

REFERENCE TITLE: **sex offender registration; early termination**

State of Arizona
House of Representatives
Fifty-fourth Legislature
First Regular Session
2019

HB 2300

Introduced by
Representatives Stringer: Campbell

AN ACT

AMENDING SECTION 13-3821, ARIZONA REVISED STATUTES; RELATING TO SEX OFFENDER REGISTRATION.

(TEXT OF BILL BEGINS ON NEXT PAGE)

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

2 Section 1. Section 13-3821, Arizona Revised Statutes, is amended to
3 read:

4 **13-3821. Persons required to register; procedure;**
5 **identification card; assessment; termination**
6 **hearing; definitions**

7 A person who has been convicted of or adjudicated guilty except
8 insane for a violation or attempted violation of any of the following
9 offenses or who has been convicted of or adjudicated guilty except insane
10 or not guilty by reason of insanity for an offense committed in another
11 jurisdiction that if committed in this state would be a violation or
12 attempted violation of any of the following offenses or an offense that
13 was in effect before September 1, 1978 and that, if committed on or after
14 September 1, 1978, has the same elements of an offense listed in this
15 section or who is required to register by the convicting or adjudicating
16 jurisdiction, within ten days after the conviction or adjudication or
17 within ten days after entering and remaining in any county of this state,
18 shall register with the sheriff of that county:

19 1. Unlawful imprisonment pursuant to section 13-1303 if the victim
20 is under eighteen years of age and the unlawful imprisonment was not
21 committed by the child's parent.

22 2. Kidnapping pursuant to section 13-1304 if the victim is under
23 eighteen years of age and the kidnapping was not committed by the child's
24 parent.

25 3. Sexual abuse pursuant to section 13-1404 if the victim is under
26 eighteen years of age.

27 4. Sexual conduct with a minor pursuant to section 13-1405.

28 5. Sexual assault pursuant to section 13-1406.

29 6. Sexual assault of a spouse if the offense was committed before
30 August 12, 2005.

31 7. Molestation of a child pursuant to section 13-1410.

32 8. Continuous sexual abuse of a child pursuant to section 13-1417.

33 9. Taking a child for the purpose of prostitution pursuant to
34 section 13-3206.

35 10. Child prostitution pursuant to section 13-3212, subsection A or
36 subsection B, paragraph 1 or 2 committed before August 9, 2017.

37 11. Child sex trafficking pursuant to section 13-3212, subsection A
38 or subsection B, paragraph 1 or 2 committed on or after August 9, 2017.

39 12. Commercial sexual exploitation of a minor pursuant to section
40 13-3552.

41 13. Sexual exploitation of a minor pursuant to section 13-3553.

42 14. Luring a minor for sexual exploitation pursuant to section
43 13-3554.

44 15. A second or subsequent violation of indecent exposure to a
45 person who is under fifteen years of age pursuant to section 13-1402.

1 16. A second or subsequent violation of public sexual indecency to
2 a minor who is under fifteen years of age pursuant to section 13-1403,
3 subsection B.

4 17. A third or subsequent violation of indecent exposure pursuant
5 to section 13-1402.

6 18. A third or subsequent violation of public sexual indecency
7 pursuant to section 13-1403.

8 19. A violation of section 13-3822 or 13-3824.

9 20. Unlawful age misrepresentation.

10 21. Aggravated luring a minor for sexual exploitation pursuant to
11 section 13-3560.

12 22. Sexual extortion pursuant to section 13-1428 if the victim is
13 under fifteen years of age.

14 B. Before the person is released from confinement the state
15 department of corrections in conjunction with the department of public
16 safety and each county sheriff shall complete the registration of any
17 person who was convicted of or adjudicated guilty except insane for a
18 violation of any offense listed under subsection A of this section.
19 Within three days after the person's release from confinement, the state
20 department of corrections shall forward the registered person's records to
21 the department of public safety and to the sheriff of the county in which
22 the registered person intends to reside. Registration pursuant to this
23 subsection shall be consistent with subsection E of this section.

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

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

34 E. A person who has been convicted, adjudicated guilty except
35 insane or adjudicated delinquent and who is required to register in the
36 convicting or adjudicating state for an act that would constitute an
37 offense specified in subsection A or C of this section and who is not a
38 resident of this state shall be required to register pursuant to this
39 section if the person is either:

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

43 2. Enrolled as a full-time or part-time student in any school in
44 this state for more than fourteen consecutive days or for an aggregate
45 period of more than thirty days in a calendar year. For the purposes of

1 this paragraph, "school" means an educational institution of any
2 description, public or private, wherever located in this state.

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

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

10 H. The court may order the suspension or termination of any duty to
11 register under this section after a hearing held pursuant to section
12 13-923.

13 I. At the time of registering, the person shall sign or affix an
14 electronic fingerprint to a statement giving such information as required
15 by the director of the department of public safety, including all names by
16 which the person is known, any required online identifier and the name of
17 any website or internet communication service where the identifier is
18 being used. The sheriff shall fingerprint and photograph the person and
19 within three days thereafter shall send copies of the statement,
20 fingerprints and photographs to the department of public safety and the
21 chief of police, if any, of the place where the person resides. The
22 information that is required by this subsection shall include the physical
23 location of the person's residence and the person's address. If the
24 person has a place of residence that is different from the person's
25 address, the person shall provide the person's address, the physical
26 location of the person's residence and the name of the owner of the
27 residence if the residence is privately owned and not offered for rent or
28 lease. If the person receives mail at a post office box, the person shall
29 provide the location and number of the post office box. If the person has
30 more than one residence or does not have an address or a permanent place
31 of residence, the person shall provide a description and physical location
32 of any temporary residence and shall register as a transient not less than
33 every ninety days with the sheriff in whose jurisdiction the transient is
34 physically present.

35 J. On the person's initial registration and every year after the
36 person's initial registration, the person shall confirm any required
37 online identifier and the name of any website or internet communication
38 service where the identifier is being used and the person shall obtain a
39 new nonoperating identification license or a driver license from the motor
40 vehicle division in the department of transportation and shall carry a
41 valid nonoperating identification license or a driver license.
42 Notwithstanding sections 28-3165 and 28-3171, the license is valid for one
43 year from the date of issuance, and the person shall submit to the
44 department of transportation proof of the person's address and place of
45 residence. The motor vehicle division shall annually update the person's

1 address and photograph and shall make a copy of the photograph available
2 to the department of public safety or to any law enforcement agency. The
3 motor vehicle division shall provide to the department of public safety
4 daily address updates for persons required to register pursuant to this
5 section.

6 K. Except as provided in subsection E or L of this section, the
7 clerk of the superior court in the county in which a person has been
8 convicted of or adjudicated guilty except insane for a violation of any
9 offense listed under subsection A of this section or has been ordered to
10 register pursuant to subsection C or D of this section shall notify the
11 sheriff in that county of the conviction or adjudication within ten days
12 after entry of the judgment.

13 L. Within ten days after entry of judgment, a court not of record
14 shall notify the arresting law enforcement agency of an offender's
15 conviction of or adjudication of guilty except insane for a violation of
16 section 13-1402. Within ten days after receiving this information, the
17 law enforcement agency shall determine if the offender is required to
18 register pursuant to this section. If the law enforcement agency
19 determines that the offender is required to register, the law enforcement
20 agency shall provide the information required by section 13-3825 to the
21 department of public safety and shall make community notification as
22 required by law.

23 M. A person who is required to register pursuant to this section
24 because of a conviction or adjudication of guilty except insane for the
25 unlawful imprisonment of a minor or the kidnapping of a minor is required
26 to register, absent additional or subsequent convictions or adjudications,
27 for a period of ten years from the date that the person is released from
28 prison, jail, probation, community supervision or parole and the person
29 has fulfilled all restitution obligations. Notwithstanding this
30 subsection, a person who has a prior conviction or adjudication of guilty
31 except insane for an offense for which registration is required pursuant
32 to this section is required to register for life.

33 N. A person who is required to register pursuant to this section
34 and who is a student at a public or private institution of postsecondary
35 education or who is employed, with or without compensation, at a public or
36 private institution of postsecondary education or who carries on a
37 vocation at a public or private institution of postsecondary education
38 shall notify the county sheriff having jurisdiction of the institution of
39 postsecondary education. The person who is required to register pursuant
40 to this section shall also notify the sheriff of each change in enrollment
41 or employment status at the institution.

42 O. At the time of registering, the sheriff shall secure a
43 sufficient sample of blood or other bodily substances for deoxyribonucleic
44 acid testing and extraction from a person who has been convicted of or
45 adjudicated guilty except insane for an offense committed in another

1 jurisdiction that if committed in this state would be a violation or
2 attempted violation of any of the offenses listed in subsection A of this
3 section or an offense that was in effect before September 1, 1978 and
4 that, if committed on or after September 1, 1978, has the same elements of
5 an offense listed in subsection A of this section or who is required to
6 register by the convicting or adjudicating jurisdiction. The sheriff
7 shall transmit the sample to the department of public safety.

8 P. Any person who is required to register under subsection A of
9 this section shall register the person's required online identifier and
10 the name of any website or internet communication service where the
11 identifier is being used or is intended to be used with the sheriff from
12 and after December 31, 2007, regardless of whether the person was required
13 to register an identifier at the time of the person's initial registration
14 under this section.

15 Q. On conviction of or adjudication of guilty except insane for any
16 offense for which a person is required to register pursuant to this
17 section, in addition to any other penalty prescribed by law, the court
18 shall order the person to pay an additional assessment of two hundred
19 fifty dollars. This assessment is not subject to any surcharge. The
20 court shall transmit the monies received pursuant to this section to the
21 county treasurer. The county treasurer shall transmit the monies received
22 to the state treasurer. The state treasurer shall deposit the monies
23 received in the state general fund. Notwithstanding any other law, the
24 court shall not waive the assessment imposed pursuant to this section.

25 R. A person who is required to register pursuant to this section
26 shall verify the person's address if requested by the department of public
27 safety pursuant to section 13-3827, subsection G.

28 S. A PERSON WHO IS REQUIRED TO REGISTER PURSUANT TO THIS SECTION
29 MAY PETITION THE COURT FOR AN ORDER TERMINATING ANY DUTY TO REGISTER IF
30 THE PERSON HAS BEEN REGISTERED FOR AT LEAST TEN YEARS FOR AN OFFENSE
31 COMMITTED AS AN ADULT OR FOR AT LEAST FIVE YEARS FOR AN OFFENSE COMMITTED
32 WHEN THE PERSON WAS UNDER EIGHTEEN YEARS OF AGE, UNLESS TERMINATED EARLIER
33 PURSUANT TO SECTION 13-3826 OR SUBSECTION G OR H OF THIS SECTION. ON
34 RECEIPT OF THE PETITION, THE COURT SHALL SET A HEARING AND PROVIDE
35 SUFFICIENT NOTICE TO THE STATE TO ALLOW VICTIM NOTIFICATION. THE
36 PETITIONER HAS THE BURDEN OF ESTABLISHING BY CLEAR AND CONVINCING EVIDENCE
37 THAT THE PETITIONER HAS NOT COMMITTED A SEX OFFENSE SINCE BEING REQUIRED
38 TO REGISTER, IS NOT LIKELY TO REOFFEND AND IS NOT A DANGER TO THE SAFETY
39 OF OTHERS. AT THE HEARING, THE PETITIONER MAY BE REPRESENTED BY AN
40 ATTORNEY, CALL WITNESSES AND INTRODUCE ANY RELIABLE AND RELEVANT EVIDENCE.
41 BEFORE RULING ON THE PETITION, THE COURT SHALL PROVIDE ALL PARTIES,
42 INCLUDING THE VICTIM, WITH THE OPPORTUNITY TO BE HEARD. THE COURT SHALL
43 STATE ON THE RECORD THE SPECIFIC REASONS FOR THE COURT'S DECISION. WITHIN
44 THIRTY CALENDAR DAYS AFTER THE COURT'S DECISION, THE PETITIONER MAY FILE A
45 PETITION FOR SPECIAL ACTION WITH THE ARIZONA COURT OF APPEALS PURSUANT TO

1 THE RULES OF PROCEDURE FOR SPECIAL ACTIONS. THE FILING OF THE PETITION
2 FOR SPECIAL ACTION IS GOVERNED BY THE RULES OF PROCEDURE FOR SPECIAL
3 ACTIONS, EXCEPT THAT THE COURT OF APPEALS SHALL EXERCISE JURISDICTION AND
4 DECIDE THE MERITS OF THE CLAIMS RAISED.

5 ~~S.~~ T. For the purposes of this section:

6 1. "Address" means the location at which the person receives mail.
7 2. "Required online identifier" means any electronic e-mail address
8 information or instant message, chat, social networking or other similar
9 internet communication name, but does not include a social security
10 number, date of birth or pin number.
11 3. "Residence" means the person's dwelling place, whether permanent
12 or temporary.