence is commuted:

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

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

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

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

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

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

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

1

Minimum

2

5 years

Presumptive

10 years

Maximum

15 years

3

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

10

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

11

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

20

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

21

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

22

P. IT IS NOT A DEFENSE TO A DANGEROUS CRIME AGAINST CHILDREN THAT THE MINOR IS A PERSON POSING AS A MINOR OR IS OTHERWISE FICTITIOUS IF THE DEFENDANT KNEW OR HAD REASON TO KNOW THE PURPORTED MINOR WAS UNDER FIFTEEN YEARS OF AGE.

23

~~P.~~ Q. For the purposes of this section:

24

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

25

(a) Second degree murder.

26

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

27

(c) Sexual assault.

28

(d) Molestation of a child.

29

(e) Sexual conduct with a minor.

30

(f) Commercial sexual exploitation of a minor.

31

(g) Sexual exploitation of a minor.

32

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

33

(i) Kidnapping.

34

(j) Sexual abuse.

(k) Taking a child for the purpose of prostitution as prescribed in section 13-3206.

(1) Child sex trafficking as prescribed in section 13-3212.

(m) Involving or using minors in drug offenses.

(n) Continuous sexual abuse of a child.

(o) Attempted first degree murder.

(p) Sex trafficking.

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

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

(s) Luring a minor for sexual exploitation.

(t) Aggravated luring a minor for sexual exploitation.

(u) Unlawful age misrepresentation.

(v) Unlawful mutilation.

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

Sec. 2. Section 31-412, Arizona Revised Statutes, is amended to read:

31-412. Criteria for release on parole; release; custody of parolee; definition

A. If a prisoner is certified as eligible for parole pursuant to section 41-1604.09 the board of executive clemency shall authorize the release of the applicant on parole if the applicant has reached the applicant's earliest parole eligibility date pursuant to section 41-1604.09, subsection D and it appears to the board, in its sole discretion, that there is a substantial probability that the applicant will remain at liberty without violating the law and that the release is in the best interests of the state. The applicant shall thereupon be allowed to go on parole in the legal custody and under the control of the state department of corrections, until the board revokes the parole or grants an absolute discharge from parole or until the prisoner reaches the prisoner's individual earned release credit date pursuant to section 41-1604.10. When the prisoner reaches the prisoner's individual earned release credit date the prisoner's parole shall be terminated and the prisoner shall no longer be under the authority of the board but shall be subject to revocation under section 41-1604.10.

B. Notwithstanding subsection A of this section, the director of the state department of corrections may certify as eligible for parole any prisoner, regardless of the classification of the prisoner, who has reached the prisoner's parole eligibility date pursuant to section

1 41-1604.09, subsection D, unless an increased term has been imposed  
2 pursuant to section 41-1604.09, subsection F, for the sole purpose of  
3 parole to the custody of any other jurisdiction to serve a term of  
4 imprisonment imposed by the other jurisdiction or to stand trial on  
5 criminal charges in the other jurisdiction or for the sole purpose of  
6 parole to the custody of the state department of corrections to serve any  
7 consecutive term imposed on the prisoner. On review of an application for  
8 parole pursuant to this subsection the board may authorize parole if, in  
9 its discretion, parole appears to be in the best interests of the state.

10 C. A prisoner who is otherwise eligible for parole, who is not on  
11 home arrest or work furlough and who is currently serving a sentence for a  
12 conviction of a serious offense or conspiracy to commit or attempt to  
13 commit a serious offense shall not be granted parole or absolute discharge  
14 from imprisonment except by one of the following votes:

15 1. A majority affirmative vote if four or more members consider the  
16 action.

17 2. A unanimous affirmative vote if three members consider the  
18 action.

19 3. A unanimous affirmative vote if two members consider the action  
20 pursuant to section 31-401, subsection I and the chairman concurs after  
21 reviewing the information considered by the two members.

22 D. The board, as a condition of parole, shall order a prisoner to  
23 make any court-ordered restitution.

24 E. Payment of restitution by the prisoner in accordance with  
25 subsection D of this section shall be made through the clerk of the  
26 superior court in the county in which the prisoner was sentenced for the  
27 offense for which the prisoner has been imprisoned in the same manner as  
28 restitution is paid as a condition of probation. The clerk of the  
29 superior court, on request, shall make the prisoner's restitution payment  
30 history available to the board, victim, victim's attorney and department  
31 without cost.

32 F. The board shall not disclose the address of the victim or the  
33 victim's immediate family to any party without the written consent of the  
34 victim or the victim's family.

35 G. For the purposes of this section, "serious offense" includes any  
36 of the following:

37 1. A serious offense as defined in section 13-706, subsection F,  
38 paragraph 1, subdivision (a), (b), (c), (d), (e), (g), (h), (i), (j)  
39 or (k).

40 2. A dangerous crime against children as defined in section  
41 13-705. The citation of section 13-705 is not a necessary element for a  
42 serious offense designation.

43 3. A conviction under a prior criminal code for any offense that  
44 possesses reasonably equivalent offense elements as the offense elements

1 that are listed under section 13-705, subsection ~~P~~ Q, paragraph 1 or  
2 section 13-706, subsection F, paragraph 1.

3 Sec. 3. Section 41-1604.11, Arizona Revised Statutes, is amended to  
4 read:

5 41-1604.11. Order for removal; purposes; duration; work  
6 furlough; notice; failure to return;  
7 classification; applicability; definition

8 A. The director of the state department of corrections may  
9 authorize the temporary removal under custody from prison or any other  
10 institution for the detention of adults under the jurisdiction of the  
11 state department of corrections of any inmate for the purpose of employing  
12 that inmate in any work directly connected with the administration,  
13 management or maintenance of the prison or institution in which the inmate  
14 is confined, for purposes of cooperating voluntarily in medical research  
15 that cannot be performed at the prison or institution, or for  
16 participating in community action activities directed toward delinquency  
17 prevention and community betterment programs. The removal shall not be  
18 for a period longer than one day.

19 B. Under specific rules established by the director for the  
20 selection of inmates, the director may also authorize furlough, temporary  
21 removal or temporary release of any inmate for compassionate leave, for  
22 the purpose of furnishing to the inmate medical treatment not available at  
23 the prison or institution, for purposes preparatory to a return to the  
24 community within ninety days of the inmate's release date or for disaster  
25 aid, including local mutual aid and state emergencies. When an inmate is  
26 temporarily removed or temporarily released for a purpose preparatory to  
27 return to the community or for compassionate leave, the director may  
28 require the inmate to reimburse the state, in whole or part, for expenses  
29 incurred by the state in connection with the temporary removal or release.

30 C. The board of executive clemency, under specific rules  
31 established for the selection of inmates, if it appears to the board, in  
32 its sole discretion, that there is a substantial probability that the  
33 inmate will remain at liberty without violating the law and that the  
34 release is in the best interests of the state, may authorize the release  
35 of an inmate on work furlough if the inmate has served not less than six  
36 months of the sentence imposed by the court, is within twelve months of  
37 the inmate's parole eligibility date and has not been convicted of a  
38 sexual offense. The director shall provide information as the board  
39 requests concerning any inmate eligible for release on work furlough. The  
40 inmate shall not be released on work furlough unless the release is  
41 approved by the board.

42 D. An inmate who is otherwise eligible for work furlough pursuant  
43 to subsection C of this section, who is not on home arrest and who is  
44 currently serving a sentence for a conviction of a serious offense or

1 conspiracy to commit or attempt to commit a serious offense shall not be  
2 granted work furlough except by one of the following votes:

3       1. A majority affirmative vote if four or more members of the board  
4 of executive clemency consider the action.

5       2. A unanimous affirmative vote if three members of the board of  
6 executive clemency consider the action.

7       3. A unanimous affirmative vote if two members of the board of  
8 executive clemency consider the action pursuant to section 31-401,  
9 subsection I and the chairman of the board concurs after reviewing the  
10 information considered by the two members.

11     E. Before holding a hearing on the work furlough under  
12 consideration, the board, on request, shall notify and afford an  
13 opportunity to be heard to the presiding judge of the superior court in  
14 the county in which the inmate requesting a work furlough was sentenced,  
15 the prosecuting attorney, the director of the arresting law enforcement  
16 agency and the victim of the offense for which the inmate is incarcerated.  
17 The notice shall state the name of the inmate requesting the work  
18 furlough, the offense for which the inmate was sentenced, the length of  
19 the sentence and the date of admission to the custody of the state  
20 department of corrections. The notice to the victim shall also inform the  
21 victim of the victim's right to be present and submit a written report to  
22 the board expressing the victim's opinion concerning the inmate's release.  
23 No hearing concerning work furlough shall be held until fifteen days after  
24 the date of giving the notice. On mailing the notice, the board shall  
25 file a hard copy of the notice as evidence that notification was sent.

26     F. The board shall require that every inmate released on work  
27 furlough comply with the terms and conditions of release as the board may  
28 impose, including that the inmate be gainfully employed while on work  
29 furlough and that the inmate make restitution to the victim of the offense  
30 for which the inmate was incarcerated.

31     G. If the board finds that an inmate has failed to comply with the  
32 terms and conditions of release or that the best interests of this state  
33 would be served by revocation of an inmate's work furlough, the board may  
34 issue a warrant for retaking the inmate before the expiration of the  
35 inmate's maximum sentence. After return of the inmate, the board may  
36 revoke the inmate's work furlough after the inmate has been given an  
37 opportunity to be heard.

38     H. If the board denies the release of an inmate on work furlough or  
39 home arrest, it may prescribe that the inmate not be recommended again for  
40 release on work furlough or home arrest for a period of up to one year.

41     I. The director shall transmit a monthly report containing the  
42 name, date of birth, offense for which the inmate was sentenced, length of  
43 the sentence and date of admission to the state department of corrections  
44 of each inmate on work furlough or home arrest to the chairperson of the  
45 house of representatives judiciary committee or its successor committee

1 and the chairperson of the senate judiciary committee or its successor  
2 committee. The director shall also submit a report containing this  
3 information for any inmate released on work furlough or home arrest within  
4 a jurisdiction to the county attorney, sheriff and chief of police for the  
5 jurisdiction in which the inmate is released on work furlough or home  
6 arrest.

7 J. Any inmate who knowingly fails to return from furlough, home  
8 arrest, work furlough or temporary removal or temporary release granted  
9 under this section is guilty of a class 5 felony.

10 K. At any given time if the director declares there is a shortage  
11 of beds available for inmates within the state department of corrections,  
12 the parole eligibility as set forth in sections 31-411 and 41-1604.09 may  
13 be suspended for any inmate who has served not less than six months of the  
14 sentence imposed by the court, who has not been previously convicted of a  
15 felony and who has been sentenced for a class 4, 5 or 6 felony, not  
16 involving a sexual offense, the use or exhibition of a deadly weapon or  
17 dangerous instrument or the infliction of serious physical injury pursuant  
18 to section 13-704, and the inmate shall be continuously eligible for  
19 parole, home arrest or work furlough.

20 L. Prisoners who have served at least one calendar year and who are  
21 serving a sentence for conviction of a crime committed on or after October  
22 1, 1978, under section 13-604, 13-1406, 13-1410, 13-3406, 36-1002.01,  
23 36-1002.02 or 36-1002.03, and who are sentenced to the custody of the  
24 state department of corrections, may be temporarily released, according to  
25 the rules of the department, at the discretion of the director, one  
26 hundred eighty calendar days prior to expiration of the term imposed and  
27 shall remain under the control of the state department of corrections  
28 until expiration of the maximum sentence specified. If an offender  
29 released under this section or pursuant to section 31-411, subsection B  
30 violates the rules, the offender may be returned to custody and shall be  
31 classified to a parole class as provided by the rules of the department.

32 M. This section applies only to persons who commit felony offenses  
33 before January 1, 1994.

34 N. For the purposes of this section, "serious offense" means any of  
35 the following:

36 1. A serious offense as defined in section 13-706, subsection F,  
37 paragraph 1, subdivision (a), (b), (c), (d), (e), (g), (h), (i), (j) or  
38 (k).

39 2. A dangerous crime against children as defined in section 13-705.  
40 The citation of section 13-705 is not a necessary element for a serious  
41 offense designation.

42 3. A conviction under a prior criminal code for any offense that  
43 possesses reasonably equivalent offense elements as the offense elements  
44 that are listed under section 13-705, subsection ~~P~~ Q, paragraph 1 or  
45 section 13-706, subsection F, paragraph 1.

1        Sec. 4. Section 41-1604.13, Arizona Revised Statutes, is amended to  
2 read:

3        **41-1604.13. Home arrest: eligibility; victim notification;**  
4                    **conditions: applicability: definitions**

5        A. An inmate who has served not less than six months of the  
6 sentence imposed by the court is eligible for the home arrest program if  
7 the inmate:

8            1. Meets the following criteria:

9            (a) Was convicted of committing a class 4, 5 or 6 felony not  
10 involving a dangerous offense.

11           (b) Was not convicted of a sexual offense.

12           (c) Has not previously been convicted of any felony.

13           2. Violated parole by the commission of a technical violation that  
14 was not chargeable or indictable as a criminal offense.

15           3. Is eligible for work furlough.

16           4. Is eligible for parole pursuant to section 31-412, subsection A.

17        B. The board of executive clemency shall determine which inmates  
18 are released to the home arrest program based on the criteria in  
19 subsection A of this section and based on a determination that there is a  
20 substantial probability that the inmate will remain at liberty without  
21 violating the law and that the release is in the best interests of the  
22 state after considering the offense for which the inmate is presently  
23 incarcerated, the prior record of the inmate, the conduct of the inmate  
24 while incarcerated and any other information concerning the inmate that is  
25 in the possession of the state department of corrections, including any  
26 presentence report. The board maintains the responsibility of revocation  
27 as applicable to all parolees.

28        C. An inmate who is otherwise eligible for home arrest, who is not  
29 on work furlough and who is currently serving a sentence for a conviction  
30 of a serious offense or conspiracy to commit or attempt to commit a  
31 serious offense shall not be granted home arrest except by one of the  
32 following votes:

33           1. A majority affirmative vote if four or more members of the board  
34 of executive clemency consider the action.

35           2. A unanimous affirmative vote if three members of the board of  
36 executive clemency consider the action.

37           3. A unanimous affirmative vote if two members of the board of  
38 executive clemency consider the action pursuant to section 31-401,  
39 subsection I and the chairman of the board concurs after reviewing the  
40 information considered by the two members.

41        D. Home arrest is conditioned on the following:

42           1. Active electronic monitoring surveillance for a minimum term of  
43 one year or until eligible for general parole.

44           2. Participation in gainful employment or other beneficial  
45 activities.

1       3. Submission to alcohol and drug tests as mandated.

2       4. Payment of the electronic monitoring fee in an amount determined  
3 by the board of not less than one dollar per day and not more than the  
4 total cost of the electronic monitoring unless, after determining the  
5 inability of the inmate to pay the fee, the board requires payment of a  
6 lesser amount. The fees collected shall be returned to the department's  
7 home arrest program to offset operational costs of the program.

8       5. Remaining at the inmate's place of residence at all times except  
9 for movement out of the residence according to mandated conditions.

10      6. Adherence to any other conditions imposed by the court, board of  
11 executive clemency or supervising corrections officers.

12      7. Compliance with all other conditions of supervision.

13      8. Payment of a monthly home arrest supervision fee of at least  
14 sixty-five dollars unless, after determining the inability of the inmate  
15 to pay the fee, the department requires payment of a lesser amount. The  
16 supervising corrections officer shall monitor the collection of the fee.  
17 Monies collected shall be deposited, pursuant to sections 35-146 and  
18 35-147, in the community corrections enhancement fund established by  
19 section 31-418.

20      9. Payment of a drug testing fee in an amount to be determined by  
21 the board and not to exceed the costs of the drug testing program. The  
22 fees collected pursuant to this paragraph by the department may only be  
23 used to offset the costs of the drug testing program.

24      E. Before holding a hearing on home arrest, the board on request  
25 shall notify and afford an opportunity to be heard to the presiding judge  
26 of the superior court in the county in which the inmate requesting home  
27 arrest was sentenced, the prosecuting attorney and the director of the  
28 arresting law enforcement agency. The board shall notify the victim of  
29 the offense for which the inmate is incarcerated. The notice shall state  
30 the name of the inmate requesting home arrest, the offense for which the  
31 inmate was sentenced, the length of the sentence and the date of admission  
32 to the custody of the state department of corrections. The notice to the  
33 victim shall also inform the victim of the victim's right to be present  
34 and to submit a written report to the board expressing the victim's  
35 opinion concerning the inmate's release. No hearing concerning home  
36 arrest may be held until fifteen days after the date of giving the notice.  
37 On mailing the notice, the board shall file a hard copy of the notice as  
38 evidence that notification was sent.

39      F. An inmate who is placed on home arrest is on inmate status, is  
40 subject to all the limitations of rights and movement and is entitled only  
41 to due process rights of return.

42      G. If an inmate violates a condition of home arrest that poses any  
43 threat or danger to the community, or commits an additional felony  
44 offense, the board shall revoke the home arrest and return the inmate to

1 the custody of the state department of corrections to complete the term of  
2 imprisonment as authorized by law.

3 H. The ratio of supervising corrections officers to supervisees in  
4 the home arrest program shall be no greater than one officer for every  
5 twenty-five supervisees.

6 I. The board shall determine when the supervisee is eligible for  
7 transfer to the regular parole program pursuant to section 31-411.

8 J. This section applies only to persons who commit felony offenses  
9 before January 1, 1994.

10 K. For the purposes of this section:

11 1. "Dangerous offense" has the same meaning prescribed in section  
12 13-105.

13 2. "Serious offense" includes any of the following:

14 (a) A serious offense as defined in section 13-706, subsection F,  
15 paragraph 1, subdivision (a), (b), (c), (d), (e), (g), (h), (i), (j) or  
16 (k).

17 (b) A dangerous crime against children as defined in section  
18 13-705. The citation of section 13-705 is not a necessary element for a  
19 serious offense designation.

20 (c) A conviction under a prior criminal code for any offense that  
21 possesses reasonably equivalent offense elements as the offense elements  
22 that are listed under section 13-705, subsection ~~P~~ Q, paragraph 1 or  
23 section 13-706, subsection F, paragraph 1.

APPROVED BY THE GOVERNOR APRIL 11, 2018.

FILED IN THE OFFICE OF THE SECRETARY OF STATE APRIL 11, 2018.