

PROPOSED

HOUSE OF REPRESENTATIVES AMENDMENTS TO S.B. 1414

(Reference to Senate engrossed bill)

1 Strike everything after the enacting clause and insert:

2 "Section 1. Section 13-703, Arizona Revised Statutes, is amended to  
3 read:

4 13-703. Repetitive offenders; sentencing

5 A. If a person is convicted of multiple felony offenses that were  
6 not committed on the same occasion but that either are consolidated for  
7 trial purposes or are not historical prior felony convictions, the person  
8 shall be sentenced as a first time felony offender pursuant to section  
9 13-702 for the first offense and as a category one repetitive offender for  
10 the second and subsequent offenses, EXCEPT THAT A PERSON WHO IS CONVICTED  
11 OF A THIRD OR SUBSEQUENT VIOLATION OF SECTION 13-1819, SUBSECTION A,  
12 PARAGRAPH 1 SHALL BE SENTENCED AS A CATEGORY TWO REPETITIVE OFFENDER.

13 B. Except as provided in section 13-704 or 13-705, a person shall be  
14 sentenced as a category two repetitive offender if the person is at least  
15 eighteen years of age or has been tried as an adult and stands convicted of  
16 a felony and has one historical prior felony conviction.

17 C. Except as provided in section 13-704 or 13-705, a person shall be  
18 sentenced as a category three repetitive offender if the person is at least  
19 eighteen years of age or has been tried as an adult and stands convicted of  
20 a felony and has two or more historical prior felony convictions.

21 D. The presumptive term set by this section may be aggravated or  
22 mitigated within the range under this section pursuant to section 13-701,  
23 subsections C, D and E.

1 E. If a person is sentenced as a category one repetitive offender  
 2 pursuant to subsection A of this section and if at least two aggravating  
 3 circumstances listed in section 13-701, subsection D apply or at least two  
 4 mitigating circumstances listed in section 13-701, subsection E apply, the  
 5 court may impose a mitigated or aggravated sentence pursuant to subsection  
 6 H of this section.

7 F. If a person is sentenced as a category two repetitive offender  
 8 pursuant to subsection B of this section and if at least two aggravating  
 9 circumstances listed in section 13-701, subsection D apply or at least two  
 10 mitigating circumstances listed in section 13-701, subsection E apply, the  
 11 court may impose a mitigated or aggravated sentence pursuant to subsection  
 12 I of this section.

13 G. If a person is sentenced as a category three repetitive offender  
 14 pursuant to subsection C of this section and at least two aggravating  
 15 circumstances listed in section 13-701, subsection D or at least two  
 16 mitigating circumstances listed in section 13-701, subsection E apply, the  
 17 court may impose a mitigated or aggravated sentence pursuant to subsection  
 18 J of this section.

19 H. A category one repetitive offender shall be sentenced within the  
 20 following ranges:

	<u>Felony</u>	<u>Mitigated</u>	<u>Minimum</u>	<u>Presumptive</u>	<u>Maximum</u>	
21						
22	<u>Aggravated</u>					
23	Class 2	3 years	4 years	5 years	10 years	12.5
24	years					
25	Class 3	2 years	2.5 years	3.5 years	7 years	8.75
26	years					
27	Class 4	1 year	1.5 years	2.5 years	3 years	3.75
28	years					
29	Class 5	.5 years	.75 years	1.5 years	2 years	2.5 years
30	Class 6	.25 years	.5 years	1 year	1.5 years	2 years

31 I. A category two repetitive offender shall be sentenced within the  
 32 following ranges:

1		<u>Felony</u>	<u>Mitigated</u>	<u>Minimum</u>	<u>Presumptive</u>	<u>Maximum</u>	
2		<u>Aggravated</u>					
3		Class 2	4.5 years	6 years	9.25 years	18.5 years	23 years
4		Class 3	3.25 years	4.5 years	6.5 years	13 years	16.25
5	years						
6		Class 4	2.25 years	3 years	4.5 years	6 years	7.5 years
7		Class 5	1 year	1.5 years	2.25 years	3 years	3.75
8	years						
9		Class 6	.75 years	1 year	1.75 years	2.25 years	2.75
10	years						

11 J. A category three repetitive offender shall be sentenced within  
 12 the following ranges:

13		Felony	Mitigated	Minimum	Presumptive	Maximum	
14		Aggravated					
15		Class 2	10.5 years	14 years	15.75 years	28 years	35 years
16		Class 3	7.5 years	10 years	11.25 years	20 years	25 years
17		Class 4	6 years	8 years	10 years	12 years	15 years
18		Class 5	3 years	4 years	5 years	6 years	7.5 years
19		Class 6	2.25 years	3 years	3.75 years	4.5 years	5.75
20	years						

21 K. The aggravated or mitigated term imposed pursuant to subsection  
 22 H, I or J of this section may be imposed only if at least two of the  
 23 aggravating circumstances are found beyond a reasonable doubt to be true by  
 24 the trier of fact or are admitted by the defendant, except that an  
 25 aggravating circumstance under section 13-701, subsection D, paragraph 11  
 26 shall be found to be true by the court, or in mitigation of the crime are  
 27 found to be true by the court, on any evidence or information introduced or  
 28 submitted to the court or the trier of fact before sentencing or any  
 29 evidence presented at trial, and factual findings and reasons in support of  
 30 these findings are set forth on the record at the time of sentencing.

1           L. Convictions for two or more offenses committed on the same  
2 occasion shall be counted as only one conviction for the purposes of  
3 subsections B and C of this section.

4           M. A person who has been convicted in any court outside the  
5 jurisdiction of this state of an offense that was punishable by that  
6 jurisdiction as a felony is subject to this section. A person who has been  
7 convicted as an adult of an offense punishable as a felony under the  
8 provisions of any prior code in this state or the jurisdiction in which the  
9 offense was committed is subject to this section. A person who has been  
10 convicted of a felony weapons possession violation in any court outside the  
11 jurisdiction of this state that would not be punishable as a felony under  
12 the laws of this state is not subject to this section.

13           N. The penalties prescribed by this section shall be substituted for  
14 the penalties otherwise authorized by law if an allegation of prior  
15 conviction is charged in the indictment or information and admitted or  
16 found by the court. The release provisions prescribed by this section  
17 shall not be substituted for any penalties required by the substantive  
18 offense or a provision of law that specifies a later release or completion  
19 of the sentence imposed before release. The court shall allow the  
20 allegation of a prior conviction at any time before the date the case is  
21 actually tried unless the allegation is filed fewer than twenty days before  
22 the case is actually tried and the court finds on the record that the  
23 person was in fact prejudiced by the untimely filing and states the reasons  
24 for these findings. If the allegation of a prior conviction is filed, the  
25 state must make available to the person a copy of any material or  
26 information obtained concerning the prior conviction. The charge of  
27 previous conviction shall not be read to the jury. For the purposes of  
28 this subsection, "substantive offense" means the felony offense that the  
29 trier of fact found beyond a reasonable doubt the person committed.  
30 Substantive offense does not include allegations that, if proven, would  
31 enhance the sentence of imprisonment or fine to which the person otherwise  
32 would be subject.

1           O. A person who is sentenced pursuant to this section is not  
2 eligible for suspension of sentence, probation, pardon or release from  
3 confinement on any basis, except as specifically authorized by section  
4 31-233, subsection A or B, until the sentence imposed by the court has been  
5 served, the person is eligible for release pursuant to section 41-1604.07  
6 or the sentence is commuted.

7           P. The court shall inform all of the parties before sentencing  
8 occurs of its intent to impose an aggravated or mitigated sentence pursuant  
9 to subsection H, I or J of this section. If the court fails to inform the  
10 parties, a party waives its right to be informed unless the party timely  
11 objects at the time of sentencing.

12           Q. The court in imposing a sentence shall consider the evidence and  
13 opinions presented by the victim or the victim's immediate family at any  
14 aggravation or mitigation proceeding or in the presentence report."

15 Amend title to conform

DAVID LIVINGSTON

1414LIVINGSTON SE.docx  
03/21/2024  
03:18 PM  
H: AF/lis