

REFERENCE TITLE: narcotic injection sites; zoning; prohibition

State of Arizona
House of Representatives
Fifty-seventh Legislature
First Regular Session
2025

HB 2798

Introduced by
Representative Gress

AN ACT

AMENDING SECTIONS 9-462.01, 11-811, 12-741 AND 13-1425, ARIZONA REVISED
STATUTES; RELATING TO MUNICIPAL AND COUNTY ZONING.

(TEXT OF BILL BEGINS ON NEXT PAGE)

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

2 Section 1. Section 9-462.01, Arizona Revised Statutes, is amended
3 to read:

4 9-462.01. Zoning regulations; public hearing; definitions

5 A. Pursuant to this article, the legislative body of any
6 municipality by ordinance, in order to conserve and promote the public
7 health, safety and general welfare, may:

8 1. Regulate the use of buildings, structures and land as between
9 agriculture, residence, industry, business and other purposes.

10 2. Regulate signs and billboards.

11 3. Regulate the location, height, bulk, number of stories and size
12 of buildings and structures, the size and use of lots, yards, courts and
13 other open spaces, the percentage of a lot that may be occupied by a
14 building or structure, access to incident solar energy and the intensity
15 of land use.

16 4. Establish requirements for off-street parking and loading.

17 5. Establish and maintain building setback lines.

18 6. Create civic districts around civic centers, public parks,
19 public buildings or public grounds and establish regulations for the civic
20 districts.

21 7. Require as a condition of rezoning public dedication of
22 rights-of-way as streets, alleys, public ways, drainage and public
23 utilities as are reasonably required by or related to the effect of the
24 rezoning.

25 8. Establish floodplain zoning districts and regulations to protect
26 life and property from the hazards of periodic inundation. Regulations
27 may include variable lot sizes, special grading or drainage requirements,
28 or other requirements deemed necessary for the public health, safety or
29 general welfare.

30 9. Establish special zoning districts or regulations for certain
31 lands characterized by adverse topography, adverse soils, subsidence of
32 the earth, high water table, lack of water or other natural or man-made
33 hazards to life or property. Regulations may include variable lot sizes,
34 special grading or drainage requirements, or other requirements deemed
35 necessary for the public health, safety or general welfare.

36 10. Establish districts of historical significance provided that:

37 (a) The ordinances may require that special permission be obtained
38 for any development within the district if the legislative body has
39 adopted a plan for the preservation of districts of historical
40 significance that meets the requirements of subdivision (b) of this
41 paragraph, and the criteria contained in the ordinance are consistent with
42 the objectives set forth in the plan.

(b) A plan for the preservation of districts of historical significance shall identify districts of special historical significance, state the objectives to be sought concerning the development or preservation of sites, area and structures within the district, and formulate a program for public action, including providing public facilities and regulating private development and demolition necessary to realize these objectives.

(c) The ordinance establishing districts of historical significance shall set forth standards necessary to preserve the historical character of the area so designated.

(d) The ordinances may designate or authorize any committee, commission, department or person to designate structures or sites of special historical significance in accordance with criteria contained in the ordinance, and no designation shall be made except after a public hearing on notice of the owners of record of the property designated of special historical significance. The ordinances may require that special permission be obtained for any development respecting the structures or sites.

11. Establish age-specific community zoning districts in which residency is restricted to a head of a household or spouse who must be of a specific age or older and in which minors are prohibited from living in the home. Age-specific community zoning districts shall not be overlaid over property without the permission of all owners of property included as part of the district unless all of the property in the district has been developed, advertised and sold or rented under specific age restrictions. The establishment of age-specific community zoning districts is subject to all of the public notice requirements and other procedures prescribed by this article.

12. Establish procedures, methods and standards for the transfer of development rights within its jurisdiction. Any proposed transfer of development rights from the sending property or to the receiving property shall be subject to the notice and hearing requirements of section 9-462.04 and shall be subject to the approval and consent of the property owners of both the sending and receiving property. Before any transfer of development rights, a municipality shall adopt an ordinance providing for:

(a) The issuance and recordation of the instruments necessary to sever development rights from the sending property and to affix development rights to the receiving property. These instruments shall be executed by the affected property owners and lienholders.

(b) The preservation of the character of the sending property and assurance that the prohibitions against the use and development of the sending property shall bind the landowner and every successor in interest to the landowner.

1 (c) The severance of transferable development rights from the
2 sending property and the delayed transfer of development rights to a
3 receiving property.

4 (d) The purchase, sale, exchange or other conveyance of
5 transferable development rights before the rights being affixed to a
6 receiving property.

7 (e) A system for monitoring the severance, ownership, assignment
8 and transfer of transferable development rights.

9 (f) The right of a municipality to purchase development rights and
10 to hold them for resale.

11 (g) The right of a municipality at its discretion to enter into an
12 intergovernmental agreement with another municipality or a county for the
13 transfer of development rights between jurisdictions. The transfer shall
14 comply with this paragraph, except that if the sending property is located
15 in an unincorporated area of a county, the approval of the development
16 rights to be sent to a municipality shall comply with section 11-817.

17 B. For the purposes of subsection A of this section, the
18 legislative body may divide a municipality, or portion of a municipality,
19 into zones of the number, shape and area it deems best suited to carry out
20 the purpose of this article and articles 6, 6.2 and 6.3 of this chapter.

21 C. All zoning regulations shall be uniform for each class or kind
22 of building or use of land throughout each zone, but the regulations in
23 one type of zone may differ from those in other types of zones as follows:

24 1. Within individual zones, there may be uses permitted on a
25 conditional basis under which additional requirements must be met,
26 including requiring site plan review and approval by the planning agency.
27 The conditional uses are generally characterized by any of the following:

28 (a) Infrequency of use.

29 (b) High degree of traffic generation.

30 (c) Requirement of large land area.

31 2. Within residential zones, the regulations may permit
32 modifications to minimum yard lot area and height requirements.

33 D. To carry out the purposes of this article and articles 6 and 6.2
34 of this chapter, the legislative body may adopt overlay zoning districts
35 and regulations applicable to particular buildings, structures and land
36 within individual zones. ~~For the purposes of this subsection, "overlay~~
37 ~~zoning district" means a special zoning district that includes regulations~~
38 ~~that modify regulations in another zoning district with which the overlay~~
39 ~~zoning district is combined.~~ Overlay zoning districts and regulations
40 shall be adopted pursuant to section 9-462.04.

41 E. The legislative body may approve a change of zone conditioned on
42 a schedule for development of the specific use or uses for which rezoning
43 is requested. If, at the expiration of this period, the property has not
44 been improved for the use for which it was conditionally approved, the
45 legislative body, after notification by certified mail to the owner and

1 applicant who requested the rezoning, shall schedule a public hearing to
2 take administrative action to extend, remove or determine compliance with
3 the schedule for development or take legislative action to cause the
4 property to revert to its former zoning classification.

5 F. All zoning and rezoning ordinances or regulations adopted under
6 this article shall be consistent with and conform to the adopted general
7 plan of the municipality, if any, as adopted under article 6 of this
8 chapter. In the case of uncertainty in construing or applying the
9 conformity of any part of a proposed rezoning ordinance to the adopted
10 general plan of the municipality, the ordinance shall be construed in a
11 manner that will further the implementation of, and not be contrary to,
12 the goals, policies and applicable elements of the general plan. A
13 rezoning ordinance conforms with the land use element of the general plan
14 if it proposes land uses, densities or intensities within the range of
15 identified uses, densities and intensities of the land use element of the
16 general plan.

17 G. A regulation or ordinance under this section may not prevent or
18 restrict agricultural composting on farmland that is five or more
19 contiguous acres and that meets the requirements of this subsection. An
20 agricultural composting operation shall notify in writing the legislative
21 body of the municipality and the nearest fire department of the location
22 of the composting operation. If the nearest fire department is located in
23 a different municipality from the agricultural composting operation, the
24 agricultural composting operation shall also notify in writing the fire
25 department of the municipality in which the operation is located.
26 Agricultural composting is subject to sections 3-112 and 49-141.
27 Agricultural composting may not be conducted within one thousand three
28 hundred twenty feet of an existing residential use, unless the operations
29 are conducted on farmland or land leased in association with farmland.
30 Any disposal of manure shall comply with section 49-247. For the purposes
31 of this subsection:

32 1. "Agricultural composting" means the controlled biological
33 decomposition of organic solid waste under in-vessel anaerobic or aerobic
34 conditions where all or part of the materials are generated on the
35 farmland or will be used on the farmland associated with the agricultural
36 composting operation.

37 2. "Farmland" has the same meaning prescribed in section 3-111 and
38 is subject to regulation under section 49-247.

39 H. A municipality may not adopt a land use regulation or impose any
40 condition for issuance of a building or use permit or other approval that
41 violates section 9-461.16.

42 I. In accordance with article II, sections 1 and 2, Constitution of
43 Arizona, the legislative body of a municipality shall consider the
44 individual property rights and personal liberties of the residents of the
45 municipality before adopting any zoning ordinance.

J. Before adopting any zoning ordinance or zoning ordinance text amendment of general applicability, the legislative body of a municipality shall consider a housing impact statement regarding the impact of the zoning ordinance or zoning ordinance text amendment that shall include:

1. A general estimate of the probable impact on the average cost to construct housing for sale or rent within the zoning districts to which the zoning ordinance or text amendment applies.

2. A description of any data or reference material on which the proposed zoning ordinance or text amendment is based.

3. A description of any less costly or less restrictive alternative methods of achieving the purpose of the proposed zoning ordinance or text amendment.

K. A municipality may not adopt or enforce a land use regulation that requires the property on which a nongovernmental primary or secondary school operates to be larger than one acre.

L. A MUNICIPALITY MAY NOT ADOPT AN ORDINANCE, REGULATION OR OVERLAY ZONING DISTRICT THAT WOULD ALLOW FOR THE DEVELOPMENT OF A NARCOTICS INJECTION SITE.

~~L.~~ M. For the purposes of this section:

1. "Development rights" means the maximum development that would be allowed on the sending property under any general or specific plan and local zoning ordinance of a municipality in effect on the date the municipality adopts an ordinance pursuant to subsection A, paragraph 12 of this section respecting the permissible use, area, bulk or height of improvements made to the lot or parcel. Development rights may be calculated and allocated in accordance with factors including dwelling units, area, floor area, floor area ratio, height limitations, traffic generation or any other criteria that will quantify a value for the development rights in a manner that will carry out the objectives of this section.

2. "CONTROLLED SUBSTANCE" HAS THE SAME MEANING PRESCRIBED IN SECTION 36-2501.

3. "HEALTH CARE INSTITUTION" HAS THE SAME MEANING PRESCRIBED IN SECTION 36-401.

4. "HEALTH CARE PROVIDER" HAS THE SAME MEANING PRESCRIBED IN SECTION 36-3201.

5. "NARCOTICS INJECTION SITE":

(a) MEANS A HEALTH CARE INSTITUTION OR ANY OTHER ESTABLISHMENT THAT HAS OVERSIGHT PROVIDED BY ONE OR MORE HEALTH CARE PROVIDERS AND THAT PROVIDES SPACE FOR ANY PERSON TO INJECT, INGEST, INHALE OR OTHERWISE INTRODUCE INTO THE PERSON'S BODY AN UNPRESCRIBED CONTROLLED SUBSTANCE.

(b) DOES NOT INCLUDE A SITE THAT IS ESTABLISHED SOLELY FOR THE PURPOSE OF DISPENSING MEDICATION THAT IS USED IN MEDICALLY ASSISTED DRUG THERAPY TREATMENT PROGRAMS.

6. "OVERLAY ZONING DISTRICT" MEANS A SPECIAL ZONING DISTRICT THAT INCLUDES REGULATIONS THAT MODIFY REGULATIONS IN ANOTHER ZONING DISTRICT WITH WHICH THE OVERLAY ZONING DISTRICT IS COMBINED.

~~2.~~ 7. "Receiving property" means a lot or parcel within which development rights are increased pursuant to a transfer of development rights. Receiving property shall be appropriate and suitable for development and shall be sufficient to accommodate the transferable development rights of the sending property without substantial adverse environmental, economic or social impact to the receiving property or to neighboring property.

~~3.~~ 8. "Sending property" means a lot or parcel with special characteristics, including farmland, woodland, desert land, mountain land, floodplain, natural habitats, recreation or parkland, including golf course area, or land that has unique aesthetic, architectural or historic value that a municipality desires to protect from future development.

~~4.~~ 9. "Transfer of development rights" means the process by which development rights from a sending property are affixed to one or more receiving properties.

Sec. 2. Section 11-811, Arizona Revised Statutes, is amended to read:

11-811. Zoning ordinance; zoning districts; definitions

A. Pursuant to this article, the board of supervisors may adopt a zoning ordinance in order to conserve and promote the public health, safety, convenience and general welfare. The zoning ordinance and all rezonings and zoning regulations amendments adopted under this article shall be consistent with and conform to the adopted comprehensive plan. In addition to the other matters that are required or authorized under this section and article 1 of this chapter, the zoning ordinance:

1. Shall show the zoning districts designated as appropriate for various classes of residential, business and industrial uses and shall provide for the establishment of setback lines and other plans providing for adequate light, air and parking facilities and for expediting traffic within the districts.

2. May establish the percentage of a lot or parcel that may be covered by buildings and the size of yards, courts and other open spaces.

3. Shall consider access to incident solar energy.

4. May provide for retirement community zoning districts.

5. May provide for the regulation and use of business licenses, adult oriented business manager permits and adult service provider permits in conjunction with the establishment or operation of adult oriented businesses and facilities, including adult arcades, adult bookstores or video stores, cabarets, adult live entertainment establishments, adult motion picture theaters, adult theaters, massage establishments and nude model studios. With respect to cabarets, the ordinance shall not conflict with specific statutory or valid regulatory requirements applicable to

persons licensed to dispense alcoholic beverages, but the ordinance may include regulation of the age and conduct of erotic entertainers in a manner at least as restrictive as rules adopted under title 4. Notwithstanding section 11-812, a county in regulating or licensing businesses and facilities pursuant to this paragraph may impose reasonable operating requirements that affect the existing uses of businesses and facilities.

6. Shall designate and zone appropriate areas of reasonable size in which there may be established with reasonable permanency canneries, fertilizer plants, refineries, commercial feedlots, meat packing plants, tallow works and other like businesses. A dairy operation, including areas designated for the raising of replacement heifers or bulls owned by the same dairy operation, is not subject to this paragraph, and is a general agricultural purpose under subsection ~~D~~ E, paragraph 2 of this section and section 11-812, subsection A, paragraph 2. A replacement heifer or bull raising operation of a dairy that is not on contiguous property of the dairy is subject to this paragraph unless the operation begins within one-quarter mile of the dairy.

B. To carry out the purposes of this article, the board may adopt overlay zoning districts and regulations applicable to particular buildings, structures and land within individual zones. ~~For the purposes of this subsection, "overlay zoning district" means a special zoning district that includes regulations that modify regulations in another zoning district with which the overlay zoning district is combined.~~ Overlay zoning districts and regulations shall be adopted pursuant to section 11-813. The provisions of overlay zoning shall apply retroactively to authorize overlay zoning districts and regulations adopted before April 20, 1993.

C. A COUNTY MAY NOT ADOPT AN ORDINANCE, REGULATION OR OVERLAY ZONING DISTRICT THAT WOULD ALLOW FOR THE DEVELOPMENT OF A NARCOTICS INJECTION SITE.

~~C~~ D. In accordance with article II, sections 1 and 2, Constitution of Arizona, the board shall consider the individual property rights and personal liberties of the residents of the county before adopting any zoning ordinance.

~~D~~ E. This section does not authorize:

1. The imposition of dedications, exactions, fees or other requirements that are not otherwise authorized by law.

2. The regulation or restriction of the use or occupation of land or improvements for railroad, mining, metallurgical, grazing or general agricultural purposes, if the tract concerned is five or more contiguous commercial acres. For the purposes of this paragraph, general agricultural purposes do not include the cultivation of cannabis as defined in section 13-3401 or marijuana as defined in section 13-3401 or 36-2801.

1 ~~E.~~ F. For the purposes of this section:

2 1. "Adult arcade" means any place to which the public is allowed or
3 invited and in which coin-operated or slug-operated or electronically,
4 electrically or mechanically controlled still or motion picture machines,
5 projectors or other image-producing devices are maintained to show images
6 involving specific sexual activities or specific anatomical areas to
7 persons in booths or viewing rooms.

8 2. "Adult bookstore or video store" means a commercial
9 establishment that offers for sale or rent any of the following as one of
10 its principal business purposes:

11 (a) Books, magazines, periodicals or other printed matter,
12 photographs, films, motion pictures, videocassettes or reproductions or
13 slides or other visual representations that depict or describe specific
14 sexual activities or specific anatomical areas.

15 (b) Instruments, devices or paraphernalia that are designed for use
16 in connection with specific sexual activities.

17 3. "Adult live entertainment establishment" means an establishment
18 that features either:

19 (a) Persons who appear in a state of nudity.

20 (b) Live performances that are characterized by the exposure of
21 specific anatomical areas or specific sexual activities.

22 4. "Adult motion picture theater" means a commercial establishment
23 in which for any form of consideration films, motion pictures,
24 videocassettes, slides or other similar photographic reproductions that
25 are characterized by the depiction or description of specific sexual
26 activities or specific anatomical areas are predominantly shown.

27 5. "Adult oriented business" means adult arcades, adult bookstores
28 or video stores, cabarets, adult live entertainment establishments, adult
29 motion picture theaters, adult theaters, massage establishments that offer
30 adult service or nude model studios.

31 6. "Adult oriented business manager" means a person on the premises
32 of an adult oriented business who is authorized to exercise overall
33 operational control of the business.

34 7. "Adult service" means dancing, serving food or beverages,
35 modeling, posing, wrestling, singing, reading, talking, listening or other
36 performances or activities conducted for any consideration in an adult
37 oriented business by a person who is nude or seminude during all or part
38 of the time that the person is providing the service.

39 8. "Adult service provider" or "erotic entertainer" means any
40 natural person who provides an adult service.

41 9. "Adult theater" means a theater, concert hall, auditorium or
42 similar commercial establishment that predominantly features persons who
43 appear in a state of nudity or who engage in live performances that are
44 characterized by the exposure of specific anatomical areas or specific
45 sexual activities.

10. "Cabaret" means an adult oriented business licensed to provide alcoholic beverages pursuant to title 4, chapter 2, article 1.

11. "CONTROLLED SUBSTANCE" HAS THE SAME MEANING PRESCRIBED IN SECTION 36-2501.

~~11.~~ 12. "Discernibly turgid state" means the state of being visibly swollen, bloated, inflated or distended.

13. "HEALTH CARE INSTITUTION" HAS THE SAME MEANING PRESCRIBED IN SECTION 36-401.

14. "HEALTH CARE PROVIDER" HAS THE SAME MEANING PRESCRIBED IN SECTION 36-3201.

~~12.~~ 15. "Massage establishment" means an establishment in which a person, firm, association or corporation engages in or permits massage activities, including any method of pressure on, friction against, stroking, kneading, rubbing, tapping, pounding, vibrating or stimulating of external soft parts of the body with the hands or with the aid of any mechanical apparatus or electrical apparatus or appliance. This paragraph does not apply to:

(a) Persons who are licensed pursuant to title 32, chapter 7, 8, 13, 14 or 17.

(b) Registered nurses, licensed practical nurses or technicians who are acting under the supervision of a physician who is licensed pursuant to title 32, chapter 13 or 17.

(c) Registered nurse practitioners who are licensed pursuant to title 32, chapter 15.

(d) Persons who are employed or acting as trainers for a bona fide amateur, semiprofessional or professional athlete or athletic team.

(e) Persons who are licensed pursuant to title 32, chapter 5 if the activity is limited to the head, face or neck.

16. "NARCOTICS INJECTION SITE":

(a) MEANS A HEALTH CARE INSTITUTION OR ANY OTHER ESTABLISHMENT THAT HAS OVERSIGHT PROVIDED BY ONE OR MORE HEALTH CARE PROVIDERS AND THAT PROVIDES SPACE FOR ANY PERSON TO INJECT, INGEST, INHALE OR OTHERWISE INTRODUCE INTO THE PERSON'S BODY AN UNPRESCRIBED CONTROLLED SUBSTANCE.

(b) DOES NOT INCLUDE A SITE THAT IS ESTABLISHED SOLELY FOR THE PURPOSE OF DISPENSING MEDICATION THAT IS USED IN MEDICALLY ASSISTED DRUG THERAPY TREATMENT PROGRAMS.

~~13.~~ 17. "Nude model studio":

(a) Means a place in which a person who appears in a state of nudity or who displays specific anatomical areas is observed, sketched, drawn, painted, sculptured, photographed or otherwise depicted by other persons who pay money or other consideration. ~~Nude model studio~~

(b) Does not include a proprietary school that is licensed by this state, a college, community college or university that is supported entirely or in part by taxation, a private college or university that maintains and operates educational programs in which credits are transferable to a college, community college or university that is supported entirely or in part by taxation or a structure to which the following apply:

~~(a)~~ (i) A sign is not visible from the exterior of the structure and no other advertising appears indicating that a nude person is available for viewing.

~~(b)~~ (ii) A student must enroll at least three days in advance of a class in order to participate.

~~(c)~~ (iii) No more than one nude or seminude model is on the premises at any time.

~~14.~~ 18. "Nude", "nudity" or "state of nudity" means any of the following:

(a) The appearance of a human anus, genitals or a female breast below a point immediately above the top of the areola.

(b) A state of dress that fails to opaquely cover a human anus, genitals or a female breast below a point immediately above the top of the areola.

19. "OVERLAY ZONING DISTRICT" MEANS A SPECIAL ZONING DISTRICT THAT INCLUDES REGULATIONS THAT MODIFY REGULATIONS IN ANOTHER ZONING DISTRICT WITH WHICH THE OVERLAY ZONING DISTRICT IS COMBINED.

~~15.~~ 20. "Principal business purposes" means that a commercial establishment derives fifty percent or more of its gross income from the sale or rental of items listed in paragraph 2 of this subsection.

~~16.~~ 21. "Seminude" means a state of dress in which clothing covers no more than the genitals, pubic region and female breast below a point immediately above the top of the areola, as well as portions of the body that are covered by supporting straps or devices.

~~17.~~ 22. "Specific anatomical areas" means any of the following:

(a) A human anus, genitals, the pubic region or a female breast below a point immediately above the top of the areola that is less than

(b) Male genitals in a discernibly turgid state even if completely and opaquely covered.

~~18.~~ 23. "Specific sexual activities" means any of the following:

(a) Human genitals in a state of sexual stimulation or arousal.

(b) Sex acts, normal or perverted, actual or simulated, including acts of human masturbation, sexual intercourse, oral copulation or sodomy.

(c) Fondling or other erotic touching of the human genitals, pubic region, buttocks, anus or female breast.

(d) Excretory functions as part of or in connection with any of the activities under subdivision (a), (b) or (c) of this paragraph.

1 Sec. 3. Section 12-741, Arizona Revised Statutes, is amended to
2 read:

3 12-741. Unauthorized disclosure of intimate images; civil
4 action; exceptions; confidential information form;
5 remedies; statute of limitations; definitions

6 A. A person is liable in a civil action for intentionally
7 disclosing or threatening to disclose an intimate image of another
8 individual if the depicted individual suffers harm from the disclosure or
9 threatened disclosure and the person knew or should have known all of the
10 following:

11 1. The depicted individual did not consent to the disclosure.

12 2. The intimate image was private.

13 3. The depicted individual was identifiable from the image itself
14 or from information that is displayed in connection with the image.

15 B. Evidence that the depicted individual consented to the creation
16 of the image or that the depicted individual previously consented to the
17 disclosure of the image does not by itself establish that the depicted
18 individual consented to the disclosure of the intimate image or that the
19 depicted individual lacked a reasonable expectation of privacy.

20 C. A depicted individual who does not consent to the specific
21 sexual activities or state of nudity depicted in an intimate image of the
22 individual retains a reasonable expectation of privacy even if the image
23 was created when the depicted individual was in a public place.

24 D. Notwithstanding subsection A of this section, a person is not
25 liable under this section if the person proves that disclosing or
26 threatening to disclose the intimate image was any of the following:

27 1. Made in good faith in any of the following:

28 (a) Law enforcement.

29 (b) A legal proceeding.

30 (c) Medical education or treatment.

31 2. Made in good faith in reporting or investigating any of the
32 following:

33 (a) Unlawful conduct.

34 (b) Unsolicited and unwelcome conduct.

35 3. Related to a matter of public concern or public interest.

36 4. Reasonably intended to assist the depicted individual.

37 5. Made by a parent, legal guardian or individual with legal
38 custody of a child and the depicted individual is the child unless the
39 image is disclosed with the intent to harm the depicted individual.

40 E. Subsection D of this section does not apply if the plaintiff
41 proves the disclosure was prohibited by law or made for the purpose of
42 sexual arousal, sexual gratification, humiliation, degradation or monetary
43 or commercial gain.

1 F. Disclosing or threatening to disclose an intimate image is not a
2 matter of public concern or public interest solely because the depicted
3 individual is a public figure.

4 G. If the plaintiff files with the court and serves on the
5 defendant a confidential information form that includes the excluded or
6 redacted plaintiff's name and other identifying characteristics, the court
7 may exclude or redact from all pleadings and documents filed in the action
8 other identifying characteristics of the plaintiff. The court may make
9 further orders as necessary to protect the identity and privacy of a
10 plaintiff.

11 H. The prevailing plaintiff may recover:

12 1. The greater of:

13 (a) Economic and noneconomic damages that are proximately caused by
14 the defendant's disclosure or threatened disclosure, including damages for
15 emotional distress whether or not accompanied by other damages.

16 (b) Statutory damages of not more than \$10,000 against each
17 defendant found liable under this section for all of the defendant's
18 disclosures and threatened disclosures that the plaintiff knew or
19 reasonably should have known when filing the action or that became known
20 during the pendency of the action. In determining the amount of statutory
21 damages under this subdivision, consideration must be given to the age of
22 the parties at the time of the disclosure or threatened disclosure, the
23 number of disclosures or threatened disclosures made by the defendant, the
24 breadth of distribution of the image by the defendant and other
25 exacerbating or mitigating factors.

26 2. An amount equal to any monetary gain made by the defendant from
27 disclosing or threatening to disclose the intimate image.

28 3. Punitive damages.

29 4. Reasonable attorney fees and costs.

30 5. Additional relief, including injunctive relief.

31 I. A civil action for an unauthorized disclosure may not be brought
32 later than four years after the date that the disclosure was discovered or
33 should have been discovered with the exercise of reasonable diligence
34 except that a threat to disclose may not be brought later than four years
35 after the date of the threat to disclose.

36 J. In a civil action brought by a depicted individual who was a
37 minor on the date of the disclosure or threat to disclose, the time
38 specified in subsection I of this section does not begin to run until the
39 depicted individual attains the age of majority.

40 K. For the purposes of this section:

41 1. "Consent" means affirmative, conscious and voluntary
42 authorization by an individual with legal capacity to give authorization.

43 2. "Depicted individual" means an individual whose body is shown in
44 whole or in part in an intimate image.

1 3. "Disclose" or "disclosure" means to display, distribute,
2 publish, advertise or offer.

3 4. "Harm" includes physical harm, economic harm and emotional
4 distress whether or not accompanied by physical or economic harm.

5 5. "Intimate image" means a photograph, film, videotape, digital
6 recording or other similar medium that shows a state of nudity or specific
7 sexual activities.

8 6. "Private" means either of the following:

9 (a) Created or obtained under circumstances in which a depicted
10 individual had a reasonable expectation of privacy.

11 (b) Made accessible through theft, bribery, extortion, fraud, false
12 pretenses, voyeurism or exceeding authorized access to an account,
13 message, file, device, resource or property.

14 7. "Specific sexual activities" has the same meaning prescribed in
15 section 11-811.

16 8. "State of nudity" has the same meaning prescribed in section
17 11-811, subsection ~~F~~ F, paragraph ~~14~~ 18, subdivision (a).

18 Sec. 4. Section 13-1425, Arizona Revised Statutes, is amended to
19 read:

20 13-1425. Unlawful disclosure of images depicting states of
21 nudity or specific sexual activities;
22 classification; definitions

23 A. It is unlawful for a person to intentionally disclose an image
24 of another person who is identifiable from the image itself or from
25 information displayed in connection with the image if all of the following
26 apply:

27 1. The person in the image is depicted in a state of nudity or is
28 engaged in specific sexual activities.

29 2. The depicted person has a reasonable expectation of privacy.
30 Evidence that a person has sent an image to another person using an
31 electronic device does not, on its own, remove the person's reasonable
32 expectation of privacy for that image.

33 3. The image is disclosed with the intent to harm, harass,
34 intimidate, threaten or coerce the depicted person.

35 B. This section does not apply to any of the following:

36 1. The reporting of unlawful conduct.

37 2. Lawful and common practices of law enforcement, criminal
38 reporting, legal proceedings or medical treatment.

39 3. Images involving voluntary exposure in a public or commercial
40 setting.

41 4. An interactive computer service, as defined in 47 United States
42 Code section 230(f)(2), or an information service, as defined in 47 United
43 States Code section 153, with regard to content wholly provided by another
44 party.

1 5. Any disclosure that is made with the consent of the person who
2 is depicted in the image.

3 C. A violation of this section is a class 5 felony, except that a
4 violation of this section is a:

5 1. Class 4 felony if the image is disclosed by electronic means.

6 2. Class 1 misdemeanor if a person threatens to disclose but does
7 not disclose an image that if disclosed would be a violation of this
8 section.

9 D. For the purposes of this section:

10 1. "Disclose" means display, distribute, publish, advertise or
11 offer.

12 2. "Disclosed by electronic means" means delivery to an email
13 address, mobile device, tablet or other electronic device and includes
14 disclosure on a website.

15 3. "Harm" means physical injury, financial injury or serious
16 emotional distress.

17 4. "Image" means a photograph, videotape, film or digital
18 recording.

19 5. "Reasonable expectation of privacy" means the person exhibits an
20 actual expectation of privacy and the expectation is reasonable.

21 6. "Specific sexual activities" has the same meaning prescribed in
22 section 11-811, subsection ~~F~~ F, paragraph ~~18~~ 23, subdivisions (a) and
23 (b).

24 7. "State of nudity" has the same meaning prescribed in section
25 11-811, subsection ~~F~~ F, paragraph ~~14~~ 18, subdivision (a).