

State of Arizona  
House of Representatives  
Forty-eighth Legislature  
Second Regular Session  
2008

# HOUSE BILL 2389

AN ACT

AMENDING SECTION 13-703, ARIZONA REVISED STATUTES; AMENDING SECTION 13-703.01, ARIZONA REVISED STATUTES, AS AMENDED BY LAWS 2005, CHAPTER 325, SECTION 3; AMENDING SECTION 13-703.01, ARIZONA REVISED STATUTES, AS AMENDED BY LAWS 2005, CHAPTER 325, SECTION 4; AMENDING SECTIONS 13-703.04, 13-713, 13-1105, 13-1405, 13-1407, 13-3102, 13-3105 AND 13-3112, ARIZONA REVISED STATUTES; RELATING TO CRIME.

(TEXT OF BILL BEGINS ON NEXT PAGE)

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

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

4 13-703. Sentence of death or natural life imprisonment;  
5 aggravating and mitigating circumstances; definition

6 A. If the state has filed a notice of intent to seek the death penalty  
7 and the defendant is convicted of first degree murder as defined in section  
8 13-1105, the defendant shall be sentenced to death or imprisonment in the  
9 custody of the state department of corrections for ~~life or~~ natural life as  
10 determined and in accordance with the procedures provided in section  
11 13-703.01. A defendant who is sentenced to natural life is not eligible for  
12 commutation, parole, work furlough, work release or release from confinement  
13 on any basis. ~~If the defendant is sentenced to life, the defendant shall not~~  
14 ~~be released on any basis until the completion of the service of twenty-five~~  
15 ~~calendar years if the murdered person was fifteen or more years of age and~~  
16 ~~thirty-five years if the murdered person was under fifteen years of age or~~  
17 ~~was an unborn child.~~ In this section, for purposes of punishment an unborn  
18 child shall be treated like a minor who is under twelve years of age.

19 B. At the aggravation phase of the sentencing proceeding that is held  
20 pursuant to section 13-703.01, the admissibility of information relevant to  
21 any of the aggravating circumstances set forth in subsection F of this  
22 section shall be governed by the rules of evidence applicable to criminal  
23 trials. The burden of establishing the existence of any of the aggravating  
24 circumstances set forth in subsection F of this section is on the  
25 prosecution. The prosecution must prove the existence of the aggravating  
26 circumstances beyond a reasonable doubt.

27 C. At the penalty phase of the sentencing proceeding that is held  
28 pursuant to section 13-703.01, the prosecution or the defendant may present  
29 any information that is relevant to any of the mitigating circumstances  
30 included in subsection G of this section, regardless of its admissibility  
31 under the rules governing admission of evidence at criminal trials. The  
32 burden of establishing the existence of the mitigating circumstances included  
33 in subsection G of this section is on the defendant. The defendant must  
34 prove the existence of the mitigating circumstances by a preponderance of the  
35 evidence. If the trier of fact is a jury, the jurors do not have to agree  
36 unanimously that a mitigating circumstance has been proven to exist. Each  
37 juror may consider any mitigating circumstance found by that juror in  
38 determining the appropriate penalty.

39 D. Evidence that is admitted at the trial and that relates to any  
40 aggravating or mitigating circumstances shall be deemed admitted as evidence  
41 at a sentencing proceeding if the trier of fact considering that evidence is  
42 the same trier of fact that determined the defendant's guilt. The  
43 prosecution and the defendant shall be permitted to rebut any information  
44 received at the aggravation or penalty phase of the sentencing proceeding and  
45 shall be given fair opportunity to present argument as to whether the

1 information is sufficient to establish the existence of any of the  
2 circumstances included in subsections F and G of this section.

3 E. In determining whether to impose a sentence of death or **NATURAL**  
4 life imprisonment, the trier of fact shall take into account the aggravating  
5 and mitigating circumstances that have been proven. The trier of fact shall  
6 impose a sentence of death if the trier of fact finds one or more of the  
7 aggravating circumstances enumerated in subsection F of this section and then  
8 determines that there are no mitigating circumstances sufficiently  
9 substantial to call for leniency.

10 F. The trier of fact shall consider the following aggravating  
11 circumstances in determining whether to impose a sentence of death:

12 1. The defendant has been convicted of another offense in the United  
13 States for which under Arizona law a sentence of life imprisonment or death  
14 was imposable.

15 2. The defendant has been or was previously convicted of a serious  
16 offense, whether preparatory or completed. Convictions for serious offenses  
17 committed on the same occasion as the homicide, or not committed on the same  
18 occasion but consolidated for trial with the homicide, shall be treated as a  
19 serious offense under this paragraph.

20 3. In the commission of the offense the defendant knowingly created a  
21 grave risk of death to another person or persons in addition to the person  
22 murdered during the commission of the offense.

23 4. The defendant procured the commission of the offense by payment, or  
24 promise of payment, of anything of pecuniary value.

25 5. The defendant committed the offense as consideration for the  
26 receipt, or in expectation of the receipt, of anything of pecuniary value.

27 6. The defendant committed the offense in an especially heinous, cruel  
28 or depraved manner.

29 7. The defendant committed the offense while:

30 (a) In the custody of or on authorized or unauthorized release from  
31 the state department of corrections, a law enforcement agency or a county or  
32 city jail.

33 (b) On probation for a felony offense.

34 8. The defendant has been convicted of one or more other homicides, as  
35 defined in section 13-1101, that were committed during the commission of the  
36 offense.

37 9. The defendant was an adult at the time the offense was committed or  
38 was tried as an adult and the murdered person was under fifteen years of age,  
39 was an unborn child in the womb at any stage of its development or was  
40 seventy years of age or older.

41 10. The murdered person was an on duty peace officer who was killed in  
42 the course of performing the officer's official duties and the defendant  
43 knew, or should have known, that the murdered person was a peace officer.

1           11. The defendant committed the offense with the intent to promote,  
2 further or assist the objectives of a criminal street gang or criminal  
3 syndicate or to join a criminal street gang or criminal syndicate.

4           12. The defendant committed the offense to prevent a person's  
5 cooperation with an official law enforcement investigation, to prevent a  
6 person's testimony in a court proceeding, in retaliation for a person's  
7 cooperation with an official law enforcement investigation or in retaliation  
8 for a person's testimony in a court proceeding.

9           13. The offense was committed in a cold, calculated manner without  
10 pretense of moral or legal justification.

11           14. The defendant used a remote stun gun or an authorized remote stun  
12 gun in the commission of the offense. For the purposes of this paragraph:

13           (a) "Authorized remote stun gun" means a remote stun gun that has all  
14 of the following:

15           (i) An electrical discharge that is less than one hundred thousand  
16 volts and less than nine joules of energy per pulse.

17           (ii) A serial or identification number on all projectiles that are  
18 discharged from the remote stun gun.

19           (iii) An identification and tracking system that, on deployment of  
20 remote electrodes, disperses coded material that is traceable to the  
21 purchaser through records that are kept by the manufacturer on all remote  
22 stun guns and all individual cartridges sold.

23           (iv) A training program that is offered by the manufacturer.

24           (b) "Remote stun gun" means an electronic device that emits an  
25 electrical charge and that is designed and primarily employed to incapacitate  
26 a person or animal either through contact with electrodes on the device  
27 itself or remotely through wired probes that are attached to the device or  
28 through a spark, plasma, ionization or other conductive means emitting from  
29 the device.

30           G. The trier of fact shall consider as mitigating circumstances any  
31 factors proffered by the defendant or the state that are relevant in  
32 determining whether to impose a sentence less than death, including any  
33 aspect of the defendant's character, propensities or record and any of the  
34 circumstances of the offense, including but not limited to the following:

35           1. The defendant's capacity to appreciate the wrongfulness of his  
36 conduct or to conform his conduct to the requirements of law was  
37 significantly impaired, but not so impaired as to constitute a defense to  
38 prosecution.

39           2. The defendant was under unusual and substantial duress, although  
40 not such as to constitute a defense to prosecution.

41           3. The defendant was legally accountable for the conduct of another  
42 under the provisions of section 13-303, but his participation was relatively  
43 minor, although not so minor as to constitute a defense to prosecution.



1 C. If the trier of fact finds the defendant guilty of first degree  
2 murder, the trier of fact shall then immediately determine whether one or  
3 more alleged aggravating circumstances have been proven. This proceeding is  
4 the aggravation phase of the sentencing proceeding.

5 D. If the trier of fact finds that one or more of the alleged  
6 aggravating circumstances have been proven, the trier of fact shall then  
7 immediately determine whether the death penalty should be imposed. This  
8 proceeding is the penalty phase of the sentencing proceeding.

9 E. At the aggravation phase, the trier of fact shall make a special  
10 finding on whether each alleged aggravating circumstance has been proven  
11 based on the evidence that was presented at the trial or at the aggravation  
12 phase. If the trier of fact is a jury, a unanimous verdict is required to  
13 find that the aggravating circumstance has been proven. If the trier of fact  
14 unanimously finds that an aggravating circumstance has not been proven, the  
15 defendant is entitled to a special finding that the aggravating circumstance  
16 has not been proven. If the trier of fact unanimously finds no aggravating  
17 circumstances, the court shall then ~~determine whether to~~ impose a sentence of  
18 ~~life or~~ natural life on the defendant.

19 F. The penalty phase shall be held immediately after the trier of fact  
20 finds at the aggravation phase that one or more of the aggravating  
21 circumstances under section 13-703, subsection F have been proven. A finding  
22 by the trier of fact that any of the remaining aggravating circumstances  
23 alleged has not been proven or the inability of the trier of fact to agree on  
24 the issue of whether any of the remaining aggravating circumstances alleged  
25 has been proven shall not prevent the holding of the penalty phase.

26 G. At the penalty phase, the defendant and the state may present any  
27 evidence that is relevant to the determination of whether there is mitigation  
28 that is sufficiently substantial to call for leniency. In order for the  
29 trier of fact to make this determination, **REGARDLESS OF WHETHER THE DEFENDANT**  
30 **PRESENTS EVIDENCE OF MITIGATION**, the state may present any evidence that  
31 demonstrates that the defendant should not be shown leniency **INCLUDING ANY**  
32 **EVIDENCE REGARDING THE DEFENDANT'S CHARACTER, PROPENSITIES, CRIMINAL RECORD**  
33 **OR OTHER ACTS.**

34 H. The trier of fact shall determine unanimously whether death is the  
35 appropriate sentence. If the trier of fact is a jury and the jury  
36 unanimously determines that the death penalty is not appropriate, the court  
37 shall ~~determine whether to~~ impose a sentence of ~~life or~~ natural life.

38 I. If the trier of fact at any prior phase of the trial is the same  
39 trier of fact at the subsequent phase, any evidence that was presented at any  
40 prior phase of the trial shall be deemed admitted as evidence at any  
41 subsequent phase of the trial.

42 J. At the aggravation phase, if the trier of fact is a jury, the jury  
43 is unable to reach a verdict on any of the alleged aggravating circumstances  
44 and the jury has not found that at least one of the alleged aggravating  
45 circumstances has been proven, the court shall dismiss the jury and shall

1 impanel a new jury. The new jury shall not retry the issue of the  
2 defendant's guilt or the issue regarding any of the aggravating circumstances  
3 that the first jury found not proved by unanimous verdict. If the new jury  
4 is unable to reach a unanimous verdict, the court shall impose a sentence of  
5 ~~life or~~ natural life on the defendant.

6 K. At the penalty phase, if the trier of fact is a jury and the jury  
7 is unable to reach a verdict, the court shall dismiss the jury and shall  
8 impanel a new jury. The new jury shall not retry the issue of the  
9 defendant's guilt or the issue regarding any of the aggravating circumstances  
10 that the first jury found by unanimous verdict to be proved or not proved.  
11 If the new jury is unable to reach a unanimous verdict, the court shall  
12 impose a sentence of ~~life or~~ natural life on the defendant.

13 L. If the jury that rendered a verdict of guilty is not the jury first  
14 impaneled for the aggravation phase, the jury impaneled in the aggravation  
15 phase shall not retry the issue of the defendant's guilt. If the jury  
16 impaneled in the aggravation phase is unable to reach a verdict on any of the  
17 alleged aggravating circumstances and the jury has not found that at least  
18 one of the alleged aggravating circumstances has been proven, the court shall  
19 dismiss the jury and shall impanel a new jury. The new jury shall not retry  
20 the issue of the defendant's guilt or the issue regarding any of the  
21 aggravating circumstances that the first jury found not proved by unanimous  
22 verdict. If the new jury is unable to reach a unanimous verdict, the court  
23 shall impose a sentence of ~~life or~~ natural life on the defendant.

24 M. Alternate jurors who are impaneled for the trial in a case in which  
25 the offense is punishable by death shall not be excused from the case until  
26 the completion of the sentencing proceeding.

27 N. If the sentence of a person who was sentenced to death is  
28 overturned, the person shall be resentenced pursuant to this section by a  
29 jury that is specifically impaneled for this purpose as if the original  
30 sentencing had not occurred.

31 O. In any case that requires sentencing or resentencing in which the  
32 defendant has been convicted of an offense that is punishable by death and in  
33 which the trier of fact was a judge or a jury that has since been discharged,  
34 the defendant shall be sentenced or resentenced pursuant to this section by a  
35 jury that is specifically impaneled for this purpose.

36 P. The trier of fact shall make all factual determinations required by  
37 this section or the Constitution of the United States or this state to impose  
38 a death sentence. If the defendant bears the burden of proof, the issue  
39 shall be determined in the penalty phase. If the state bears the burden of  
40 proof, the issue shall be determined in the aggravation phase.

41 ~~Q. If the death penalty was not alleged or was alleged but not~~  
42 ~~imposed, the court shall determine whether to impose a sentence of life or~~  
43 ~~natural life. In determining whether to impose a sentence of life or natural~~  
44 ~~life, the court:~~

1 ~~1. May consider any evidence introduced before sentencing or at any~~  
2 ~~other sentencing proceeding.~~

3 ~~2. Shall consider the aggravating and mitigating circumstances listed~~  
4 ~~in section 13-702 and any statement made by a victim.~~

5 ~~R.~~ Q. Subject to the provisions of section 13-703, subsection B, a  
6 victim has the right to be present at the aggravation phase and to present  
7 any information that is relevant to the proceeding. A victim has the right  
8 to be present and to present information at the penalty phase. At the  
9 penalty phase, the victim may present information about the murdered person  
10 and the impact of the murder on the victim and other family members and may  
11 submit a victim impact statement in any format to the trier of fact.

12 ~~S.~~ R. For the purposes of this section:

13 1. "Trier of fact" means a jury unless the defendant and the state  
14 waive a jury, in which case the trier of fact shall be the court.

15 2. "Victim" means the murdered person's spouse, parent, child,  
16 grandparent or sibling, any other person related to the murdered person by  
17 consanguinity or affinity to the second degree or any other lawful  
18 representative of the murdered person, except if the spouse, parent, child,  
19 grandparent, sibling, other person related to the murdered person by  
20 consanguinity or affinity to the second degree or other lawful representative  
21 is in custody for an offense or is the accused.

22 Sec. 3. Section 13-703.01, Arizona Revised Statutes, as amended by  
23 Laws 2005, chapter 325, section 4, is amended to read:

24 13-703.01. Sentences of death or natural life; imposition;  
25 sentencing proceedings; definitions

26 A. If the state has filed a notice of intent to seek the death penalty  
27 and the defendant is convicted of first degree murder, the trier of fact at  
28 the sentencing proceeding shall determine whether to impose a sentence of  
29 death in accordance with the procedures provided in this section. If the  
30 trier of fact determines that a sentence of death is not appropriate, or if  
31 the state has not filed a notice of intent to seek the death penalty, and the  
32 defendant is convicted of first degree murder, the court shall ~~determine~~  
33 ~~whether to~~ impose a sentence of ~~life or~~ natural life.

34 B. Before trial, the prosecution shall notice one or more of the  
35 aggravating circumstances under section 13-703, subsection F.

36 C. If the trier of fact finds the defendant guilty of first degree  
37 murder, the trier of fact shall then immediately determine whether one or  
38 more alleged aggravating circumstances have been proven. This proceeding is  
39 the aggravation phase of the sentencing proceeding.

40 D. If the trier of fact finds that one or more of the alleged  
41 aggravating circumstances have been proven, the trier of fact shall then  
42 immediately determine whether the death penalty should be imposed. This  
43 proceeding is the penalty phase of the sentencing proceeding.



1 E. At the aggravation phase, the trier of fact shall make a special  
2 finding on whether each alleged aggravating circumstance has been proven  
3 based on the evidence that was presented at the trial or at the aggravation  
4 phase. If the trier of fact is a jury, a unanimous verdict is required to  
5 find that the aggravating circumstance has been proven. If the trier of fact  
6 unanimously finds that an aggravating circumstance has not been proven, the  
7 defendant is entitled to a special finding that the aggravating circumstance  
8 has not been proven. If the trier of fact unanimously finds no aggravating  
9 circumstances, the court shall then ~~determine whether to~~ impose a sentence of  
10 ~~life or~~ natural life on the defendant.

11 F. The penalty phase shall be held immediately after the trier of fact  
12 finds at the aggravation phase that one or more of the aggravating  
13 circumstances under section 13-703, subsection F have been proven. A finding  
14 by the trier of fact that any of the remaining aggravating circumstances  
15 alleged has not been proven or the inability of the trier of fact to agree on  
16 the issue of whether any of the remaining aggravating circumstances alleged  
17 has been proven shall not prevent the holding of the penalty phase.

18 G. At the penalty phase, the defendant and the state may present any  
19 evidence that is relevant to the determination of whether there is mitigation  
20 that is sufficiently substantial to call for leniency. In order for the  
21 trier of fact to make this determination, **REGARDLESS OF WHETHER THE DEFENDANT  
22 PRESENTS EVIDENCE OF MITIGATION**, the state may present any evidence that  
23 demonstrates that the defendant should not be shown leniency **INCLUDING ANY  
24 EVIDENCE REGARDING THE DEFENDANT'S CHARACTER, PROPENSITIES, CRIMINAL RECORD  
25 OR OTHER ACTS**.

26 H. The trier of fact shall determine unanimously whether death is the  
27 appropriate sentence. If the trier of fact is a jury and the jury  
28 unanimously determines that the death penalty is not appropriate, the court  
29 shall ~~determine whether to~~ impose a sentence of ~~life or~~ natural life.

30 I. If the trier of fact at any prior phase of the trial is the same  
31 trier of fact at the subsequent phase, any evidence that was presented at any  
32 prior phase of the trial shall be deemed admitted as evidence at any  
33 subsequent phase of the trial.

34 J. At the aggravation phase, if the trier of fact is a jury, the jury  
35 is unable to reach a verdict on any of the alleged aggravating circumstances  
36 and the jury has not found that at least one of the alleged aggravating  
37 circumstances has been proven, the court shall dismiss the jury and shall  
38 impanel a new jury. The new jury shall not retry the issue of the  
39 defendant's guilt or the issue regarding any of the aggravating circumstances  
40 that the first jury found not proved by unanimous verdict. If the new jury  
41 is unable to reach a unanimous verdict, the court shall impose a sentence of  
42 ~~life or~~ natural life on the defendant.

43 K. At the penalty phase, if the trier of fact is a jury and the jury  
44 is unable to reach a verdict, the court shall dismiss the jury and shall  
45 impanel a new jury. The new jury shall not retry the issue of the

1 defendant's guilt or the issue regarding any of the aggravating circumstances  
2 that the first jury found by unanimous verdict to be proved or not proved.  
3 If the new jury is unable to reach a unanimous verdict, the court shall  
4 impose a sentence of ~~life or~~ natural life on the defendant.

5 L. If the jury that rendered a verdict of guilty is not the jury first  
6 impaneled for the aggravation phase, the jury impaneled in the aggravation  
7 phase shall not retry the issue of the defendant's guilt. If the jury  
8 impaneled in the aggravation phase is unable to reach a verdict on any of the  
9 alleged aggravating circumstances and the jury has not found that at least  
10 one of the alleged aggravating circumstances has been proven, the court shall  
11 dismiss the jury and shall impanel a new jury. The new jury shall not retry  
12 the issue of the defendant's guilt or the issue regarding any of the  
13 aggravating circumstances that the first jury found not proved by unanimous  
14 verdict. If the new jury is unable to reach a unanimous verdict, the court  
15 shall impose a sentence of ~~life or~~ natural life on the defendant.

16 M. Alternate jurors who are impaneled for the trial in a case in which  
17 the offense is punishable by death shall not be excused from the case until  
18 the completion of the sentencing proceeding.

19 N. If the sentence of a person who was sentenced to death is  
20 overturned, the person shall be resentenced pursuant to this section by a  
21 jury that is specifically impaneled for this purpose as if the original  
22 sentencing had not occurred.

23 O. In any case that requires sentencing or resentencing in which the  
24 defendant has been convicted of an offense that is punishable by death and in  
25 which the trier of fact was a judge or a jury that has since been discharged,  
26 the defendant shall be sentenced or resentenced pursuant to this section by a  
27 jury that is specifically impaneled for this purpose.

28 P. The trier of fact shall make all factual determinations required by  
29 this section or the Constitution of the United States or this state to impose  
30 a death sentence. If the defendant bears the burden of proof, the issue  
31 shall be determined in the penalty phase. If the state bears the burden of  
32 proof, the issue shall be determined in the aggravation phase.

33 ~~Q. If the death penalty was not alleged or was alleged but not  
34 imposed, the court shall determine whether to impose a sentence of life or  
35 natural life. In determining whether to impose a sentence of life or natural  
36 life, the court:~~

37 ~~1. May consider any evidence introduced before sentencing or at any  
38 other sentencing proceeding.~~

39 ~~2. Shall consider the aggravating and mitigating circumstances listed  
40 in section 13-702 and any statement made by a victim.~~

41 ~~R.~~ Q. Subject to the provisions of section 13-703, subsection B, a  
42 victim has the right to be present at the aggravation phase and to present  
43 any information that is relevant to the proceeding. A victim has the right  
44 to be present at the penalty phase. At the penalty phase, the victim has the  
45 right to be heard pursuant to section 13-4426.

1           ~~S.~~ R. For the purposes of this section:

2           1. "Trier of fact" means a jury unless the defendant and the state  
3 waive a jury, in which case the trier of fact shall be the court.

4           2. "Victim" means the murdered person's spouse, parent, child,  
5 grandparent or sibling, any other person related to the murdered person by  
6 consanguinity or affinity to the second degree or any other lawful  
7 representative of the murdered person, except if the spouse, parent, child,  
8 grandparent, sibling, other person related to the murdered person by  
9 consanguinity or affinity to the second degree or other lawful representative  
10 is in custody for an offense or is the accused.

11           Sec. 4. Section 13-703.04, Arizona Revised Statutes, is amended to  
12 read:

13           13-703.04. Death sentences; supreme court review

14           A. The supreme court shall review all death sentences. On review, the  
15 supreme court shall independently review the trial court's findings of  
16 aggravation and mitigation and the propriety of the death sentence.

17           B. If the supreme court determines that an error was made regarding a  
18 finding of aggravation or mitigation, the supreme court shall independently  
19 determine if the mitigation the supreme court finds is sufficiently  
20 substantial to warrant leniency in light of the existing aggravation. If the  
21 supreme court finds that the mitigation is not sufficiently substantial to  
22 warrant leniency, the supreme court shall affirm the death sentence. If the  
23 supreme court finds that the mitigation is sufficiently substantial to  
24 warrant leniency, the supreme court shall impose a **NATURAL** life sentence  
25 pursuant to section 13-703, subsection A.

26           C. The independent review required by subsection A **OF THIS SECTION**  
27 does not preclude the supreme court from remanding a case for further action  
28 if the trial court erroneously excluded evidence or if the appellate record  
29 does not adequately reflect the evidence presented.

30           Sec. 5. Section 13-713, Arizona Revised Statutes, is amended to read:

31           13-713. Third or subsequent offenses by violent or aggravated  
32           offenders; sentencing; natural life imprisonment;  
33           definition

34           A. Unless a longer term of imprisonment or death is the prescribed  
35 penalty and notwithstanding any provision that establishes a shorter term of  
36 imprisonment, a person who has been convicted of committing or attempting or  
37 conspiring to commit any violent or aggravated felony and who has previously  
38 been convicted on separate occasions of two or more violent or aggravated  
39 felonies not committed on the same occasion shall be sentenced to  
40 imprisonment for **NATURAL** life and is not eligible for suspension of sentence,  
41 probation, pardon or release on any basis ~~except that the person may be~~  
42 ~~eligible for commutation after the person has served at least thirty-five~~  
43 ~~years.~~

44           B. In order for the penalty under subsection A of this section to  
45 apply, both of the following must occur:

- 1           1. The aggravated or violent felonies that comprise the prior  
2 convictions shall have been entered within fifteen years of the conviction  
3 for the third offense, not including time spent in custody or on probation  
4 for an offense or while the person is an absconder.
- 5           2. The sentence for the first aggravated or violent felony conviction  
6 shall have been imposed before the conduct occurred that gave rise to the  
7 second conviction, and the sentence for the second aggravated or violent  
8 felony conviction shall have been imposed before the conduct occurred that  
9 gave rise to the third conviction.
- 10          C. Chapter 3 of this title applies to all offenses under this section.
- 11          D. For the purposes of this section, if a person has been convicted of  
12 an offense committed in another jurisdiction that if committed in this state  
13 would be a violation or attempted violation of any of the offenses listed in  
14 this section and that has the same elements of an offense listed in this  
15 section, the offense committed in another jurisdiction is considered an  
16 offense committed in this state.
- 17          E. For the purposes of this section, "violent or aggravated felony"  
18 means any of the following offenses:
- 19           1. First degree murder.  
20           2. Second degree murder.  
21           3. Aggravated assault resulting in serious physical injury or  
22 involving the discharge, use or threatening exhibition of a deadly weapon or  
23 dangerous instrument.  
24           4. Dangerous or deadly assault by prisoner.  
25           5. Committing assault with intent to incite to riot or participate in  
26 riot.  
27           6. Drive by shooting.  
28           7. Discharging a firearm at a residential structure if the structure  
29 is occupied.  
30           8. Kidnapping.  
31           9. Sexual conduct with a minor that is a class 2 felony.  
32           10. Sexual assault.  
33           11. Molestation of a child.  
34           12. Continuous sexual abuse of a child.  
35           13. Violent sexual assault.  
36           14. Burglary in the first degree committed in a residential structure  
37 if the structure is occupied.  
38           15. Arson of an occupied structure.  
39           16. Arson of an occupied jail or prison facility.  
40           17. Armed robbery.  
41           18. Participating in or assisting a criminal syndicate or leading or  
42 participating in a criminal street gang.  
43           19. Terrorism.  
44           20. Taking a child for the purpose of prostitution.  
45           21. Child prostitution.

- 1           22. Commercial sexual exploitation of a minor.  
2           23. Sexual exploitation of a minor.  
3           24. Unlawful introduction of disease or parasite as prescribed by  
4 section 13-2912, subsection A, paragraph 2 or 3.  
5           Sec. 6. Section 13-1105, Arizona Revised Statutes, is amended to read:  
6           13-1105. First degree murder: classification  
7           A. A person commits first degree murder if:  
8           1. Intending or knowing that the person's conduct will cause death,  
9 the person causes the death of another person, including an unborn child,  
10 with premeditation or, as a result of causing the death of another person  
11 with premeditation, causes the death of an unborn child.  
12           2. Acting either alone or with one or more other persons the person  
13 commits or attempts to commit sexual conduct with a minor under section  
14 13-1405, sexual assault under section 13-1406, molestation of a child under  
15 section 13-1410, terrorism under section 13-2308.01, marijuana offenses under  
16 section 13-3405, subsection A, paragraph 4, dangerous drug offenses under  
17 section 13-3407, subsection A, paragraphs 4 and 7, narcotics offenses under  
18 section 13-3408, subsection A, paragraph 7 that equal or exceed the statutory  
19 threshold amount for each offense or combination of offenses, involving or  
20 using minors in drug offenses under section 13-3409, kidnapping under section  
21 13-1304, burglary under section 13-1506, 13-1507 or 13-1508, arson under  
22 section 13-1703 or 13-1704, robbery under section 13-1902, 13-1903 or  
23 13-1904, escape under section 13-2503 or 13-2504, child abuse under section  
24 13-3623, subsection A, paragraph 1, ~~or~~ unlawful flight from a pursuing law  
25 enforcement vehicle under section 28-622.01 and, in the course of and in  
26 furtherance of the offense or immediate flight from the offense, the person  
27 or another person causes the death of any person.  
28           3. Intending or knowing that the person's conduct will cause death to  
29 a law enforcement officer, the person causes the death of a law enforcement  
30 officer who is in the line of duty.  
31           B. Homicide, as prescribed in subsection A, paragraph 2 of this  
32 section, requires no specific mental state other than what is required for  
33 the commission of any of the enumerated felonies.  
34           C. An offense under subsection A, paragraph 1 of this section applies  
35 to an unborn child in the womb at any stage of its development. A person  
36 shall not be prosecuted under subsection A, paragraph 1 of this section if  
37 any of the following applies:  
38           1. The person was performing an abortion for which the consent of the  
39 pregnant woman, or a person authorized by law to act on the pregnant woman's  
40 behalf, has been obtained or for which the consent was implied or authorized  
41 by law.  
42           2. The person was performing medical treatment on the pregnant woman  
43 or the pregnant woman's unborn child.  
44           3. The person was the unborn child's mother.

1 D. First degree murder is a class 1 felony and is punishable by death  
2 or **NATURAL** life imprisonment as provided by sections 13-703 and 13-703.01.

3 Sec. 7. Section 13-1405, Arizona Revised Statutes, is amended to read:  
4 **13-1405. Sexual conduct with a minor; classification**

5 A. A person commits sexual conduct with a minor by intentionally or  
6 knowingly engaging in sexual intercourse or oral sexual contact with any  
7 person who is under eighteen years of age.

8 **B. IF A PERSON IS CONVICTED OF SEXUAL CONDUCT WITH A MINOR AND THE**  
9 **COURT SENTENCES THE PERSON TO A TERM OF PROBATION, THE COURT SHALL ORDER THAT**  
10 **AS AN INITIAL TERM OF PROBATION THE PERSON BE IMPRISONED IN THE COUNTY JAIL**  
11 **FOR ONE YEAR. THIS JAIL TERM OF INCARCERATION SHALL NOT BE DELETED, DEFERRED**  
12 **OR OTHERWISE SUSPENDED AND SHALL COMMENCE ON THE DATE OF SENTENCING. THIS**  
13 **SUBSECTION DOES NOT APPLY TO A PERSON WHO IS SENTENCED TO SERVE A PERIOD OF**  
14 **INCARCERATION IN THE STATE DEPARTMENT OF CORRECTIONS.**

15 ~~B.~~ C. Sexual conduct with a minor who is under fifteen years of age  
16 is a class 2 felony and is punishable pursuant to section 13-604.01. Sexual  
17 conduct with a minor who is at least fifteen years of age is a class ~~6~~ 4  
18 felony. Sexual conduct with a minor who is at least fifteen years of age is  
19 a class 2 felony if the person is the minor's parent, stepparent, adoptive  
20 parent, legal guardian or foster parent and the convicted person is not  
21 eligible for suspension of sentence, probation, pardon or release from  
22 confinement on any basis except as specifically authorized by section 31-233,  
23 subsection A or B until the sentence imposed has been served or commuted.

24 Sec. 8. Section 13-1407, Arizona Revised Statutes, is amended to read:  
25 **13-1407. Defenses**

26 A. It is a defense to a prosecution pursuant to sections 13-1404 and  
27 13-1405 involving a minor if the act was done in furtherance of lawful  
28 medical practice.

29 B. It is a defense to a prosecution pursuant to sections 13-1404 and  
30 13-1405 in which the victim's lack of consent is based on incapacity to  
31 consent because the victim was fifteen, sixteen or seventeen years of age if  
32 at the time the defendant engaged in the conduct constituting the offense the  
33 defendant did not know and could not reasonably have known the age of the  
34 victim.

35 C. It is a defense to a prosecution pursuant to section 13-1402,  
36 13-1404, 13-1405 or 13-1406 if the act was done by a duly licensed physician  
37 or registered nurse or a person acting under the physician's or nurse's  
38 direction, or any other person who renders emergency care at the scene of an  
39 emergency occurrence, the act consisted of administering a recognized and  
40 lawful form of treatment that was reasonably adapted to promoting the  
41 physical or mental health of the patient and the treatment was administered  
42 in an emergency when the duly licensed physician or registered nurse or a  
43 person acting under the physician's or nurse's direction, or any other person  
44 rendering emergency care at the scene of an emergency occurrence, reasonably  
45 believed that no one competent to consent could be consulted and that a

1 reasonable person, wishing to safeguard the welfare of the patient, would  
2 consent.

3 D. It is a defense to a prosecution pursuant to section 13-1404 or  
4 13-1405 that the person was the spouse of the other person at the time of  
5 commission of the act. It is not a defense to a prosecution pursuant to  
6 section 13-1406 that the defendant was the spouse of the victim at the time  
7 of commission of the act.

8 E. It is a defense to a prosecution pursuant to section 13-1404 or  
9 13-1410 that the defendant was not motivated by a sexual interest. It is a  
10 defense to a prosecution pursuant to section 13-1404 involving a victim under  
11 fifteen years of age that the defendant was not motivated by a sexual  
12 interest.

13 F. It is a defense to a prosecution pursuant to section 13-1405 if the  
14 victim is fifteen, sixteen or seventeen years of age, the defendant is under  
15 ~~nineteen~~ TWENTY years of age or attending high school and is no more than  
16 ~~twenty-four~~ THIRTY-SIX months older than the victim and the conduct is  
17 consensual.

18 Sec. 9. Section 13-3102, Arizona Revised Statutes, is amended to read:  
19 13-3102. Misconduct involving weapons; defenses;  
20 classification; definitions

21 A. A person commits misconduct involving weapons by knowingly:

22 1. Carrying a deadly weapon without a permit pursuant to section  
23 13-3112 except a pocket knife concealed on his person; or

24 ~~2. Carrying a deadly weapon without a permit pursuant to section~~  
25 ~~13-3112 concealed within immediate control of any person in or on a means of~~  
26 ~~transportation; or~~

27 ~~3.~~ 2. Manufacturing, possessing, transporting, selling or  
28 transferring a prohibited weapon; or

29 ~~4.~~ 3. Possessing a deadly weapon or prohibited weapon if such person  
30 is a prohibited possessor; or

31 4. POSSESSING AMMUNITION IF SUCH PERSON IS A PROHIBITED POSSESSOR; OR

32 5. Selling or transferring a deadly weapon to a prohibited possessor;  
33 or

34 6. Defacing a deadly weapon; or

35 7. Possessing a defaced deadly weapon knowing the deadly weapon was  
36 defaced; or

37 8. Using or possessing a deadly weapon during the commission of any  
38 felony offense included in chapter 34 of this title; or

39 9. Discharging a firearm at an occupied structure in order to assist,  
40 promote or further the interests of a criminal street gang, a criminal  
41 syndicate or a racketeering enterprise; or

42 10. Unless specifically authorized by law, entering any public  
43 establishment or attending any public event and carrying a deadly weapon on  
44 his person after a reasonable request by the operator of the establishment or  
45 the sponsor of the event or the sponsor's agent to remove his weapon and

1 place it in the custody of the operator of the establishment or the sponsor  
2 of the event for temporary and secure storage of the weapon pursuant to  
3 section 13-3102.01; or

4 11. Unless specifically authorized by law, entering an election polling  
5 place on the day of any election carrying a deadly weapon; or

6 12. Possessing a deadly weapon on school grounds; or

7 13. Unless specifically authorized by law, entering a nuclear or  
8 hydroelectric generating station carrying a deadly weapon on his person or  
9 within the immediate control of any person; or

10 14. Supplying, selling or giving possession or control of a firearm to  
11 another person if the person knows or has reason to know that the other  
12 person would use the firearm in the commission of any felony; or

13 15. Using, possessing or exercising control over a deadly weapon in  
14 furtherance of any act of terrorism as defined in section 13-2301 or  
15 possessing or exercising control over a deadly weapon knowing or having  
16 reason to know that it will be used to facilitate any act of terrorism as  
17 defined in section 13-2301.

18 B. Subsection A, paragraph 1 of this section shall not apply to a  
19 person in his dwelling, on his business premises, **IN OR ON A MEANS OF**  
20 **TRANSPORTATION, EXCLUDING ANY PUBLIC TRANSIT**, or on real property owned, ~~or~~  
21 leased **OR RENTED** by that person.

22 C. Subsection A, paragraphs 1, 2, ~~3~~, 7, 10, 11, 12 and 13 of this  
23 section shall not apply to:

24 1. A peace officer or any person summoned by any peace officer to  
25 assist and while actually assisting in the performance of official duties; or

26 2. A member of the military forces of the United States or of any  
27 state of the United States in the performance of official duties; or

28 3. A warden, deputy warden or correctional officer of the state  
29 department of corrections; or

30 4. A person specifically licensed, authorized or permitted pursuant to  
31 a statute of this state or of the United States.

32 D. Subsection A, paragraphs ~~3~~ 2 and 7 of this section shall not apply  
33 to:

34 1. The possessing, transporting, selling or transferring of weapons by  
35 a museum as a part of its collection or an educational institution for  
36 educational purposes or by an authorized employee of such museum or  
37 institution, if:

38 (a) Such museum or institution is operated by the United States or  
39 this state or a political subdivision of this state, or by an organization  
40 described in 26 United States Code section 170(c) as a recipient of a  
41 charitable contribution; and

42 (b) Reasonable precautions are taken with respect to theft or misuse  
43 of such material.



1           2. The regular and lawful transporting as merchandise; or  
2           3. Acquisition by a person by operation of law such as by gift, devise  
3 or descent or in a fiduciary capacity as a recipient of the property or  
4 former property of an insolvent, incapacitated or deceased person.

5           E. Subsection A, paragraph ~~3- 2~~ of this section shall not apply to the  
6 merchandise of an authorized manufacturer of or dealer in prohibited weapons,  
7 when such material is intended to be manufactured, possessed, transported,  
8 sold or transferred solely for or to a dealer, a regularly constituted or  
9 appointed state, county or municipal police department or police officer, a  
10 detention facility, the military service of this or another state or the  
11 United States, a museum or educational institution or a person specifically  
12 licensed or permitted pursuant to federal or state law.

13           F. Subsection A, paragraph 1 of this section shall not apply to a  
14 weapon or weapons carried in a ~~belt~~ holster ~~which holster~~ THAT is wholly or  
15 partially visible, ~~or~~ carried in a scabbard or case designed for carrying  
16 weapons ~~which scabbard or case~~ THAT is wholly or partially visible or carried  
17 in luggage. ~~Subsection A, paragraph 2 of this section shall not apply to a  
18 weapon or weapons carried in a case, holster, scabbard, pack or luggage that  
19 is carried within a means of transportation or within a storage compartment,  
20 map pocket, trunk or glove compartment of a means of transportation.~~

21           G. Subsection A, paragraph 10 of this section shall not apply to  
22 shooting ranges or shooting events, hunting areas or similar locations or  
23 activities.

24           H. Subsection A, paragraph ~~3- 2~~ of this section shall not apply to a  
25 weapon described in section 13-3101, subsection A, paragraph 7, subdivision  
26 (e), if such weapon is possessed for the purposes of preparing for,  
27 conducting or participating in lawful exhibitions, demonstrations, contests  
28 or athletic events involving the use of such weapon. Subsection A, paragraph  
29 12 of this section shall not apply to a weapon if such weapon is possessed  
30 for the purposes of preparing for, conducting or participating in hunter or  
31 firearm safety courses.

32           I. Subsection A, paragraph 12 of this section shall not apply to the  
33 possession of a:

34           1. Firearm that is not loaded and that is carried within a means of  
35 transportation under the control of an adult provided that if the adult  
36 leaves the means of transportation the firearm shall not be visible from the  
37 outside of the means of transportation and the means of transportation shall  
38 be locked.

39           2. Firearm for use on the school grounds in a program approved by a  
40 school.

41           J. The operator of the establishment or the sponsor of the event or  
42 the employee of the operator or sponsor or the agent of the sponsor,  
43 including a public entity or public employee, is not liable for acts or  
44 omissions pursuant to subsection A, paragraph 10 of this section unless the

1 operator, sponsor, employee or agent intended to cause injury or was grossly  
2 negligent.

3 K. Misconduct involving weapons under subsection A, paragraph 9, 14 or  
4 15 of this section is a class 3 felony. Misconduct involving weapons under  
5 subsection A, paragraph 2, 3, ~~4~~, 8 or 13 of this section is a class 4 felony.  
6 Misconduct involving weapons under subsection A, paragraph 12 of this section  
7 is a class 1 misdemeanor unless the violation occurs in connection with  
8 conduct which violates ~~the provisions of~~ section 13-2308, subsection A,  
9 paragraph 5, section 13-2312, subsection C, section 13-3409 or section  
10 13-3411, in which case the offense is a class 6 felony. Misconduct involving  
11 weapons under subsection A, paragraph 4, 5, 6 or 7 of this section is a class  
12 6 felony. Misconduct involving weapons under subsection A, paragraph 1, ~~2~~,  
13 10 or 11 of this section is a class 1 misdemeanor.

14 L. For the purposes of this section:

15 1. "AMMUNITION" MEANS AMMUNITION, CARTRIDGE CASES, PRIMERS, BULLETS OR  
16 PROPELLANT POWDER DESIGNED FOR USE IN ANY FIREARM.

17 ~~1~~ 2. "Public establishment" means a structure, vehicle or craft that  
18 is owned, leased or operated by this state or a political subdivision of this  
19 state.

20 ~~2~~ 3. "Public event" means a specifically named or sponsored event of  
21 limited duration THAT IS either conducted by a public entity or conducted by  
22 a private entity with a permit or license granted by a public entity. Public  
23 event does not include an unsponsored gathering of people in a public place.

24 ~~3~~ 4. "School" means a public or nonpublic kindergarten program,  
25 common school or high school.

26 ~~4~~ 5. "School grounds" means in, or on the grounds of, a school.

27 Sec. 10. Section 13-3105, Arizona Revised Statutes, is amended to  
28 read:

29 13-3105. Forfeiture of weapons and explosives

30 A. ~~Upon~~ ON the conviction of any person for ~~the~~ A violation of any  
31 felony in this state in which a deadly weapon, dangerous instrument or  
32 explosive was used, displayed or unlawfully possessed by ~~such~~ THE person, the  
33 court shall order the article forfeited and sold, destroyed or otherwise  
34 properly disposed.

35 B. ~~Upon~~ ON the conviction of any person for ~~the~~ A violation of section  
36 13-2904, subsection A, paragraph 6 or section 13-3102, subsection A,  
37 paragraph 1, ~~2~~, 8 or 10, the court may order the forfeiture of the deadly  
38 weapon or dangerous instrument involved in the offense.

39 C. If at any time the court finds pursuant to rule 11 of the Arizona  
40 rules of criminal procedure that a person who is charged with a violation of  
41 this title is incompetent, the court shall order that any deadly weapon,  
42 dangerous instrument or explosive used, displayed or unlawfully possessed by  
43 the person during the commission of the alleged offense be forfeited and  
44 sold, destroyed or otherwise properly disposed.

1           Sec. 11. Section 13-3112, Arizona Revised Statutes, is amended to  
2 read:

3           13-3112. Concealed weapons; qualification; application; permit  
4                           to carry; certificate of firearms proficiency;  
5                           training program; program instructors; report;  
6                           applicability; violation; classification

7           A. The department of public safety shall issue a permit to carry a  
8 concealed weapon to a person who is qualified under this section. The person  
9 shall carry the permit at all times when the person is in actual possession  
10 of the concealed weapon and shall present the permit for inspection to any  
11 law enforcement officer on request.

12           B. A person who fails to carry the permit at all times that the person  
13 is in actual possession of a concealed weapon may have the permit suspended.  
14 The department of public safety shall be notified of all violations of this  
15 section and shall immediately suspend the permit. The permittee shall  
16 present the permit to the law enforcement agency or the court. On  
17 notification of the presentation of the permit, the department shall restore  
18 the permit.

19           C. The permit of a person who is arrested or indicted for an offense  
20 that would make the person unqualified under section 13-3101, subsection A,  
21 paragraph 6 or this section shall be immediately suspended and seized. The  
22 permit of a person who becomes unqualified on conviction of that offense  
23 shall be revoked. The permit shall be restored on presentation of  
24 documentation from the court if the permittee is found not guilty or the  
25 charges are dismissed. The permit shall be restored on presentation of  
26 documentation from the county attorney that the charges against the permittee  
27 were dropped or dismissed.

28           D. A permittee who carries a concealed weapon and who fails to present  
29 a permit for inspection on the request of a law enforcement officer is guilty  
30 of a petty offense. A permittee shall not be convicted of a violation of  
31 this subsection if the permittee produces to the court a legible permit that  
32 is issued to the permittee and that was valid at the time the violation of  
33 this subsection occurred.

34           E. The department of public safety shall issue a permit to an  
35 applicant who meets all of the following conditions:

- 36           1. Is a resident of this state or a United States citizen.
- 37           2. Is twenty-one years of age or older.
- 38           3. Is not under indictment for and has not been convicted in any  
39 jurisdiction of a felony **UNLESS THAT CONVICTION HAS BEEN EXPUNGED, SET ASIDE**  
40 **OR VACATED OR THE APPLICANT'S RIGHTS HAVE BEEN RESTORED AND THE APPLICANT IS**  
41 **CURRENTLY NOT A PROHIBITED POSSESSOR UNDER STATE OR FEDERAL LAW.**
- 42           4. Does not suffer from mental illness and has not been adjudicated  
43 mentally incompetent or committed to a mental institution.
- 44           5. Is not unlawfully present in the United States.

1           6. Satisfactorily completes a firearms safety training program  
2 approved by the department of public safety pursuant to subsection 0 of this  
3 section. This paragraph does not apply to:

4           (a) A person who is an active duty Arizona peace officer standards and  
5 training board certified or federally credentialed peace officer or who is  
6 honorably retired as a federal, state or local peace officer with a minimum  
7 of ten years of service.

8           (b) A person who is an active duty county detention officer and who  
9 has been weapons certified by the officer's employing agency.

10          (c) A person who is issued a certificate of firearms proficiency  
11 pursuant to subsection X of this section.

12          F. The application shall be completed on a form prescribed by the  
13 department of public safety. The form shall not require the applicant to  
14 disclose the type of firearm for which a permit is sought. The applicant  
15 shall attest under penalty of perjury that all of the statements made by the  
16 applicant are true. The applicant shall submit the application to the  
17 department with a certificate of completion from an approved firearms safety  
18 training program, two sets of fingerprints and a reasonable fee determined by  
19 the director of the department.

20          G. On receipt of a concealed weapon permit application, the department  
21 of public safety shall conduct a check of the applicant's criminal history  
22 record pursuant to section 41-1750. The department of public safety may  
23 exchange fingerprint card information with the federal bureau of  
24 investigation for federal criminal history record checks.

25          H. The department of public safety shall complete all of the required  
26 qualification checks within sixty days after receipt of the application and  
27 shall issue a permit within fifteen working days after completing the  
28 qualification checks if the applicant meets all of the conditions specified  
29 in subsection E of this section. If a permit is denied, the department of  
30 public safety shall notify the applicant in writing within fifteen working  
31 days after the completion of all of the required qualification checks and  
32 shall state the reasons why the application was denied. On receipt of the  
33 notification of the denial, the applicant has twenty days to submit any  
34 additional documentation to the department. On receipt of the additional  
35 documentation, the department shall reconsider its decision and inform the  
36 applicant within twenty days of the result of the reconsideration. If  
37 denied, the applicant shall be informed that the applicant may request a  
38 hearing pursuant to title 41, chapter 6, article 10.

39          I. On issuance, a permit is valid for five years, except a permit that  
40 is held by a member of the United States armed forces, including a member of  
41 the Arizona national guard or a member of the reserves of any military  
42 establishment of the United States, who is on federal active duty and who is  
43 deployed overseas shall be extended until ninety days after the end of the  
44 member's overseas deployment.

1 J. The department of public safety shall maintain a computerized  
2 permit record system that is accessible to criminal justice agencies for the  
3 purpose of confirming the permit status of any person who claims to hold a  
4 valid permit issued by this state. This information and any other records  
5 that are maintained regarding applicants, permit holders or instructors shall  
6 not be available to any other person or entity except on an order from a  
7 state or federal court.

8 K. Notwithstanding subsection J of this section, it is a defense to  
9 any charge for carrying a deadly weapon without a permit by a member of the  
10 United States armed forces, including a member of the Arizona national guard  
11 or a member of the reserves of any military establishment of the United  
12 States, if the member was on federal active duty at the time the permit  
13 expired and the member presents documentation indicating release from active  
14 duty or reassignment from overseas deployment within the preceding ninety  
15 days.

16 L. A permit issued pursuant to this section is renewable every five  
17 years. Before a permit may be renewed, a criminal history records check  
18 shall be conducted pursuant to section 41-1750 within sixty days after  
19 receipt of the application for renewal. For the purposes of permit renewal,  
20 the permit holder is not required to submit additional fingerprints.

21 M. Applications for renewal shall be accompanied by a fee determined  
22 by the director of the department of public safety.

23 N. The department of public safety shall suspend or revoke a permit  
24 issued under this section if the permit holder becomes ineligible pursuant to  
25 subsection E of this section. The department of public safety shall notify  
26 the permit holder in writing within fifteen working days after the revocation  
27 or suspension and shall state the reasons for the revocation or suspension.

28 O. An organization shall apply to the department of public safety for  
29 approval of its firearms safety training program. The department shall  
30 approve a program that meets the following requirements:

- 31 1. Is at least eight hours in length.
- 32 2. Is conducted on a pass or fail basis.
- 33 3. Addresses all of the following topics in a format approved by the  
34 director of the department:

- 35 (a) Legal issues relating to the use of deadly force.
- 36 (b) Weapon care and maintenance.
- 37 (c) Mental conditioning for the use of deadly force.
- 38 (d) Safe handling and storage of weapons.
- 39 (e) Marksmanship.
- 40 (f) Judgmental shooting.

- 41 4. Is conducted by instructors who submit to a background  
42 investigation, including a check for warrants and a criminal history records  
43 check.

1 P. If approved pursuant to subsection 0 of this section, the  
2 organization shall submit to the department of public safety two sets of  
3 fingerprints from each instructor and a fee to be determined by the director  
4 of the department of public safety. On receipt of the fingerprints and fee,  
5 the department of public safety shall conduct a check of each instructor's  
6 criminal history record pursuant to section 41-1750. The department of  
7 public safety may exchange this fingerprint card information with the federal  
8 bureau of investigation for federal criminal history record checks.

9 Q. The proprietary interest of all approved instructors and programs  
10 shall be safeguarded, and the contents of any training program shall not be  
11 disclosed to any person or entity other than a bona fide criminal justice  
12 agency, except ~~upon~~ ON an order from a state or federal court.

13 R. If the department of public safety rejects a program, the rejected  
14 organization may request a hearing pursuant to title 41, chapter 6,  
15 article 10.

16 S. The department of public safety shall maintain information  
17 comparing the number of permits requested, the number of permits issued and  
18 the number of permits denied. The department shall annually report this  
19 information to the governor and the legislature.

20 T. The director of the department of public safety shall adopt rules  
21 for the purpose of implementing and administering the concealed weapons  
22 permit program including fees relating to permits and certificates that are  
23 issued pursuant to this section.

24 U. This state and any political subdivision of this state shall  
25 recognize a concealed weapon, firearm or handgun permit or license that is  
26 issued by another state or a political subdivision of another state if both:

- 27 1. The permit or license is recognized as valid in the issuing state.
- 28 2. The permit or license holder is all of the following:
  - 29 (a) Not a resident of this state.
  - 30 (b) Legally present in this state.
  - 31 (c) Not legally prohibited from possessing a firearm in this state.

32 V. For the purpose of establishing mutual permit or license  
33 recognition with other states, the department of public safety shall enter  
34 into a written agreement if another state requires a written agreement.

35 W. Notwithstanding the provisions of this section, a person with a  
36 concealed weapons permit from another state may not carry a concealed weapon  
37 in this state if the person is under twenty-one years of age or is under  
38 indictment for, or has been convicted of, a felony offense in any  
39 jurisdiction, ~~even if~~ UNLESS the person's rights have been restored and the  
40 conviction is expunged, set aside or vacated AND THE PERSON IS CURRENTLY NOT  
41 A PROHIBITED POSSESSOR UNDER STATE OR FEDERAL LAW.

1 X. The department of public safety may issue certificates of firearms  
2 proficiency according to the Arizona peace officer standards and training  
3 board firearms qualification for the purposes of implementing the law  
4 enforcement officers safety act of 2004 (P.L. 108-277; 118 Stat. 865; 18  
5 United States Code sections 926B and 926C). A law enforcement agency shall  
6 issue to a law enforcement officer who has honorably retired a photographic  
7 identification that states that the officer has honorably retired from the  
8 agency. The chief law enforcement officer shall determine whether an officer  
9 has honorably retired and the determination is not subject to review. A law  
10 enforcement agency has no obligation to revoke, alter or modify the honorable  
11 discharge photographic identification based on conduct that the agency  
12 becomes aware of or that occurs after the officer has separated from the  
13 agency.

14 Sec. 12. Conditional enactment

15 Section 13-703.01, Arizona Revised Statutes, as amended by Laws 2005,  
16 chapter 325, section 4 and this act, does not take effect unless the  
17 condition prescribed by Laws 2003, chapter 255, section 8, relating to victim  
18 sentencing recommendations, is met.