

REFERENCE TITLE: juvenile graffiti; monetary assessment

State of Arizona  
House of Representatives  
Forty-eighth Legislature  
First Regular Session  
2007

## **HB 2344**

Introduced by  
Representatives Driggs, Campbell CH, Gallardo: Adams, Campbell CL, Clark,  
Crandall, DeSimone, Kavanagh, Konopnicki, McLain, Meza, Reagan, Thrasher

AN ACT

AMENDING SECTIONS 8-323, 8-341, 13-1602, 13-4903 AND 13-4904, ARIZONA REVISED  
STATUTES; RELATING TO JUVENILES.

(TEXT OF BILL BEGINS ON NEXT PAGE)

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

2 Section 1. Section 8-323, Arizona Revised Statutes, is amended to  
3 read:

4 8-323. Juvenile hearing officer; appointment; term;  
5 compensation; hearings; required attendance; contempt

6 A. The judge of the juvenile court, or in counties having more than  
7 one judge of the juvenile court, the presiding judge of the juvenile court,  
8 may appoint one or more persons of suitable experience who may be magistrates  
9 or justices of the peace to serve as juvenile hearing officers on a full-time  
10 or part-time basis. The county board of supervisors shall approve the  
11 appointment of justices of the peace as juvenile hearing officers. The local  
12 governing body shall approve the appointment of municipal judges as juvenile  
13 hearing officers. The juvenile hearing officer serves at the pleasure of the  
14 appointing judge. The appointing judge, with the approval of the board of  
15 supervisors, shall determine whether any compensation shall be paid to a  
16 juvenile hearing officer who is not otherwise employed by a public agency or  
17 holding another public office and shall establish the amounts and rates of  
18 the compensation.

19 B. Subject to the orders of the juvenile court a juvenile hearing  
20 officer may hear and determine juvenile pretrial detention hearings and may  
21 process, adjudicate and dispose of all cases that are not classified as  
22 felonies and in which a juvenile who is under eighteen years of age on the  
23 date of the alleged offense is charged with violating any law relating to the  
24 following:

- 25 1. Any provision of title 28 not declared to be a felony.
- 26 2. The purchase, possession or consumption of spirituous liquor by a  
27 juvenile.
- 28 3. Boating or game and fish.
- 29 4. Curfew.
- 30 5. Truancy.
- 31 6. The damage or disfigurement of property by graffiti or the purchase  
32 or possession of materials with the intent to use the materials for graffiti.
- 33 7. The purchase or possession of tobacco.
- 34 8. Any city, town or political subdivision ordinance.
- 35 9. Interference with judicial proceedings involving disobeying or  
36 resisting the lawful order, process or other mandate of a juvenile hearing  
37 officer or failure to appear related to any offense in this section.

38 C. A hearing before the juvenile hearing officer or a hearing before a  
39 commissioner or a judge of the juvenile court in which the juvenile is  
40 charged with any offense set forth in this section may be conducted on an  
41 exact legible copy of a written notice to appear, including a uniform Arizona  
42 traffic ticket and complaint form, that states, at a minimum, the name and  
43 address of the juvenile, the offense charged and the time and place the  
44 juvenile shall appear in court.

1 D. The juvenile hearing officer, commissioner or judge of the superior  
2 court shall not dispose of a petition or citation for any offense under this  
3 section unless the parent, guardian or custodian of the juvenile appears in  
4 court with the juvenile at the time of disposition of the charge. On a  
5 showing of good cause that the parent, guardian or custodian cannot appear on  
6 the date and time set by the court, the court may waive the requirement that  
7 the parent, guardian or custodian appear. The court shall state on the record  
8 the reasons for waiving the requirement that the parent, guardian or  
9 custodian appear. At the time the court issues an order to appear or other  
10 order pursuant to this section, the court shall inform the juvenile that  
11 failure to appear or failure to comply with an order will result in  
12 suspension of the juvenile's driver license or privilege to drive. If the  
13 juvenile fails to appear pursuant to a citation or an order to appear  
14 properly issued under this section or if on disposition fails to comply with  
15 any court order, the juvenile hearing officer shall order the department of  
16 transportation to suspend the juvenile's driver license or privilege to drive  
17 or shall direct the department of transportation to refuse to issue, renew or  
18 restore the juvenile's driver license or privilege to drive until the  
19 juvenile reaches eighteen years of age or appears in court as directed or  
20 complies with the court's order.

21 E. If a parent, guardian or custodian fails to appear with the  
22 juvenile, and good cause for the failure to appear is not found as provided  
23 in subsection D of this section, the court shall issue an order to show cause  
24 to the parent, guardian or custodian as to why that person shall not be held  
25 in contempt.

26 F. Except as otherwise provided by law, on an admission by the  
27 juvenile of a violation charged pursuant to this section, or after a hearing,  
28 on the finding that the juvenile committed the violation, the juvenile  
29 hearing officer, commissioner or judge of the superior court may do one or  
30 more of the following:

31 1. Place the juvenile on probation, except that a city magistrate or  
32 justice of the peace may only place the juvenile on unsupervised probation.

33 2. Transfer the citation to the juvenile court for all further  
34 proceedings.

35 3. Suspend the driving privileges of the juvenile, or restrict the  
36 juvenile's driving privileges for a period of not to exceed one hundred  
37 eighty days.

38 4. Order the juvenile to attend a traffic school or a counseling or  
39 education program approved by the presiding judge of the juvenile court or  
40 the supreme court.

41 5. Order the juvenile to pay the monetary assessment or penalty that  
42 is applicable to the offense. EXCEPT AS PROVIDED IN SECTION 13-1602, the  
43 monetary assessment or penalty shall not exceed five hundred dollars plus  
44 lawful surcharges and assessments payable to the public agency processing the  
45 violation. If no monetary assessment or penalty is specified for the

1 offense, the juvenile hearing officer, commissioner or judge of the superior  
2 court may order the juvenile to pay not more than one hundred fifty dollars  
3 plus lawful surcharges and assessments payable to the public agency  
4 processing the violation.

5 6. In lieu of or in addition to a monetary assessment or penalty,  
6 order the juvenile to perform a program of work that does not conflict with  
7 the juvenile's regular schooling and employment, to repair the victim's  
8 property or to provide community restitution.

9 7. If the juvenile hearing officer, commissioner or judge of the  
10 superior court determines that the person charged is eighteen or more years  
11 of age, transfer the matter to the appropriate criminal court having  
12 jurisdiction.

13 8. If the juvenile violated any truancy laws, require the juvenile and  
14 the juvenile's parents or guardians to participate in a specialized program  
15 consisting of counseling, supervision and education under the terms and  
16 conditions the juvenile hearing officer, commissioner or judge of the  
17 superior court orders.

18 9. Order the juvenile and one or both of the juvenile's custodial  
19 parents to pay restitution to any person who suffered an economic loss as the  
20 result of the juvenile's conduct. The juvenile hearing officer, commissioner  
21 or judge of the superior court shall not consider the ability of the  
22 juvenile's parents to pay restitution before making a restitution order. If  
23 the juvenile hearing officer, commissioner or judge of the superior court  
24 orders one or both of the juvenile's custodial parents to pay restitution,  
25 the amount of the order shall not exceed the liability limit established  
26 pursuant to section 12-661.

27 10. Impose sanctions authorized by section 8-343.

28 11. Reprimand the juvenile and take no further action.

29 G. A record of the proceedings before a juvenile hearing officer may  
30 be made by a court reporter, videotape or audiotape or any other method  
31 approved by the supreme court that accurately reproduces what occurred at the  
32 proceeding.

33 H. Within five days after receiving the citation, the juvenile hearing  
34 officer shall notify the juvenile court that the juvenile has been charged  
35 with an offense by citation and shall indicate the listed charges. The  
36 juvenile hearing officer shall retain jurisdiction of the case until all  
37 orders made under this section have been fully complied with. Within five  
38 days after disposition, the juvenile hearing officer shall transmit a copy of  
39 the citation with the findings and disposition of the court noted on the copy  
40 to the juvenile court for record keeping purposes. If appropriate, the  
41 juvenile hearing officer shall transmit a copy of the citation to the  
42 department of transportation. If on disposition the juvenile fails to comply  
43 with any court order, the juvenile hearing officer, in the manner provided by  
44 subsection D of this section, may impose any of the sanctions prescribed in  
45 subsection F of this section.

1 I. Subject to an appeal pursuant to section 8-325 all orders of the  
2 juvenile hearing officer shall be effective immediately.

3 J. A city or town attorney or prosecutor shall act on behalf of the  
4 state in matters that are heard in a municipal court by a juvenile hearing  
5 officer pursuant to this section. In these matters and on approval of the  
6 presiding judge of the juvenile court and the county attorney, the city or  
7 town attorney or the prosecutor may establish diversion programs for offenses  
8 other than offenses involving a violation of section 28-1381, 28-1382 or  
9 28-1383.

10 Sec. 2. Section 8-341, Arizona Revised Statutes, is amended to read:

11 8-341. Disposition and commitment; definitions

12 A. After receiving and considering the evidence on the proper  
13 disposition of the case, the court may enter judgment as follows:

14 1. It may award a delinquent juvenile:

15 (a) To the care of the juvenile's parents, subject to supervision of a  
16 probation department.

17 (b) To a probation department, subject to any conditions the court may  
18 impose, including a period of incarceration in a juvenile detention center of  
19 not more than one year.

20 (c) To a reputable citizen of good moral character, subject to the  
21 supervision of a probation department.

22 (d) To a private agency or institution, subject to the supervision of  
23 a probation officer.

24 (e) To the department of juvenile corrections.

25 (f) To maternal or paternal relatives, subject to the supervision of a  
26 probation department.

27 (g) To an appropriate official of a foreign country of which the  
28 juvenile is a foreign national who is unaccompanied by a parent or guardian  
29 in this state to remain on unsupervised probation for at least one year on  
30 the condition that the juvenile cooperate with that official.

31 2. It may award an incorrigible child:

32 (a) To the care of the child's parents, subject to the supervision of  
33 a probation department.

34 (b) To the protective supervision of a probation department, subject  
35 to any conditions the court may impose.

36 (c) To a reputable citizen of good moral character, subject to the  
37 supervision of a probation department.

38 (d) To a public or private agency, subject to the supervision of a  
39 probation department.

40 (e) To maternal or paternal relatives, subject to the supervision of a  
41 probation department.

42 B. If a juvenile is placed on probation pursuant to this section, the  
43 period of probation may continue until the juvenile's eighteenth birthday,  
44 except that the term of probation shall not exceed one year if all of the  
45 following apply:

- 1           1. The juvenile is not charged with a subsequent offense.
- 2           2. The juvenile has not been found in violation of a condition of
- 3 probation.
- 4           3. The court has not made a determination that it is in the best
- 5 interests of the juvenile or the public to require continued
- 6 supervision. The court shall state by minute entry or written order its
- 7 reasons for finding that continued supervision is required.
- 8           4. The offense for which the juvenile is placed on probation does not
- 9 involve the discharge, use or threatening exhibition of a deadly weapon or
- 10 dangerous instrument or the intentional or knowing infliction of serious
- 11 physical injury on another.
- 12           5. The offense for which the juvenile is placed on probation does not
- 13 involve a violation of title 13, chapter 14 or 35.1.
- 14           6. Restitution ordered pursuant to section 8-344 has been made.
- 15           7. A MONETARY ASSESSMENT ORDERED PURSUANT TO SECTION 13-1602 HAS BEEN
- 16 PAID.

17           C. If a juvenile is adjudicated as a first time felony juvenile  
18 offender, the court shall provide the following written notice to the  
19 juvenile:

20                   You have been adjudicated a first time felony juvenile  
21 offender. You are now on notice that if you are adjudicated of  
22 another offense that would be a felony offense if committed by  
23 an adult and if you commit the other offense when you are  
24 fourteen years of age or older, you will be placed on juvenile  
25 intensive probation, which may include home arrest and  
26 electronic monitoring, or you may be placed on juvenile  
27 intensive probation and may be incarcerated for a period of time  
28 in a juvenile detention center, or you may be committed to the  
29 department of juvenile corrections or you may be prosecuted as  
30 an adult. If you are convicted as an adult of a felony offense  
31 and you commit any other offense, you will be prosecuted as an  
32 adult.

33           D. If a juvenile is fourteen years of age or older and is adjudicated  
34 as a repeat felony juvenile offender, the juvenile court shall place the  
35 juvenile on juvenile intensive probation, which may include home arrest and  
36 electronic monitoring, may place the juvenile on juvenile intensive  
37 probation, which may include incarceration for a period of time in a juvenile  
38 detention center, or may commit the juvenile to the department of juvenile  
39 corrections pursuant to subsection A, paragraph 1, subdivision (e) of this  
40 section for a significant period of time.

41           E. If the juvenile is adjudicated as a repeat felony juvenile  
42 offender, the court shall provide the following written notice to the  
43 juvenile:

44                   You have been adjudicated a repeat felony juvenile  
45 offender. You are now on notice that if you are arrested for

1 another offense that would be a felony offense if committed by  
2 an adult and if you commit the other offense when you are  
3 fifteen years of age or older, you will be tried as an adult in  
4 the criminal division of the superior court. If you commit the  
5 other offense when you are fourteen years of age or older, you  
6 may be tried as an adult in the criminal division of the  
7 superior court. If you are convicted as an adult, you will be  
8 sentenced to a term of incarceration. If you are convicted as  
9 an adult of a felony offense and you commit any other offense,  
10 you will be prosecuted as an adult.

11 F. The failure or inability of the court to provide the notices  
12 required under subsections C and E of this section does not preclude the use  
13 of the prior adjudications for any purpose otherwise permitted.

14 G. After considering the nature of the offense and the age, physical  
15 and mental condition and earning capacity of the juvenile, the court shall  
16 order the juvenile to pay a reasonable monetary assessment if the court  
17 determines that an assessment is in aid of rehabilitation. If the director  
18 of the department of juvenile corrections determines that enforcement of an  
19 order for monetary assessment as a term and condition of conditional liberty  
20 is not cost-effective, the director may require the youth to perform an  
21 equivalent amount of community restitution in lieu of the payment ordered as  
22 a condition of conditional liberty.

23 H. If a child is adjudicated incorrigible, the court may impose a  
24 monetary assessment on the child of not more than one hundred fifty dollars.

25 I. A juvenile who is charged with unlawful purchase, possession or  
26 consumption of spirituous liquor is subject to section 8-323. The monetary  
27 assessment for a conviction of unlawful purchase, possession or consumption  
28 of spirituous liquor by a juvenile shall not exceed five hundred  
29 dollars. The court of competent jurisdiction may order a monetary assessment  
30 or equivalent community restitution.

31 J. The court shall require the monetary assessment imposed under  
32 subsection G or H of this section on a juvenile who is not committed to the  
33 department of juvenile corrections to be satisfied in one or both of the  
34 following forms:

35 1. Monetary reimbursement by the juvenile in a lump sum or installment  
36 payments through the clerk of the superior court for appropriate  
37 distribution.

38 2. A program of work, not in conflict with regular schooling, to  
39 repair damage to the victim's property, to provide community restitution or  
40 to provide the juvenile with a job for wages. The court order for  
41 restitution or monetary assessment shall specify, according to the  
42 dispositional program, the amount of reimbursement and the portion of wages  
43 of either existing or provided work that is to be credited toward  
44 satisfaction of the restitution or assessment, or the nature of the work to  
45 be performed and the number of hours to be spent working. The number of

1 hours to be spent working shall be set by the court based on the severity of  
2 the offense but shall not be less than sixteen hours.

3 K. If a juvenile is committed to the department of juvenile  
4 corrections the court shall specify the amount of the MONETARY assessment  
5 imposed pursuant to subsection G or H of this section.

6 L. After considering the length of stay guidelines developed pursuant  
7 to section 41-2816, subsection C, the court may set forth in the order of  
8 commitment the minimum period during which the juvenile shall remain in  
9 secure care while in the custody of the department of juvenile  
10 corrections. When the court awards a juvenile to the department of juvenile  
11 corrections or an institution or agency, it shall transmit with the order of  
12 commitment copies of a diagnostic psychological evaluation and educational  
13 assessment if one has been administered, copies of the case report, all other  
14 psychological and medical reports, restitution orders, any request for  
15 postadjudication notice that has been submitted by a victim and any other  
16 documents or records pertaining to the case requested by the department of  
17 juvenile corrections or an institution or agency. The department shall not  
18 release a juvenile from secure care before the juvenile completes the length  
19 of stay determined by the court in the commitment order unless the county  
20 attorney in the county from which the juvenile was committed requests the  
21 committing court to reduce the length of stay. The department may release  
22 the juvenile from secure care without a further court order after the  
23 juvenile completes the length of stay determined by the court or may retain  
24 the juvenile in secure care for any period subsequent to the completion of  
25 the length of stay in accordance with the law.

26 M. Written notice of the release of any juvenile pursuant to  
27 subsection L of this section shall be made to any victim requesting notice,  
28 the juvenile court that committed the juvenile and the county attorney of the  
29 county from which the juvenile was committed.

30 N. Notwithstanding any law to the contrary, if a person is under the  
31 supervision of the court as an adjudicated delinquent juvenile at the time  
32 the person reaches eighteen years of age, treatment services may be provided  
33 until the person reaches twenty-one years of age if the court, the person and  
34 the state agree to the provision of the treatment and a motion to transfer  
35 the person pursuant to section 8-327 has not been filed or has been  
36 withdrawn. The court may terminate the provision of treatment services after  
37 the person reaches eighteen years of age if the court determines that any of  
38 the following applies:

- 39 1. The person is not progressing toward treatment goals.
- 40 2. The person terminates treatment.
- 41 3. The person commits a new offense after reaching eighteen years of  
42 age.
- 43 4. Continued treatment is not required or is not in the best interests  
44 of the state or the person.



1           O. On the request of a victim of an act that may have involved  
2 significant exposure as defined in section 13-1415 or that if committed by an  
3 adult would be a sexual offense, the prosecuting attorney shall petition the  
4 adjudicating court to require that the juvenile be tested for the presence of  
5 the human immunodeficiency virus. If the victim is a minor the prosecuting  
6 attorney shall file this petition at the request of the victim's parent or  
7 guardian. If the act committed against a victim is an act that if committed  
8 by an adult would be a sexual offense or the court determines that sufficient  
9 evidence exists to indicate that significant exposure occurred, it shall  
10 order the department of juvenile corrections or the department of health  
11 services to test the juvenile pursuant to section 13-1415. Notwithstanding  
12 any law to the contrary, the department of juvenile corrections and the  
13 department of health services shall release the test results only to the  
14 victim, the delinquent juvenile, the delinquent juvenile's parent or guardian  
15 and a minor victim's parent or guardian and shall counsel them regarding the  
16 meaning and health implications of the results.

17           P. If a juvenile has been adjudicated delinquent for an offense that  
18 if committed by an adult would be a felony, the court shall provide the  
19 department of public safety Arizona automated fingerprint identification  
20 system established in section 41-2411 with the juvenile's fingerprints,  
21 personal identification data and other pertinent information. If a juvenile  
22 has been committed to the department of juvenile corrections the department  
23 shall provide the fingerprints and information required by this subsection to  
24 the Arizona automated fingerprint identification system. If the juvenile's  
25 fingerprints and information have been previously submitted to the Arizona  
26 automated fingerprint identification system the information is not required  
27 to be resubmitted.

28           Q. Access to fingerprint records submitted pursuant to subsection P of  
29 this section shall be limited to the administration of criminal justice as  
30 defined in section 41-1750. Dissemination of fingerprint information shall  
31 be limited to the name of the juvenile, juvenile case number, date of  
32 adjudication and court of adjudication.

33           R. If a juvenile is adjudicated delinquent for an offense that if  
34 committed by an adult would be a misdemeanor, the court may prohibit the  
35 juvenile from carrying or possessing a firearm while the juvenile is under  
36 the jurisdiction of the department of juvenile corrections or the juvenile  
37 court.

38           S. For the purposes of this section:

39           1. "First time felony juvenile offender" means a juvenile who is  
40 adjudicated delinquent for an offense that would be a felony offense if  
41 committed by an adult.

42           2. "Repeat felony juvenile offender" means a juvenile to whom both of  
43 the following apply:

44           (a) Is adjudicated delinquent for an offense that would be a felony  
45 offense if committed by an adult.

1 (b) Previously has been adjudicated a first time felony juvenile  
2 offender.

3 3. "Sexual offense" means oral sexual contact, sexual contact or  
4 sexual intercourse as defined in section 13-1401.

5 Sec. 3. Section 13-1602, Arizona Revised Statutes, is amended to read:  
6 13-1602. Criminal damage; classification

7 A. A person commits criminal damage by recklessly:

8 1. Defacing or damaging property of another person; or

9 2. Tampering with property of another person so as substantially to  
10 impair its function or value; or

11 3. Tampering with the property of a utility.

12 4. Parking any vehicle in such a manner as to deprive livestock of  
13 access to the only reasonably available water.

14 5. Drawing or inscribing a message, slogan, sign or symbol that is  
15 made on any public or private building, structure or surface, except the  
16 ground, and that is made without permission of the owner.

17 B. A PERSON WHO IS UNDER EIGHTEEN YEARS OF AGE AND WHO COMMITS  
18 CRIMINAL DAMAGE PURSUANT TO SUBSECTION A, PARAGRAPH 5 SHALL PAY A MONETARY  
19 ASSESSMENT OF ONE THOUSAND DOLLARS TO BE DEPOSITED BY THE STATE TREASURER IN  
20 THE STATE GENERAL FUND. THIS ASSESSMENT IS NOT SUBJECT TO ANY SURCHARGE. IF  
21 THE ADJUDICATION OR CONVICTION OCCURRED IN THE SUPERIOR, JUVENILE OR JUSTICE  
22 COURT, THE COURT SHALL TRANSMIT THE ASSESSED MONIES TO THE COUNTY TREASURER.  
23 IF THE ADJUDICATION OR CONVICTION OCCURRED IN A MUNICIPAL COURT, THE COURT  
24 SHALL TRANSMIT THE ASSESSED MONIES TO THE CITY TREASURER. THE CITY OR COUNTY  
25 TREASURER SHALL TRANSMIT THE MONIES RECEIVED TO THE STATE TREASURER. THE  
26 COURT MAY ORDER THE JUVENILE TO PERFORM COMMUNITY RESTITUTION IN LIEU OF THE  
27 PAYMENT FOR ALL OR PART OF THE ASSESSMENT IF IT IS IN THE BEST INTERESTS OF  
28 THE JUVENILE. THE AMOUNT OF COMMUNITY RESTITUTION SHALL BE EQUIVALENT TO THE  
29 AMOUNT OF THE ASSESSMENT BY CREDITING ANY SERVICE PERFORMED AT A RATE OF TEN  
30 DOLLARS PER HOUR.

31 ~~B.~~ C. Criminal damage is punished as follows:

32 1. Criminal damage is a class 4 felony if the person recklessly  
33 damages property of another in an amount of ten thousand dollars or more, or  
34 if the person recklessly causes impairment of the functioning of any utility.

35 2. Criminal damage is a class 5 felony if the person recklessly  
36 damages property of another in an amount of two thousand dollars or more but  
37 less than ten thousand dollars.

38 3. Criminal damage is a class 6 felony if the person recklessly  
39 damages property of another in an amount of more than two hundred fifty  
40 dollars but less than two thousand dollars.

41 4. In all other cases criminal damage is a class 2 misdemeanor.

42 Sec. 4. Section 13-4903, Arizona Revised Statutes, is amended to read:  
43 13-4903. Use of force; armed nuclear security guards

44 A. An armed nuclear security guard is justified in using physical  
45 force against another person at a commercial nuclear generating station or

1 structure or fenced yard of a commercial nuclear generating station if the  
2 armed nuclear security guard reasonably believes that such force is necessary  
3 to prevent or terminate the commission or attempted commission of criminal  
4 damage under section 13-1602, subsection A, paragraph 3 and subsection ~~B~~ C,  
5 paragraph 1, misconduct involving weapons under section 13-3102, subsection  
6 A, paragraph 13 or criminal trespass on a commercial nuclear generating  
7 station under section 13-4902.

8 B. Notwithstanding sections 13-403, 13-404, 13-405, 13-406, 13-408,  
9 13-409, 13-410 and 13-411, an armed nuclear security guard is justified in  
10 using physical force up to and including deadly physical force against  
11 another person at a commercial nuclear generating station or structure or  
12 fenced yard of a commercial nuclear generating station if the armed nuclear  
13 security guard reasonably believes that such force is necessary to:

14 1. Prevent the commission of manslaughter under section 13-1103,  
15 second or first degree murder under section 13-1104 or 13-1105, aggravated  
16 assault under section 13-1204, subsection A, paragraph 1 or 2, kidnapping  
17 under section 13-1304, burglary in the second or first degree under section  
18 13-1507 or 13-1508, arson of a structure or property under section 13-1703,  
19 arson of an occupied structure under section 13-1704, armed robbery under  
20 section 13-1904 or an act of terrorism under section 13-2308.01.

21 2. Defend oneself or a third person from the use or imminent use of  
22 deadly physical force.

23 C. Notwithstanding any other provision of this chapter, an armed  
24 nuclear security guard is justified in threatening to use physical or deadly  
25 physical force if and to the extent a reasonable armed nuclear security guard  
26 believes it necessary to protect oneself or others against another person's  
27 potential use of physical force or deadly physical force.

28 D. An armed nuclear security guard is not subject to civil liability  
29 for engaging in conduct that is otherwise justified pursuant to this chapter.

30 Sec. 5. Section 13-4904, Arizona Revised Statutes, is amended to read:  
31 13-4904. Detention authority: armed nuclear security guards

32 A. An armed nuclear security guard, with reasonable belief, may detain  
33 in or on a commercial nuclear generating station or a structure or fenced  
34 yard of a commercial nuclear generating station in a reasonable manner and  
35 for a reasonable time any person who is suspected of COMMITTING or attempting  
36 to commit manslaughter under section 13-1103, second or first degree murder  
37 under section 13-1104 or 13-1105, aggravated assault under section 13-1204,  
38 subsection A, paragraph 1 or 2, kidnapping under section 13-1304, burglary in  
39 the second or first degree under section 13-1507 or 13-1508, criminal damage  
40 under section 13-1602, subsection A, paragraph 3 and subsection ~~B~~ C,  
41 paragraph 1, arson of a structure or property under section 13-1703, arson of  
42 an occupied structure under section 13-1704, armed robbery under section  
43 13-1904, an act of terrorism under section 13-2308.01, misconduct involving  
44 weapons under section 13-3102, subsection A, paragraph 13 or criminal

1 trespass on a commercial nuclear generating station under section 13-4902 for  
2 the purpose of summoning a law enforcement officer.

3 B. Reasonable belief of an armed nuclear security guard is a defense  
4 to a civil or criminal action against an armed nuclear security guard for  
5 false arrest, false or unlawful imprisonment or wrongful detention.