

13-2301. Definitions

A. For the purposes of sections 13-2302, 13-2303 and 13-2304:

1. "Collect an extension of credit" means to induce in any way any person to make repayment of that extension.
2. "Creditor" means any person making an extension of credit or any person claiming by, under or through any person making an extension of credit.
3. "Debtor" means any person to whom an extension of credit is made or any person who guarantees the repayment of an extension of credit, or in any manner undertakes to indemnify the creditor against loss resulting from the failure of any person to whom an extension is made to repay the extension.
4. "Extend credit" means to make or renew any loan or to enter into any agreement, tacit or express, whereby the repayment or satisfaction of any debt or claim, whether acknowledged or disputed, valid or invalid, and however arising, may or shall be deferred.
5. "Extortionate extension of credit" means any extension of credit with respect to which it is the understanding of the creditor and the debtor at the time the extension is made that delay in making repayment or failure to make repayment could result in the use of violence or other criminal means to cause harm to the person or the reputation or property of any person.
6. "Extortionate means" means the use, or an express or implicit threat of use, of violence or other criminal means to cause harm to the person or the reputation or property of any person.
7. "Repayment of any extension of credit" means the repayment, satisfaction or discharge in whole or in part of any debt or claim, acknowledged or disputed, valid or invalid, resulting from or in connection with that extension of credit.

B. For the purposes of section 13-2305, 13-2306 or 13-2307:

1. "Dealer in property" means a person who buys and sells property as a business.
2. "Stolen property" means property of another as defined in section 13-1801 that has been the subject of any unlawful taking.
3. "Traffic" means to sell, transfer, distribute, dispense or otherwise dispose of stolen property to another person, or to buy, receive, possess or obtain control of stolen property, with the intent to sell, transfer, distribute, dispense or otherwise dispose of the property to another person.

C. For the purposes of this chapter:

1. "Animal activity" means a commercial enterprise that uses animals for food, clothing or fiber production, agriculture or biotechnology.
2. "Animal facility" means a building or premises where a commercial activity in which the use of animals is essential takes place, including a zoo, rodeo, circus, amusement park, hunting preserve and horse and dog event.
3. "Animal or ecological terrorism" means any felony in violation of section 13-2312, subsection B that involves at least three persons acting in concert, that involves the intentional or knowing infliction of property damage in an amount of more than ten thousand dollars to the property that is used by a person for the operation of a lawfully conducted animal activity or to a commercial enterprise that is engaged in a lawfully operated animal facility or research facility and that involves either:
 - (a) The use of a deadly weapon or dangerous instrument.

(b) The intentional or knowing infliction of serious physical injury on a person engaged in a lawfully conducted animal activity or participating in a lawfully conducted animal facility or research facility.

4. "Biological agent" means any microorganism, virus, infectious substance or biological product that may be engineered through biotechnology or any naturally occurring or bioengineered component of any microorganism, virus, infectious substance or biological product and that is capable of causing any of the following:

(a) Death, disease or physical injury in a human, animal, plant or other living organism.

(b) The deterioration or contamination of air, food, water, equipment, supplies or material of any kind.

5. "Combination" means persons who collaborate in carrying on or furthering the activities or purposes of a criminal syndicate even though such persons may not know each other's identity, membership in the combination changes from time to time or one or more members may stand in a wholesaler-retailer or other arm's length relationship with others as to activities or dealings between or among themselves in an illicit operation.

6. "Communication service provider" has the same meaning prescribed in section 13-3001.

7. "Criminal syndicate" means any combination of persons or enterprises engaging, or having the purpose of engaging, on a continuing basis in conduct that violates any one or more provisions of any felony statute of this state.

8. "Explosive agent" means an explosive as defined in section 13-3101 and flammable fuels or fire accelerants in amounts over fifty gallons but excludes:

(a) Fireworks as defined in section 36-1601.

(b) Firearms.

(c) A propellant actuated device or propellant actuated industrial tool.

(d) A device that is commercially manufactured primarily for the purpose of illumination.

(e) A rocket having a propellant charge of less than four ounces.

9. "Material support or resources" includes money or other financial securities, financial services, lodging, sustenance, training, safehouses, false documentation or identification, communications equipment, facilities, weapons, lethal substances, explosives, personnel, transportation, disguises and other physical assets but does not include medical assistance, legal assistance or religious materials.

10. "Public establishment" means a structure that is owned, leased or operated by this state or a political subdivision of this state or a health care institution as defined in section 36-401.

11. "Research facility" means a laboratory, institution, medical care facility, government facility, public or private educational institution or nature preserve at which a scientific test, experiment or investigation involving the use of animals is lawfully carried out, conducted or attempted.

12. "Terrorism" means any felony, including any completed or preparatory offense, that involves the use of a deadly weapon or a weapon of mass destruction or the intentional or knowing infliction of serious physical injury with the intent to either:

(a) Influence the policy or affect the conduct of this state or any of the political subdivisions, agencies or instrumentalities of this state.

(b) Cause substantial damage to or substantial interruption of public communications, communication service providers, public transportation, common carriers, public utilities, public establishments or other public services.

13. "Toxin" means the toxic material of plants, animals, microorganisms, viruses, fungi or infectious substances or a recombinant molecule, whatever its origin or method of reproduction, including:

(a) Any poisonous substance or biological product that may be engineered through biotechnology and that is produced by a living organism.

(b) Any poisonous isomer or biological product, homolog or derivative of such substance.

14. "Vector" means a living organism or molecule, including a recombinant molecule or biological product that may be engineered through biotechnology, that is capable of carrying a biological agent or toxin to a host.

15. "Weapon of mass destruction" means:

(a) Any device or object that is designed or that the person intends to use to cause multiple deaths or serious physical injuries through the use of an explosive agent or the release, dissemination or impact of a toxin, biological agent, poisonous chemical, or its precursor, or any vector.

(b) Except as authorized and used in accordance with a license, registration or exemption by the radiation regulatory agency pursuant to section 30-672, any device or object that is designed or that the person intends to use to release radiation or radioactivity at a level that is dangerous to human life.

D. For the purposes of sections 13-2312, 13-2313, 13-2314 and 13-2315, unless the context otherwise requires:

1. "Control", in relation to an enterprise, means the possession of sufficient means to permit substantial direction over the affairs of an enterprise and, in relation to property, means to acquire or possess.

2. "Enterprise" means any corporation, partnership, association, labor union or other legal entity or any group of persons associated in fact although not a legal entity.

3. "Financial institution" means any business under the jurisdiction of the department of financial institutions or a banking or securities regulatory agency of the United States, a business coming within the definition of a bank, financial agency or financial institution as prescribed by 31 United States Code section 5312 or 31 Code of Federal Regulations section 1010.100 or a business under the jurisdiction of the securities division of the corporation commission, the state real estate department or the department of insurance.

4. "Racketeering" means any act, including any preparatory or completed offense, that is chargeable or indictable under the laws of the state or country in which the act occurred and, if the act occurred in a state or country other than this state, that would be chargeable or indictable under the laws of this state if the act had occurred in this state, and that would be punishable by imprisonment for more than one year under the laws of this state and, if the act occurred in a state or country other than this state, under the laws of the state or country in which the act occurred, regardless of whether the act is charged or indicted, and the act involves either:

(a) Terrorism, animal terrorism or ecological terrorism that results or is intended to result in a risk of serious physical injury or death.

(b) Any of the following acts if committed for financial gain:

(i) Homicide.

- (ii) Robbery.
- (iii) Kidnapping.
- (iv) Forgery.
- (v) Theft.
- (vi) Bribery.
- (vii) Gambling.
- (viii) Usury.
- (ix) Extortion.
- (x) Extortionate extensions of credit.
- (xi) Prohibited drugs, marijuana or other prohibited chemicals or substances.
- (xii) Trafficking in explosives, weapons or stolen property.
- (xiii) Participating in a criminal syndicate.
- (xiv) Obstructing or hindering criminal investigations or prosecutions.
- (xv) Asserting false claims including, but not limited to, false claims asserted through fraud or arson.
- (xvi) Intentional or reckless false statements or publications concerning land for sale or lease or sale of subdivided lands or sale and mortgaging of unsubdivided lands.
- (xvii) Resale of realty with intent to defraud.
- (xviii) Intentional or reckless fraud in the purchase or sale of securities.
- (xix) Intentional or reckless sale of unregistered securities or real property securities.
- (xx) A scheme or artifice to defraud.
- (xxi) Obscenity.
- (xxii) Sexual exploitation of a minor.
- (xxiii) Prostitution.
- (xxiv) Restraint of trade or commerce in violation of section 34-252.
- (xxv) Terrorism.
- (xxvi) Money laundering.
- (xxvii) Obscene or indecent telephone communications to minors for commercial purposes.
- (xxviii) Counterfeiting marks as proscribed in section 44-1453.
- (xxix) Animal terrorism or ecological terrorism.
- (xxx) Smuggling of human beings.
- (xxxi) Child prostitution.
- (xxxii) Sex trafficking.
- (xxxiii) Trafficking of persons for forced labor or services.

5. "Records" means any book, paper, writing, computer program, data, image or information that is collected, recorded, preserved or maintained in any form of storage medium.

6. "Remedy racketeering" means to enter a civil judgment pursuant to this chapter or chapter 39 of this title against property or a person who is subject to liability, including liability for injury to the state that is caused by racketeering or by actions in concert with racketeering.

E. For the purposes of sections 13-2316, 13-2316.01 and 13-2316.02:

1. "Access" means to instruct, communicate with, store data in, retrieve data from or otherwise make use of any resources of a computer, computer system or network.

2. "Access device" means any card, token, code, account number, electronic serial number, mobile or personal identification number, password, encryption key, biometric identifier

or other means of account access, including a canceled or revoked access device, that can be used alone or in conjunction with another access device to obtain money, goods, services, computer or network access or any other thing of value or that can be used to initiate a transfer of any thing of value.

3. "Computer" means an electronic device that performs logic, arithmetic or memory functions by the manipulations of electronic or magnetic impulses and includes all input, output, processing, storage, software or communication facilities that are connected or related to such a device in a system or network.

4. "Computer contaminant" means any set of computer instructions that is designed to modify, damage, destroy, record or transmit information within a computer, computer system or network without the intent or permission of the owner of the information, computer system or network. Computer contaminant includes a group of computer instructions, such as viruses or worms, that is self-replicating or self-propagating and that is designed to contaminate other computer programs or computer data, to consume computer resources, to modify, destroy, record or transmit data or in some other fashion to usurp the normal operation of the computer, computer system or network.

5. "Computer program" means a series of instructions or statements, in a form acceptable to a computer, that permits the functioning of a computer system in a manner designed to provide appropriate products from the computer system.

6. "Computer software" means a set of computer programs, procedures and associated documentation concerned with the operation of a computer system.

7. "Computer system" means a set of related, connected or unconnected computer equipment, devices and software, including storage, media and peripheral devices.

8. "Critical infrastructure resource" means any computer or communications system or network that is involved in providing services necessary to ensure or protect the public health, safety or welfare, including services that are provided by any of the following:

- (a) Medical personnel and institutions.
- (b) Emergency services agencies.
- (c) Public and private utilities, including water, power, communications and transportation services.
- (d) Fire departments, districts or volunteer organizations.
- (e) Law enforcement agencies.
- (f) Financial institutions.
- (g) Public educational institutions.
- (h) Government agencies.

9. "False or fraudulent pretense" means the unauthorized use of an access device or the use of an access device to exceed authorized access.

10. "Financial instrument" means any check, draft, money order, certificate of deposit, letter of credit, bill of exchange, credit card or marketable security or any other written instrument as defined in section 13-2001 that is transferable for value.

11. "Network" includes a complex of interconnected computer or communication systems of any type.

12. "Property" means financial instruments, information, including electronically produced data, computer software and programs in either machine or human readable form, and anything of value, tangible or intangible.

13. "Proprietary or confidential computer security information" means information about a particular computer, computer system or network that relates to its access devices, security practices, methods and systems, architecture, communications facilities, encryption methods and system vulnerabilities and that is not made available to the public by its owner or operator.

14. "Services" includes computer time, data processing, storage functions and all types of communication functions.

13-2302. Making extortionate extensions of credit; classification

A. Any person who makes an extortionate extension of credit is guilty of a class 5 felony.

B. In any prosecution pursuant to this section, if it is shown that all of the following factors were present in connection with the extension of credit, there is prima facie evidence that the extension of credit was extortionate:

1. The repayment of the extension of credit, or the performance of any promise given in consideration thereof, would be unenforceable at the time the extension of credit was made through civil judicial processes against the debtor in the county within which the debtor, if a natural person, resided or in every county within which the debtor, if other than a natural person, was incorporated, or qualified to do business.

2. The extension of credit was made at a rate of interest in excess of an annual rate of forty-five per cent calculated according to the actuarial method of allocating payments made on a debt between principal and interest, pursuant to which a payment is applied first to the accumulated interest and the balance is applied to the unpaid principal.

3. At the time the extension of credit was made, the debtor reasonably believed that either of the following:

(a) One or more extensions of credit by the creditor had been collected or attempted to be collected by extortionate means, or the nonrepayment had been punished by extortionate means.

(b) The creditor had a reputation for the use of extortionate means to collect extensions of credit or to punish the nonrepayment thereof.

4. Upon the making of the extension of credit, the total of the extensions of credit by the creditor to the debtor then outstanding, including any unpaid interest or similar charges, exceeded one hundred dollars.

C. In any prosecution pursuant to this section, if evidence has been introduced tending to show the existence of any of the circumstances described in subsection B, paragraph 1 or 2, and direct evidence of the actual belief of the debtor as to the creditor's collection practices is not available, then for the purpose of showing the understanding of the debtor and the creditor at the time the extension of credit was made, the court may in its discretion allow evidence to be introduced tending to show the reputation as to collection practices of the creditor in any community of which the debtor was a member at the time of the extension.

13-2303. Financing extortionate extensions of credit

A person who knowingly advances money or property, whether as a gift, loan, investment, pursuant to a partnership or profit sharing agreement or otherwise, to any person, with reasonable grounds to believe that it is the intention of that person to use the money or property so advanced, directly or indirectly, for the purpose of making extortionate extensions of credit, is guilty of a class 2 felony.

13-2304. Collection of extensions of credit by extortionate means

A. A person who knowingly participates in any way in the use of any extortionate means to collect or attempt to collect any extensions of credit or to punish any person for the nonrepayment thereof is guilty of a class 4 felony.

B. In any prosecution pursuant to this section, for the purpose of showing an implicit threat as a means of collection, evidence may be introduced tending to show that one or more extensions of credit by the creditor were, to the knowledge of the person against whom the implicit threat was alleged to have been made, collected or attempted to be collected by extortionate means or that the nonrepayment was punished by extortionate means.

C. In any prosecution pursuant to this section, if evidence has been introduced tending to show the existence at the time the extension of credit in question was made of the circumstances described in section 13-2302, subsection B, paragraph 1 or 2, and direct evidence of the actual belief of the debtor as to the creditor's collection practices is not available, then for the purpose of showing that words or other means of communication, shown to have been employed as a means of collection, in fact carried an express or implicit threat, the court may in its discretion allow evidence to be introduced tending to show the reputation of the defendant in any community of which the person against whom the alleged threat was made was a member at the time of the collection or attempt at collection.

13-2305. Permissible inferences

In an action for trafficking in stolen property:

1. Proof of possession of property recently stolen, unless satisfactorily explained, may give rise to an inference that the person in possession of the property was aware of the risk that it had been stolen or in some way participated in its theft.

2. Proof of the purchase or sale of stolen property at a price substantially below its fair market value, unless satisfactorily explained, may give rise to an inference that the person buying or selling the property was aware of the risk that it had been stolen.

3. Proof of the purchase or sale of stolen property by a dealer in property, out of the regular course of business, or without the usual indicia of ownership other than mere possession, unless satisfactorily explained, may give rise to an inference that the person buying or selling the property was aware of the risk that it had been stolen.

13-2306. Possession of altered property; classification

A. A person who is a dealer in property and recklessly possesses property the permanent identifying features of which, including serial numbers or labels, have been removed or in any fashion altered is guilty of a class 6 felony.

B. It is a defense to a prosecution under this section that a person has lawfully obtained a special serial number pursuant to section 28-2165 or lawfully possesses the usual indicia of ownership in addition to mere possession or has obtained the consent of the manufacturer of the property.

13-2307. Trafficking in stolen property; classification

A. A person who recklessly traffics in the property of another that has been stolen is guilty of trafficking in stolen property in the second degree.

B. A person who knowingly initiates, organizes, plans, finances, directs, manages or supervises the theft and trafficking in the property of another that has been stolen is guilty of trafficking in stolen property in the first degree.

C. Trafficking in stolen property in the second degree is a class 3 felony. Trafficking in stolen property in the first degree is a class 2 felony.

13-2308. Participating in or assisting a criminal syndicate; classification

A. A person commits participating in a criminal syndicate by:

- 1. Intentionally organizing, managing, directing, supervising or financing a criminal syndicate with the intent to promote or further the criminal objectives of the syndicate; or**
- 2. Knowingly inciting or inducing others to engage in violence or intimidation to promote or further the criminal objectives of a criminal syndicate; or**
- 3. Furnishing advice or direction in the conduct, financing or management of a criminal syndicate's affairs with the intent to promote or further the criminal objectives of a criminal syndicate; or**
- 4. Intentionally promoting or furthering the criminal objectives of a criminal syndicate by inducing or committing any act or omission by a public servant in violation of his official duty; or**
- 5. Hiring, engaging or using a minor for any conduct preparatory to or in completion of any offense in this section.**

B. A person shall not be convicted pursuant to subsection A of this section on the basis of accountability as an accomplice unless he participates in violating this section in one of the ways specified.

C. A person commits assisting a criminal syndicate by committing any felony offense, whether completed or preparatory, with the intent to promote or further the criminal objectives of a criminal syndicate.

D. Except as provided in subsection E or F of this section, participating in a criminal syndicate is a class 2 felony.

E. A violation of subsection A, paragraph 5 of this section is a class 2 felony and the person convicted is not eligible for probation, pardon, suspension of sentence or release on any basis until the person has served the sentence imposed by the court or the sentence is commuted.

F. Assisting a criminal syndicate is a class 4 felony.

G. Use of a common name or common identifying sign or symbol shall be admissible and may be considered in proving the combination of persons or enterprises required by this section.

13-2308.01. Terrorism; classification; definitions

A. It is unlawful for a person to intentionally or knowingly do any of the following:

- 1. Engage in an act of terrorism.**
- 2. Organize, manage, direct, supervise or finance an act of terrorism.**
- 3. Solicit, incite or induce others to promote or further an act of terrorism.**
- 4. Without lawful authority or when exceeding lawful authority, manufacture, sell, deliver, display, use, make accessible to others, possess or exercise control over a weapon of mass destruction knowing or having reason to know that the device or object involved is a weapon of mass destruction.**
- 5. Make property available to another, by transaction, transportation or otherwise, knowing or having reason to know that the property is intended to facilitate an act of terrorism.**
- 6. Provide advice, assistance or direction in the conduct, financing or management of an act of terrorism knowing or having reason to know that an act of terrorism has occurred or may result by:**
 - (a) Harboring or concealing any person or property.**

(b) Warning any person of impending discovery, apprehension, prosecution or conviction. This subdivision does not apply to a warning that is given in connection with an effort to bring another person into compliance with the law.

(c) Providing any person with material support or resources or any other means of avoiding discovery, apprehension, prosecution or conviction.

(d) Concealing or disguising the nature, location, source, ownership or control of material support or resources.

(e) Preventing or obstructing by means of force, deception or intimidation anyone from performing an act that might aid in the discovery, apprehension, prosecution or conviction of any person or that might aid in the prevention of an act of terrorism.

(f) Suppressing by any act of concealment, alteration or destruction any physical evidence that might aid in the discovery, apprehension, prosecution or conviction of any person or that might aid in the prevention of an act of terrorism.

(g) Concealing the identity of any person.

7. Possess, with the intent to injure another person, an infectious biological substance or a radiological agent.

8. Destroy or damage or attempt to destroy or damage any facility, equipment or material involved in the sale, manufacture, storage or distribution of an infectious biological substance or a radiological agent with the intent to injure another by the release of the substance or agent.

9. Manufacture, sell, give, distribute or use an infectious biological substance or a radiological agent with the intent to injure another person.

10. Cause injury to another person by means of an infectious biological substance or a radiological agent.

11. Give or send to another person or place in a public or private place a simulated infectious biological substance or a radiological agent with the intent to terrify, intimidate, threaten or harass. The placing or sending of a simulated infectious biological substance or radiological agent without written notice attached to the substance or agent in a conspicuous place that the substance or device has been rendered inert and is possessed for a curio or relic collection, display or other similar purpose is prima facie evidence of an intent to terrify, intimidate, threaten or harass.

12. Transport any radiological isotope or agent for the purpose of committing another act in violation of this section.

13. Adulterate or misbrand any radiological isotope.

14. Manufacture, hold, sell or offer to sell any radiological isotope that is adulterated or misbranded.

15. Alter, mutilate, destruct, obliterate or remove any part of the labeling of a radiological isotope.

16. Any other act with respect to a radiological isotope if the act is done when the article is possessed, transferred, transported or held for sale and results in the article being adulterated or misbranded.

B. The possession of any infectious biological substance or a radiological agent, unless satisfactorily explained, may give rise to an inference that the person who is in possession of the substance or agent is aware of the risk that the substance or agent may be used to commit an act in violation of this section.

C. This section does not apply to any person who is permitted or licensed pursuant to title 30, chapter 4 and 10 code of federal regulations part 30, a member or employee of the armed forces of the United States, a federal or state governmental agency or any political subdivision of a state, a charitable, scientific or educational institution or a private entity if both of the following apply:

1. The person is engaged in lawful activity within the scope of the person's employment and the person is otherwise duly authorized or licensed to manufacture, possess, sell, deliver, display, use, exercise control over or make accessible to others any weapon of mass destruction, infectious biological substance or radiological agent or to otherwise engage in any activity described in this paragraph.

2. The person is in compliance with all applicable federal and state laws in doing so.

D. A violation of subsection A of this section is a class 2 felony, except that if the court finds that at least one of the aggravating circumstances listed in section 13-701, subsection D applies, the court may impose a life sentence. If the court imposes a life sentence, the court may order that the defendant not be released on any basis for the remainder of the defendant's natural life. If the court does not sentence the defendant to natural life, the defendant shall not be released on any basis until the person has served twenty-five calendar years.

E. For the purposes of this section:

1. "Infectious biological substance" includes any bacteria, virus, fungus, protozoa, prion, toxin or material found in nature that is capable of causing death or serious physical injury. Infectious biological substance does not include human immunodeficiency virus, syphilis or hepatitis.

2. "Radiological agent" includes any substance that is able to release radiation at levels that are capable of causing death or serious bodily injury or at any level if used with the intent to terrify, intimidate, threaten or harass.

13-2309. Bribery of participants in professional or amateur games, sports, horse races, dog races, contests; classification

Whoever knowingly gives, promises or offers to any professional or amateur baseball, football, hockey, polo, tennis, horse race, dog race or basketball player or boxer or any player or referee or other official who participates or expects to participate in any professional or amateur game or sport, or to any manager, coach or trainer of any team or participant or prospective participant in any such game, contest or sport, any benefit with intent to influence him to lose or try to lose or cause to be lost or to limit his or his team's margin of victory or defeat, or in the case of a referee or other official to affect his decisions or the performance of his duties in any way, in a baseball, football, hockey or basketball game, boxing, tennis, horse race, dog race, or polo match, or any professional or amateur sport, or game, in which such player or participant or referee or other official is taking part or expects to take part, or has any duty or connection therewith, is guilty of a class 4 felony.

13-2310. Fraudulent schemes and artifices; classification; definition

A. Any person who, pursuant to a scheme or artifice to defraud, knowingly obtains any benefit by means of false or fraudulent pretenses, representations, promises or material omissions is guilty of a class 2 felony.

B. Reliance on the part of any person shall not be a necessary element of the offense described in subsection A of this section.

C. A person who is convicted of a violation of this section that involved a benefit with a value of one hundred thousand dollars or more is not eligible for suspension of sentence, probation, pardon or release from confinement on any basis except pursuant to section 31-233, subsection A or B until the sentence imposed by the court has been served, the person is eligible for release pursuant to section 41-1604.07 or the sentence is commuted.

D. The state shall apply the aggregation prescribed by section 13-1801, subsection B to violations of this section in determining the applicable punishment.

E. As used in this section, "scheme or artifice to defraud" includes a scheme or artifice to deprive a person of the intangible right of honest services.

13-2311. Fraudulent schemes and practices; wilful concealment; classification

A. Notwithstanding any provision of the law to the contrary, in any matter related to the business conducted by any department or agency of this state or any political subdivision thereof, any person who, pursuant to a scheme or artifice to defraud or deceive, knowingly falsifies, conceals or covers up a material fact by any trick, scheme or device or makes or uses any false writing or document knowing such writing or document contains any false, fictitious or fraudulent statement or entry is guilty of a class 5 felony.

B. For the purposes of this section, "agency" includes a public agency as defined by section 38-502, paragraph 6.

13-2312. Illegal control of an enterprise; illegally conducting an enterprise; classification

A. A person commits illegal control of an enterprise if such person, through racketeering or its proceeds, acquires or maintains, by investment or otherwise, control of any enterprise.

B. A person commits illegally conducting an enterprise if such person is employed by or associated with any enterprise and conducts such enterprise's affairs through racketeering or participates directly or indirectly in the conduct of any enterprise that the person knows is being conducted through racketeering.

C. A person violates this section if the person hires, engages or uses a minor for any conduct preparatory to or in completion of any offense in this section.

D. A knowing violation of subsection A or B is a class 3 felony. A knowing violation of subsection C is a class 2 felony and the person is not eligible for probation, pardon, suspension of sentence or release on any basis until the person has served the sentence imposed by the court or the sentence is commuted.

13-2313. Judicial powers over racketeering criminal cases

During the pendency of any criminal case charging an offense included in the definition of racketeering in section 13-2301, subsection D, paragraph 4 or a violation of section 13-2312, the superior court may, in addition to its other powers, issue an order pursuant to section 13-2314, subsections B and C. Upon conviction of a person for an offense included in the definition of racketeering in section 13-2301, subsection D, paragraph 4 or a violation of section 13-2312, the superior court may, in addition to its other powers of disposition, issue an order pursuant to section 13-2314.

13-2314. Racketeering; civil remedies by this state; definitions

A. The attorney general or a county attorney may file an action in superior court on behalf of a person who sustains injury to his person, business or property by racketeering as defined by

section 13-2301, subsection D, paragraph 4 or by a violation of section 13-2312 for the recovery of treble damages and the costs of the suit, including reasonable attorney fees, or to prevent, restrain, or remedy racketeering as defined by section 13-2301, subsection D, paragraph 4 or a violation of section 13-2312. If the person against whom a racketeering claim has been asserted, including a forfeiture action or lien, prevails on that claim, the person may be awarded costs and reasonable attorney fees incurred in defense of that claim. In actions filed by the state or a county, awards of costs and reasonable attorney fees are to be assessed against and paid from monies acquired pursuant to sections 13-2314.01 and 13-2314.03.

B. The superior court has jurisdiction to prevent, restrain, and remedy racketeering as defined by section 13-2301, subsection D, paragraph 4 or a violation of section 13-2312 after making provision for the rights of any person who sustained injury to his person, business or property by the racketeering conduct and after a hearing or trial, as appropriate, by issuing appropriate orders.

C. Prior to a determination of liability such orders may include, but are not limited to, issuing seizure warrants, entering findings of probable cause for in personam or in rem forfeiture, entering restraining orders or prohibitions or taking such other actions, including the acceptance of satisfactory performance bonds, the creation of receiverships and the enforcement of constructive trusts, in connection with any property or other interest subject to forfeiture, damages or other remedies or restraints pursuant to this section as the court deems proper.

D. Following a determination of liability such orders may include, but are not limited to:

1. Ordering any person to divest himself of any interest, direct or indirect, in any enterprise.

2. Imposing reasonable restrictions on the future activities or investments of any person, including prohibiting any person from engaging in the same type of endeavor as the enterprise engaged in, the activities of which affect the laws of this state, to the extent the constitutions of the United States and this state permit.

3. Ordering dissolution or reorganization of any enterprise.

4. Ordering the payment of treble damages to those persons injured by racketeering as defined by section 13-2301, subsection D, paragraph 4 or a violation of section 13-2312.

5. Ordering the payment of all costs and expenses of the prosecution and investigation of any offense included in the definition of racketeering in section 13-2301, subsection D, paragraph 4 or a violation of section 13-2312, civil and criminal, including reasonable attorney fees, to be paid to the general fund of the state or the county which brings the action.

6. In personam forfeiture pursuant to chapter 39 of this title to the general fund of the state or county as appropriate, to the extent that forfeiture is not inconsistent with protecting the rights of any person who sustained injury to his person, business or property by the racketeering conduct, of the interest of a person in:

(a) Any property or interest in property acquired or maintained by the person in violation of section 13-2312.

(b) Any interest in, security of, claims against or property, office, title, license or contractual right of any kind affording a source of influence over any enterprise or other property which the person has acquired or maintained an interest in or control of, conducted or participated in the conduct of in violation of section 13-2312.

(c) All proceeds traceable to an offense included in the definition of racketeering in section 13-2301, subsection D, paragraph 4 and held by the person and all monies, negotiable

instruments, securities and other property used or intended to be used by the person in any manner or part to facilitate commission of the offense and that the person either owned or controlled for the purpose of that use.

(d) Any other property up to the value of the subject property described in subdivision (a), (b) or (c) of this paragraph.

7. Payment to the general fund of the state or county as appropriate of an amount equal to the gain that was acquired or maintained through an offense included in the definition of racketeering in section 13-2301, subsection D, paragraph 4 or a violation of section 13-2312 or that any person is liable for under this section.

E. A person who is liable for conduct described in subsection D, paragraph 6, subdivision (a), (b) or (c) of this section is liable for the total value of all interests in property described in those subdivisions. The court shall enter an order of forfeiture against the person in the amount of the total value of all those interests less the value of any interests that are forfeited before or at the time of the entry of the final judgment.

F. A person or enterprise that acquires any property through an offense included in the definition of racketeering in section 13-2301, subsection D, paragraph 4 or through a violation of section 13-2312 is an involuntary trustee. The involuntary trustee and any other person or enterprise, except a bona fide purchaser for value who is reasonably without notice of the unlawful conduct and who is not knowingly taking part in an illegal transaction, hold the property, its proceeds and its fruits in constructive trust for the benefit of persons entitled to remedies under this section.

G. In addition to or in lieu of an action under this section the attorney general or a county attorney may file an in rem action pursuant to chapter 39 of this title for forfeiture, to the extent that forfeiture is not inconsistent with protecting the rights of any person who sustained injury to his person, business or property by the racketeering conduct, of:

1. Any property or interest in property acquired or maintained by a person in violation of section 13-2312.

2. Any interest in, security of, claims against or property, office, title, license or contractual right of any kind affording a source of influence over any enterprise or other property which a person has acquired or maintained an interest in or control of, conducted or participated in the conduct of in violation of section 13-2312.

3. All proceeds traceable to an offense included in the definition of racketeering in section 13-2301, subsection D, paragraph 4 and all monies, negotiable instruments, securities and other property used or intended to be used in any manner or part to facilitate the commission of the offense.

H. A defendant convicted in any criminal proceeding shall be precluded from subsequently denying the essential allegations of the criminal offense of which he was convicted in any civil proceeding. For the purposes of this subsection, a conviction may result from a verdict or plea including a no contest plea.

I. Notwithstanding any law creating a lesser period, the initiation of civil proceedings related to violations of any offense included in the definition of racketeering in section 13-2301, subsection D, paragraph 4 or a violation of section 13-2312, including procedures pursuant to chapter 39 of this title, shall be commenced within seven years after actual discovery of the violation.

J. In any civil action brought pursuant to this section, the attorney general or a county attorney may file with the clerk of the superior court a certificate stating that the case is of special public importance. A copy of that certificate shall be furnished immediately by such clerk to the chief judge or presiding chief judge of the superior court in the county in which such action is pending, and, upon receipt of such copy, the judge shall immediately designate a judge to hear and determine the action. The judge so designated shall promptly assign such action for hearing, participate in the hearings and determination and cause the action to be expedited.

K. The standard of proof in actions brought pursuant to this section is the preponderance of the evidence test.

L. A civil action authorized by this section, including proceedings pursuant to chapter 39 of this title, is remedial and not punitive and does not limit and is not limited by any other previous or subsequent civil or criminal action under this title or any other provision of law. Civil remedies provided under this title are supplemental and not mutually exclusive.

M. The attorney general may appear as amicus curiae in any proceeding in which a claim under this section has been asserted, including proceedings pursuant to chapter 39 of this title, or in which the court is interpreting this chapter or chapter 39 of this title. A party who files a notice of appeal from a civil action brought under this chapter or chapter 39 of this title shall serve the notice and one copy of the appellant's brief on the attorney general at the time the person files the appellant's brief with the court. This requirement is jurisdictional.

N. In this section and section 13-2312:

1. "Acquire" means for a person to do any of the following:

(a) Possess.

(b) Act so as to exclude other persons from using their property except on his own terms.

(c) Bring about or receive the transfer of any interest in property, whether to himself or to another person, or to secure performance of a service.

2. "Gain" means any benefit, interest or property of any kind without reduction for expenses of acquiring or maintaining it or incurred for any other reason.

3. "Proceeds" includes any interest in property of any kind acquired through or caused by an act or omission, or derived from the act or omission, directly or indirectly, and any fruits of this interest, in whatever form.

13-2314.01. Anti-racketeering revolving fund; use of fund; reports

A. The anti-racketeering revolving fund is established. The attorney general shall administer the fund under the conditions and for the purposes provided by this section. Monies in the fund are exempt from the lapsing provisions of section 35-190.

B. Any prosecution and investigation costs, including attorney fees, recovered for the state by the attorney general as a result of enforcement of civil and criminal statutes pertaining to any offense included in the definition of racketeering in section 13-2301, subsection D, paragraph 4 or section 13-2312, whether by final judgment, settlement or otherwise, shall be deposited in the fund established by this section.

C. Any monies received by any department or agency of this state or any political subdivision of this state from any department or agency of the United States or another state as a result of participation in any investigation or prosecution, whether by final judgment, settlement or otherwise, shall be deposited in the fund established by this section or, if the recipient is a political subdivision of this state, may be deposited in the fund established by section 13-2314.03.

D. Any monies obtained as a result of a forfeiture by any department or agency of this state under this title or under federal law shall be deposited in the fund established by this section. Any monies or other property obtained as a result of a forfeiture by any political subdivision of this state or the federal government may be deposited in the fund established by this section. Monies deposited in the fund pursuant to this section or section 13-4315 shall accrue interest and shall be held for the benefit of the agency or agencies responsible for the seizure or forfeiture to the extent of their contribution. Except as provided in subsections F and G of this section, the monies and interest shall be distributed within thirty days of application to the agency or agencies responsible for the seizure or forfeiture. Monies in the fund used by the attorney general for capital projects in excess of one million dollars are subject to review by the joint committee on capital review.

E. Monies in the fund may be used for the following:

1. The funding of gang prevention programs, substance abuse prevention programs, substance abuse education programs, programs that provide assistance to victims of a criminal offense that is listed in section 13-2301 and witness protection pursuant to section 41-196 or for any purpose permitted by federal law relating to the disposition of any property that is transferred to a law enforcement agency.

2. The investigation and prosecution of any offense included in the definition of racketeering in section 13-2301, subsection D, paragraph 4 or section 13-2312, including civil enforcement.

3. The payment of the relocation expenses of any law enforcement officer and the officer's immediate family if the law enforcement officer is the victim of a bona fide threat that occurred because of the law enforcement officer's duties.

F. On or before January 15, April 15, July 15 and October 15 of each year, each department or agency of this state receiving monies pursuant to this section or section 13-2314.03 or 13-4315 or from any department or agency of the United States or another state as a result of participation in any investigation or prosecution shall file with the attorney general a report for the previous calendar quarter. The report shall be in a form that is prescribed by the Arizona criminal justice commission and approved by the director of the joint legislative budget committee. The report shall set forth the sources of all monies and all expenditures. The report shall not include any identifying information about specific investigations. If a department or agency of this state fails to file a report within forty-five days after the report is due and there is no good cause as determined by the Arizona criminal justice commission, the attorney general shall make no expenditures from the fund for the benefit of the department or agency until the report is filed. The attorney general is responsible for collecting all reports from departments and agencies of this state and transmitting the reports to the Arizona criminal justice commission at the time that the report required pursuant to subsection G of this section is submitted.

G. On or before January 25, April 25, July 25 and October 25 of each year, the attorney general shall file with the Arizona criminal justice commission a report for the previous calendar quarter. The report shall be in a form that is prescribed by the Arizona criminal justice

commission and approved by the director of the joint legislative budget committee. The report shall set forth the sources of all monies and all expenditures. The report shall not include any identifying information about specific investigations. If the attorney general fails to file a report within sixty days after the report is due and there is no good cause as determined by the Arizona criminal justice commission, the attorney general shall make no expenditures from the fund for the benefit of the attorney general until the report is filed. If a political subdivision of this state fails to file a report with the county attorney pursuant to section 13-2314.03 within forty-five days after the report is due and there is no good cause as determined by the Arizona criminal justice commission, the attorney general shall make no expenditures from the fund for the benefit of the political subdivision until the report is filed.

H. On or before September 30 of each year, the Arizona criminal justice commission shall compile the attorney general report and the reports of all departments and agencies of this state into a single comprehensive report and shall submit a copy of the report to the governor, the director of the department of administration, the president of the senate, the speaker of the house of representatives, the director of the joint legislative budget committee and the secretary of state.

13-2314.02. Racketeering lien; content; filing; notice; effect

A. The state, upon filing a civil action under section 13-2314, upon seizure for forfeiture under chapter 39 of this title or upon charging an offense included in the definition of racketeering in section 13-2301, subsection D, paragraph 4 or a violation of section 13-2312, may file a racketeering lien in accordance with this section. A filing fee or other charge is not required for filing a racketeering lien.

B. A racketeering lien shall be signed by the attorney general or the county attorney representing the state in the action and shall set forth the following information:

1. The name of the defendant whose property or interest in property is to be subject to the lien, including as the defendant the name of any corporation, partnership, trust or other entity, including nominees, that are owned or controlled by the defendant.

2. In the discretion of the attorney general or county attorney filing the lien, any aliases or fictitious names of the defendant named in the lien.

3. If known to the attorney general or county attorney filing the lien, the present residence or principal place of business and the date of birth of the person named in the lien.

4. A reference to the proceeding pursuant to which the lien is filed, including the name of the court, the title of the action and the court's file number for the proceeding, if any.

5. The name and address of the attorney representing the state in the proceeding pursuant to which the lien is filed.

6. A statement that the notice is being filed pursuant to this section.

7. The amount which the state claims in the action or, with respect to property or an interest in property which the state asserts is subject to forfeiture, a description of the property or interest in property.

8. If known to the attorney general or county attorney filing the lien, a description of property in which the defendant has an interest which is available to satisfy a judgment entered in favor of the state.

9. Such other information as the attorney general or county attorney filing the lien deems appropriate.

C. The attorney general or the county attorney filing the lien may amend a lien filed under this section at any time by filing an amended racketeering lien in accordance with this section which identifies the prior lien amended. If the action in which the lien was filed is subsequently dismissed, the attorney general or county attorney filing the lien shall file a notice of release of the lien within twenty days after the final order of dismissal. The notice of release shall be filed with the same agency with which the original lien was filed.

D. The attorney general or the county attorney filing the lien shall, as soon as practical after filing a racketeering lien, furnish to any person named in the lien a notice of the filing of the lien. Failure to furnish notice under this subsection does not invalidate or otherwise affect a racketeering lien filed in accordance with this section.

E. In an action in which a racketeering lien has been filed covering property, a hearing seeking to release or extinguish the lien may be requested by the person named in the racketeering lien or a person claiming to possess a valid lien or an interest under subsection J of this section with respect to property covered in the lien.

F. After the person requests a hearing, the court shall enter an order to show cause setting a hearing date. The hearing date shall be at least five days but not more than ten days from the date the hearing was requested. The order to show cause setting the hearing and a copy of the entire hearing request shall be personally served on the filing agency by the person requesting the hearing as soon as possible but not less than five days before the date of the hearing. The filing agency is entitled to obtain discovery from and demand disclosure pursuant to rule 26.1 of the rules of civil procedure from a person requesting a hearing pursuant to this section.

G. If the person filing the request for a hearing pursuant to this section shows that the person possesses a valid lien or interest under subsection J of this section with respect to the property described in the request and either that probable cause does not then exist to support the racketeering lien and the property is not otherwise subject to attachment or encumbrance by the filing agency, the court shall enter an order extinguishing the racketeering lien or releasing the person's property interest, from the racketeering lien or shall enter any other order adequately protecting the person's rights, lien or interest. If the person filing the request for a hearing pursuant to this section establishes that probable cause does not exist to support the racketeering lien or forfeiture action and the lawsuit is not well grounded in fact, the court shall award the person costs and reasonable attorney fees to be assessed against and paid from monies acquired pursuant to sections 13-2314.01 and 13-2314.03.

H. A racketeering lien is perfected against interests in personal property by filing the lien with the secretary of state, except that in the case of titled motor vehicles and trailers it shall be filed with the motor vehicle division of the department of transportation. A racketeering lien is perfected against interests in real property by filing the lien with the county recorder of the county in which the real property is located. The state may give such additional notice of the lien as it deems appropriate.

I. The filing of a racketeering lien in accordance with this section creates a lien in favor of the state in all of the following:

1. Any interest of the defendant, in real property situated in the county in which the lien is filed, then maintained or thereafter acquired in the name of the defendant identified in the lien.

2. Any interest of the defendant, in personal property situated in this state, then maintained or thereafter acquired in the name of the defendant identified in the lien.

3. Any property identified in the lien to the extent of the defendant's interest therein.

J. The filing of a racketeering lien under this section is notice to all persons dealing with the person or property identified in the lien of the state's claim. The lien created in favor of the state in accordance with this section is superior and prior to the claims or interests of any other person, except a person possessing an interest that is exempt from forfeiture under chapter 39 of this title that is:

1. A valid lien perfected prior to the filing of the racketeering lien.

2. In the case of real property, an interest acquired and recorded prior to the filing of the racketeering lien.

3. In the case of personal property, an interest acquired prior to the filing of the racketeering lien.

4. In the case of community property, an interest acquired prior to the filing of the racketeering lien by a spouse whose own personal conduct does not provide a basis for the filing of the racketeering lien.

K. Upon entry of judgment in favor of the state, the state may proceed to execute thereon as in the case of any other judgment, except that:

1. In order to preserve the state's lien priority as provided in this section the state shall, in addition to such other notice as is required by law, give at least thirty days' notice of such execution to any person possessing at the time such notice is given an interest recorded subsequent to the date the state's lien was perfected.

2. If a person's property or interest in property has been released from the racketeering lien, the property or interest in property released from the lien shall not be subject to any judgment liens or any order or injunction, receivership, writ, attachment, garnishment or other remedy authorized under section 13-2314 or available under chapter 39 of this title as a result of an act or omission occurring prior to the filing of the released lien and known to the filing agency at the time the lien was filed.

L. This section shall not limit the right of the state to obtain any order or injunction, receivership, writ, attachment, garnishment or other remedy authorized under section 13-2314 or appropriate to protect the interests of the state or available under other applicable law, including, without limitation, title 44, chapter 8, article 1 and chapter 39 of this title.

13-2314.03. County anti-racketeering revolving fund; use of fund; reports

A. The board of supervisors of a county shall establish a county anti-racketeering revolving fund administered by the county attorney under the conditions and for the purposes provided by this section.

B. Any prosecution and investigation costs, including attorney fees, recovered for the county as a result of enforcement of civil and criminal statutes pertaining to any offense included in the definition of racketeering in section 13-2301, subsection D, paragraph 4 or section 13-2312, whether by final judgment, settlement or otherwise, shall be deposited in the fund established by the board of supervisors.

C. Any monies received by any department or agency of this state or any political subdivision of this state from any department or agency of the United States or another state as a result of participation in any investigation or prosecution, whether by final judgment, settlement or otherwise, shall be deposited in the fund established by this section or in the fund established by section 13-2314.01.

D. Any monies obtained as a result of a forfeiture by the county attorney under this title or under federal law shall be deposited in the fund established by this section. Any monies or other property obtained as a result of a forfeiture by any political subdivision of this state or the federal government may be deposited in the fund established by this section or in the fund established by section 13-2314.01. Monies deposited in the fund pursuant to this section or section 13-4315 shall accrue interest and shall be held for the benefit of the agency or agencies responsible for the seizure or forfeiture to the extent of their contribution. Except as provided in subsections F and G of this section, the monies and interest shall be distributed to the agency or agencies responsible for the seizure or forfeiture within thirty days of application.

E. Monies in the fund may be used for the funding of gang prevention programs, substance abuse prevention programs, substance abuse education programs, programs that provide assistance to victims of a criminal offense that is listed in section 13-2301 and witness protection pursuant to section 11-536 or for any purpose permitted by federal law relating to the disposition of any property that is transferred to a law enforcement agency. Monies in the fund may be used for the investigation and prosecution of any offense included in the definition of racketeering in section 13-2301, subsection D, paragraph 4 or section 13-2312, including civil enforcement.

F. On or before January 25, April 25, July 25 and October 25 of each year, the county attorney shall cause to be filed with the Arizona criminal justice commission a report for the previous calendar quarter. The report shall be in a form that is prescribed by the Arizona criminal justice commission and approved by the director of the joint legislative budget committee. The report shall set forth the sources of all monies and all expenditures. The report shall not include any identifying information about specific investigations. If the county attorney fails to file a report within sixty days after it is due and there is no good cause as determined by the Arizona criminal justice commission, the county attorney shall make no expenditures from the fund for the benefit of the county attorney until the report is filed.

G. On or before January 15, April 15, July 15 and October 15 of each year, each political subdivision of this state receiving monies pursuant to this section or section 13-2314.01 or 13-4315 or from any department or agency of the United States or another state as a result of participating in any investigation or prosecution shall cause to be filed with the county attorney of the county in which the political subdivision is located a report for the previous calendar quarter. The report shall be in a form that is prescribed by the Arizona criminal justice commission and approved by the director of the joint legislative budget committee. The report shall set forth the sources of all monies and all expenditures. The report shall not include any identifying information about specific investigations. If a political subdivision of this state fails to file a report within forty-five days after the report is due and there is no good cause as determined by the Arizona criminal justice commission, the county attorney shall make no expenditures from the fund for the benefit of the political subdivision until the report is filed. The county attorney shall be responsible for collecting all reports from political subdivisions within that county and transmitting the reports to the Arizona criminal justice commission at the time that the county report required pursuant to subsection F of this section is submitted.

H. On or before September 30 of each year, the Arizona criminal justice commission shall compile all county attorney reports into a single comprehensive report and all political subdivision reports into a single comprehensive report and submit a copy of each comprehensive report to the

governor, the president of the senate, the speaker of the house of representatives, the director of the joint legislative budget committee and the secretary of state.

13-2314.04. Racketeering; unlawful activity; civil remedies by private cause of action; definitions

A. A person who sustains reasonably foreseeable injury to his person, business or property by a pattern of racketeering activity, or by a violation of section 13-2312 involving a pattern of racketeering activity, may file an action in superior court for the recovery of up to treble damages and the costs of the suit, including reasonable attorney fees for trial and appellate representation. If the person against whom a racketeering claim has been asserted, including a lien, prevails on that claim, the person may be awarded costs and reasonable attorney fees incurred in defense of that claim. No person may rely on any conduct that would have been actionable as fraud in the purchase or sale of securities to establish an action under this section except an action against a person who is convicted of a crime in connection with the fraud, in which case the period to initiate a civil action starts to run on the date on which the conviction becomes final.

B. The superior court has jurisdiction to prevent, restrain and remedy a pattern of racketeering activity or a violation of section 13-2312 involving a pattern of racketeering activity, after making provision for the rights of all innocent persons affected by the violation and after a hearing or trial, as appropriate, by issuing appropriate orders.

C. Before a determination of liability these orders may include, but are not limited to, entering restraining orders or prohibitions or taking such other actions, including the acceptance of satisfactory performance bonds, the creation of receiverships and the enforcement of constructive trusts, in connection with any property or other interest subject to damage or other remedies or restraints pursuant to this section as the court deems proper.

D. After a determination of liability these orders may include, but are not limited to:

1. Ordering any person to divest himself of any interest, direct or indirect, in any enterprise.

2. Imposing reasonable restrictions on the future activities or investments of any person, including prohibiting any person from engaging in the same type of endeavor as the enterprise engaged in, the activities of which affect the laws of this state, to the extent the constitutions of the United States and this state permit.

3. Ordering dissolution or reorganization of any enterprise.

4. Ordering the payment of up to treble damages to those persons injured by a pattern of racketeering activity or a violation of section 13-2312 involving a pattern of racketeering activity.

5. Prejudgment interest on damages, except that prejudgment interest may not be awarded on any increase in the damages authorized under paragraph 4 of this subsection.

6. A person or enterprise that acquires any property through an offense included in the definition of racketeering in section 13-2301, subsection D or a violation of section 13-2312 is an involuntary trustee. The involuntary trustee and any other person or enterprise, except a bona fide purchaser for value who is reasonably without notice of the unlawful conduct and who is not knowingly taking part in an illegal transaction, hold the property, its proceeds and its fruits in constructive trust for the benefit of persons entitled to remedies under this section.

E. A defendant convicted in any criminal proceeding is precluded from subsequently denying the essential allegations of the criminal offense of which the defendant was convicted in any civil proceedings. For the purpose of this subsection, a conviction may result from a verdict or plea including a no contest plea.

F. Notwithstanding any law prescribing a lesser period but subject to subsection A of this section, the initiation of civil proceedings pursuant to this section shall be commenced within three years from the date the violation was discovered, or should have been discovered with reasonable diligence, and ten years after the events giving rise to the cause of action, whichever comes first.

G. The standard of proof in actions brought pursuant to this section is the preponderance of evidence test.

H. A person who files an action under this section shall serve notice and one copy of the pleading on the attorney general within thirty days after the action is filed with the superior court. This requirement is jurisdictional. The notice shall identify the action, the person and the person's attorney. Service of the notice does not limit or otherwise affect the right of the state to maintain an action under section 13-2314 or to intervene in a pending action nor does it authorize the person to name this state or the attorney general as a party to the action.

I. On timely application, the attorney general may intervene in any civil action or proceeding brought under this section if the attorney general certifies that in the attorney general's opinion the action is of special public importance. On intervention, the attorney general may assert any available claim and is entitled to the same relief as if the attorney general has instituted a separate action.

J. In addition to the state's right to intervene as a party in any action under this section, the attorney general may appear as amicus curiae in any proceeding in which a claim under this section has been asserted or in which a court is interpreting section 13-2301, 13-2312, 13-2313, 13-2314.01, 13-2314.02 or 13-2315 or this section.

K. A civil action authorized by this section is remedial and not punitive and does not limit and is not limited by any other previous or subsequent civil or criminal action under this title or any other provision of law. Civil remedies provided under this title are supplemental and not mutually exclusive, except that a person may not recover, for an action brought pursuant to this section, punitive damages or emotional injury damages in the absence of bodily injury.

L. A natural person shall not be held liable in damages or for other relief pursuant to this section based on the conduct of another unless the fact finder finds by a preponderance of the evidence that the natural person authorized, requested, commanded, ratified or recklessly tolerated the unlawful conduct of the other. An enterprise shall not be held liable in damages or for other relief pursuant to this section based on the conduct of an agent, unless the fact finder finds by a preponderance of the evidence that a director or high managerial agent performed, authorized, requested, commanded, ratified or recklessly tolerated the unlawful conduct of the agent. A bank or savings and loan association insured by the federal deposit insurance corporation or a credit union insured by the national credit union administration shall not be held liable in damages or for other relief pursuant to this section for conduct proscribed by section 13-2317, subsection B, paragraph 1, based on acquiring or maintaining an interest in or transporting, transacting, transferring or receiving funds belonging to a person other than the person presenting the funds, unless the fact finder finds by a preponderance of the evidence that the person or agent acquiring or maintaining an interest in or transporting, transacting,

transferring or receiving the funds on behalf of the defendant did so knowing that the funds were the proceeds of an offense and that a director or high managerial agent performed, authorized, requested, commanded, ratified or recklessly tolerated the unlawful conduct of the person or agent. A person or enterprise shall not be held liable in damages or for other relief pursuant to this section unless the fact finder makes particularized findings sufficient to permit full and complete review of the record, if any, of the conduct of the person. A natural person or enterprise shall not be held liable in damages for recklessly tolerating the unlawful conduct of another person or agent if the other person or agent engaged in unlawful conduct proscribed by section 13-2301, subsection D, paragraph 4, subdivision (b), item (xvi), (xviii), (xix) or (xx) and the unlawful conduct involved the purchase or sale of securities.

M. Notwithstanding subsection A of this section, a court shall not award costs, including attorney fees, if the award would be unjust because of special circumstances, including the relevant disparate economic position of the parties or the disproportionate amount of the costs, including attorney fees, to the nature of the damage or other relief obtained.

N. If the court determines that the filing of any pleading, motion or other paper under this section was frivolous or that any civil action or proceeding was brought or continued under this section in bad faith, vexatiously, wantonly or for an improper or oppressive reason, it shall award a proper sanction to deter this conduct in the future that may include the costs of the civil action or proceeding, including the costs of investigation and reasonable attorney fees in the trial and appellate courts.

O. Notwithstanding any other law, a complaint, counterclaim, answer or response filed by a person in connection with a civil action or proceeding under this section shall be verified by at least one party or the party's attorney. If the person is represented by an attorney, at least one attorney of record shall sign any pleading, motion or other paper in the attorney's individual name and shall state the attorney's address.

P. The verification by a person or the person's attorney and the signature by an attorney required by subsection O of this section constitute a certification by the person or the person's attorney that the person or the person's attorney has carefully read the pleading, motion or other paper and, based on a reasonable inquiry, believes all of the following:

1. It is well grounded in fact.
2. It is warranted by existing law or there is a good faith argument for the extension, modification or reversal of existing law.
3. It is not made for any bad faith, vexatious, wanton, improper or oppressive reason, including to harass, to cause unnecessary delay, to impose a needless increase in the cost of litigation or to force an unjust settlement through the serious character of the averment.

Q. If any pleading, motion or other paper is signed in violation of the certification provisions of subsection P of this section, the court, on its own motion or on the motion of the other party and after a hearing and appropriate findings of fact, shall impose on the person who verified it or the attorney who signed it, or both, a proper sanction to deter this conduct in the future, including the costs of the proceeding under subsection N of this section.

R. If any pleading, motion or other paper includes an averment of fraud or coercion, it shall state these circumstances with particularity with respect to each defendant.

S. In any civil action or proceeding under this section in which the pleading, motion or other paper does not allege a crime of violence as a racketeering act:

1. The term "racketeer" shall not be used in referring to any person.

2. The terms used to refer to acts of racketeering or a pattern of racketeering activity shall be "unlawful acts" or "a pattern of unlawful activity".

T. In this section, unless the context otherwise requires:

1. "Acquire" means for a person to do any of the following:

(a) Possess.

(b) Act so as to exclude another person from using the person's property except on the person's own terms.

(c) Bring about or receive the transfer of any interest in property, whether to himself or to another person, or to secure performance of a service.

2. "Gain" means any benefit, interest or property of any kind without reduction for expenses of acquiring or maintaining it or incurred for any other reason.

3. "Pattern of racketeering activity" means either:

(a) At least two acts of racketeering as defined in section 13-2301, subsection D, paragraph 4, subdivision (b), item (iv), (v), (vi), (vii), (viii), (ix), (x), (xiii), (xv), (xvi), (xvii), (xviii), (xix), (xx), (xxiv) or (xxvi) that meet the following requirements:

(i) The last act of racketeering activity that is alleged as the basis of the claim occurred within five years of a prior act of racketeering.

(ii) The acts of racketeering that are alleged as the basis of the claim were related to each other or to a common external organizing principle, including the affairs of an enterprise. Acts of racketeering are related if they have the same or similar purposes, results, participants, victims or methods of commission or are otherwise interrelated by distinguishing characteristics.

(iii) The acts of racketeering that are alleged as the basis of the claim were continuous or exhibited the threat of being continuous.

(b) A single act of racketeering as defined in section 13-2301, subsection D, paragraph 4, subdivision (b), item (i), (ii), (iii), (xi), (xii), (xiv), (xxi), (xxii), (xxiii), (xxv), (xxvii) or (xxviii).

4. "Proceeds" means any interest in property of any kind acquired through or caused by an act or omission, or derived from the act or omission, directly or indirectly, and any fruits of this interest, in whatever form.

13-2315. Racketeering; investigation of records; confidentiality; court enforcement; immunity; classification

A. A custodian of the records of a financial institution as defined in section 13-2301 shall, at no expense to the financial institution, produce for inspection or copying the records in the custody of such financial institution when requested to be inspected by the attorney general or a county attorney authorized by the attorney general, provided such person requesting such information signs and submits a sworn statement to the custodian that the request is made in order to investigate racketeering as defined by section 13-2301, subsection D, paragraph 4 or a violation of section 13-2312. Such records may be removed from the premises of the financial institution only for the purpose of copying the records and shall be returned within forty-eight hours. The attorney general or an authorized county attorney or any peace officer designated by such county attorney or the attorney general shall be prohibited from using or releasing such information except in the proper discharge of official duties. The furnishing of records in compliance with this section by a custodian of records shall be a bar to civil or criminal liability

against such custodian or financial institution in any action brought alleging violation of the confidentiality of such records.

B. The attorney general or the authorized county attorney may petition the superior court for enforcement of this section in the event of noncompliance with the request for inspection. Enforcement shall be granted if the request is reasonable and the attorney general or the authorized county attorney has reasonable grounds to believe the records sought to be inspected are relevant to a civil or criminal investigation of an offense included in the definition of racketeering in section 13-2301, subsection D, paragraph 4 or a violation of section 13-2312.

C. The investigation authority granted pursuant to the provisions of this section may not be exercised by a county attorney in the absence of authorization by the attorney general.

D. Nothing in this section precludes a financial institution or an officer, employee or agent of a financial institution from notifying the attorney general or a county attorney of information which may be relevant to a possible racketeering violation. A person who reports the information to the attorney general or a county attorney is immune from civil liability for the release of the information.

E. Any person releasing information obtained pursuant to this section, except in the proper discharge of official duties, is guilty of a class 2 misdemeanor.

13-2316. Computer tampering; venue; forfeiture; classification

A. A person who acts without authority or who exceeds authorization of use commits computer tampering by:

1. Accessing, altering, damaging or destroying any computer, computer system or network, or any part of a computer, computer system or network, with the intent to devise or execute any scheme or artifice to defraud or deceive, or to control property or services by means of false or fraudulent pretenses, representations or promises.

2. Knowingly altering, damaging, deleting or destroying computer programs or data.

3. Knowingly introducing a computer contaminant into any computer, computer system or network.

4. Recklessly disrupting or causing the disruption of computer, computer system or network services or denying or causing the denial of computer or network services to any authorized user of a computer, computer system or network.

5. Recklessly using a computer, computer system or network to engage in a scheme or course of conduct that is directed at another person and that seriously alarms, torments, threatens or terrorizes the person. For the purposes of this paragraph, the conduct must both:

(a) Cause a reasonable person to suffer substantial emotional distress.

(b) Serve no legitimate purpose.

6. Preventing a computer user from exiting a site, computer system or network-connected location in order to compel the user's computer to continue communicating with, connecting to or displaying the content of the service, site or system.

7. Knowingly obtaining any information that is required by law to be kept confidential or any records that are not public records by accessing any computer, computer system or network that is operated by this state, a political subdivision of this state, a health care provider as defined in section 12-2291, a clinical laboratory as defined in section 36-451 or a person or entity that provides services on behalf of a health care provider or a clinical laboratory.

8. Knowingly accessing any computer, computer system or network or any computer software, program or data that is contained in a computer, computer system or network.

B. In addition to section 13-109, a prosecution for a violation of this section may be tried in any of the following counties:

1. The county in which the victimized computer, computer system or network is located.
2. The county in which the computer, computer system or network that was used in the commission of the offense is located or in which any books, records, documents, property, financial instruments, computer software, data, access devices or instruments of the offense were used.
3. The county in which any authorized user was denied service or in which an authorized user's service was interrupted.
4. The county in which critical infrastructure resources were tampered with or affected.

C. On conviction of a violation of this section, the court shall order that any computer system or instrument of communication that was owned or used exclusively by the defendant and that was used in the commission of the offense be forfeited and sold, destroyed or otherwise properly disposed.

D. A violation of subsection A, paragraph 6 of this section constitutes an unlawful practice under section 44-1522 and is in addition to all other causes of action, remedies and penalties that are available to this state. The attorney general may investigate and take appropriate action pursuant to title 44, chapter 10, article 7.

E. Computer tampering pursuant to subsection A, paragraph 1 of this section is a class 3 felony. Computer tampering pursuant to subsection A, paragraph 2, 3 or 4 of this section is a class 4 felony, unless the computer, computer system or network tampered with is a critical infrastructure resource, in which case it is a class 2 felony. Computer tampering pursuant to subsection A, paragraph 5 of this section is a class 5 felony. Computer tampering pursuant to subsection A, paragraph 7 or 8 of this section is a class 6 felony.

13-2316.01. Unlawful possession of an access device; classification

A. A person commits unlawful possession of an access device by knowingly possessing, trafficking in, publishing or controlling an access device without the consent of the issuer, owner or authorized user and with the intent to use or distribute that access device.

B. The possession, trafficking, publishing or control of five or more access devices without the consent of the issuer, owner or authorized user may give rise to an inference that the person possessing, trafficking in, publishing or controlling the access devices intended to use or distribute the devices.

C. Unlawful possession of one hundred or more access devices is a class 4 felony. Unlawful possession of five or more but fewer than one hundred access devices is a class 5 felony. Unlawful possession of fewer than five access devices is a class 6 felony.

13-2316.02. Unauthorized release of proprietary or confidential computer security information; exceptions; classification

A. A person commits unauthorized release of proprietary or confidential computer security information by communicating, releasing or publishing proprietary or confidential computer security information, security-related measures, algorithms or encryption devices relating to a particular computer, computer system or network without the authorization of its owner or operator.

B. The following are exempt from this section:

1. The release by publishers, vendors, users and researchers of warnings or information about security measures or defects in software, hardware or encryption products if the release of the warnings or information is not specific to a particular owner's or operator's computer, computer system or network.

2. The release of security information among the authorized users of a computer, computer system or network or the notification to the owner or operator of a computer, computer system or network of a perceived security threat.

3. The release of security information in connection with the research, development and testing of security-related measures, products or devices if the release of the security information is not specific to a particular owner's or operator's computer, computer system or network.

C. At the conclusion of any grand jury, hearing or trial, the court shall preserve pursuant to section 44-405 any proprietary computer security information that was admitted in evidence or any portion of a transcript that contains information relating to proprietary computer security information.

D. Unauthorized release of proprietary or confidential computer security information is a class 6 felony, unless the security information relates to a critical infrastructure resource, in which case it is a class 4 felony.

13-2317. Money laundering; classification; definitions

A. A person is guilty of money laundering in the first degree if the person does any of the following:

1. Knowingly initiates, organizes, plans, finances, directs, manages, supervises or is in the business of money laundering in violation of subsection B of this section.

2. Violates subsection B of this section in the course of or for the purpose of facilitating terrorism or murder.

B. A person is guilty of money laundering in the second degree if the person does any of the following:

1. Acquires or maintains an interest in, transacts, transfers, transports, receives or conceals the existence or nature of racketeering proceeds knowing or having reason to know that they are the proceeds of an offense.

2. Makes property available to another by transaction, transportation or otherwise knowing that it is intended to be used to facilitate racketeering.

3. Conducts a transaction knowing or having reason to know that the property involved is the proceeds of an offense and with the intent to conceal or disguise the nature, location, source, ownership or control of the property or the intent to facilitate racketeering.

4. Intentionally or knowingly makes a false statement, misrepresentation or false certification or makes a false entry or omits a material entry in any application, financial statement, account record, customer receipt, report or other document that is filed or required to be maintained or filed under title 6, chapter 12.

5. Intentionally or knowingly evades or attempts to evade any reporting requirement under section 6-1241, whether by structuring transactions as described in 31 Code of Federal Regulations chapter X, by causing any financial institution, money transmitter, trade or business to fail to file the report, by failing to file a required report or record or by any other means.

6. Intentionally or knowingly provides any false information or fails to disclose information that causes any licensee, authorized delegate, money transmitter, trade or business to either:

(a) Fail to file any report or record that is required under section 6-1241.

(b) File such a report or record that contains a material omission or misstatement of fact.

7. Intentionally or knowingly falsifies, conceals, covers up or misrepresents or attempts to falsify, conceal, cover up or misrepresent the identity of any person in connection with any transaction with a financial institution or money transmitter.

8. In connection with a transaction with a financial institution or money transmitter, intentionally or knowingly makes, uses, offers or presents or attempts to make, use, offer or present, whether accepted or not, a forged instrument, a falsely altered or completed written instrument or a written instrument that contains any materially false personal identifying information.

9. If the person is a money transmitter, a person engaged in a trade or business or any employee of a money transmitter or a person engaged in a trade or business, intentionally or knowingly accepts false personal identifying information from any person or otherwise knowingly incorporates false personal identifying information into any report or record that is required by section 6-1241.

10. Intentionally conducts, controls, manages, supervises, directs or owns all or part of a money transmitting business for which a license is required by title 6, chapter 12 unless the business is licensed pursuant to title 6, chapter 12 and complies with the money transmitting business registration requirements under 31 United States Code section 5330.

C. A person is guilty of money laundering in the third degree if the person intentionally or knowingly does any of the following:

1. In the course of any transaction transmitting money, confers or agrees to confer anything of value on a money transmitter or any employee of a money transmitter that is intended to influence or reward any person for failing to comply with any requirement under title 6, chapter 12.

2. Engages in the business of receiving money for transmission or transmitting money, as an employee or otherwise, and receives anything of value upon an agreement or understanding that it is intended to influence or benefit the person for failing to comply with any requirement under title 6, chapter 12.

D. In addition to any other criminal or civil remedy, if a person violates subsection A or B of this section as part of a pattern of violations that involve a total of one hundred thousand dollars or more in any twelve month period, the person is subject to forfeiture of substitute assets in an amount that is three times the amount that was involved in the pattern, including conduct that occurred before and after the twelve month period.

E. Money laundering in the third degree is a class 6 felony. Money laundering in the second degree is a class 3 felony. Money laundering in the first degree is a class 2 felony.

F. For the purposes of this section:

1. The following terms have the same meaning prescribed in section 6-1201:

(a) "Authorized delegate".

(b) "Licensee".

(c) "Money accumulation business".

(d) "Money transmitter".

(e) "Trade or business".

(f) "Transmitting money".

2. The following terms have the same meaning prescribed in section 13-2001:

- (a) "Falsely alters a written instrument".
- (b) "Falsely completes a written instrument".
- (c) "Falsely makes a written instrument".
- (d) "Forged instrument".
- (e) "Personal identifying information".
- (f) "Written instrument".

3. The following terms have the same meaning prescribed in section 13-2301:

- (a) "Financial institution".
- (b) "Financial instrument".
- (c) "Racketeering", except that for the purposes of civil remedies sought by the attorney

general, racketeering includes any act, regardless of whether the act would be chargeable or indictable under the laws of this state or whether the act is charged or indicted, that is committed for financial gain, punishable by imprisonment for more than one year under the laws of the United States and described in section 274(a)(1)(A)(i), (ii) or (iii) or (a)(2) of the immigration and nationality act (8 United States Code section 1324(a)(1)(A)(i), (ii) or (iii) or (a)(2)) if persons acting in concert in the conduct acquire a total of more than five thousand dollars through the conduct in a one month period. For the purpose of forfeiture of property other than real property, the conduct must involve more than three aliens in a one month period. For the purpose of forfeiture of real property, the conduct must involve more than fifteen aliens in a one month period.

4. The following terms have the same meaning prescribed in section 13-2314:

- (a) "Acquire".
- (b) "Proceeds".

G. For the purposes of this section:

- 1. "Offense" has the same meaning prescribed in section 13-105 and includes conduct for which a sentence to a term of incarceration is provided by any law of the United States.
- 2. "Superintendent" has the same meaning prescribed in section 6-101.
- 3. "Transaction" means a purchase, sale, trade, loan, pledge, investment, gift, transfer, transmission, delivery, deposit, withdrawal, payment, transfer between accounts, exchange of currency, extension of credit, purchase or sale of any financial instrument or any other acquisition or disposition of property by whatever means.

13-2318. Civil judgments; injury to the state

The court shall not reduce or increase the judgment in a civil action under this title because of the imposition or failure to impose a sanction in a separate criminal prosecution involving the same conduct but shall determine the civil judgment solely according to the civil remedies that are provided under this chapter and chapter 39 of this title, including the amount of injury to the state. Injury to the state includes:

- 1. The expenditure of any public monies, including the expenses of law enforcement and prosecutors in pursuing civil and criminal remedies.
- 2. The amount of money or the value of other property that is exchanged or that would foreseeably be exchanged for prohibited drugs, marijuana or other prohibited chemicals or substances or that is used, made available to another or otherwise involved in a violation of section 13-2317. The exchange of a prohibited chemical or substance for gain is a foreseeable

consequence of the manufacture, production, transportation or sale of the prohibited chemical or substance.

3. The acquisition or gain of proceeds as defined in section 13-2314 of any offense included in the definition of racketeering as defined in section 13-2301, subsection D, paragraph 4.

13-2319. Smuggling; classification; definitions

A. It is unlawful for a person to intentionally engage in the smuggling of human beings for profit or commercial purpose.

B. A violation of this section is a class 4 felony.

C. Notwithstanding subsection B of this section, a violation of this section:

1. Is a class 2 felony if the human being who is smuggled is under eighteen years of age and is not accompanied by a family member over eighteen years of age or the offense involved the use of a deadly weapon or dangerous instrument.

2. Is a class 3 felony if the offense involves the use or threatened use of deadly physical force and the person is not eligible for suspension of sentence, probation, pardon or release from confinement on any other basis except pursuant to section 31-233, subsection A or B until the sentence imposed by the court is served, the person is eligible for release pursuant to section 41-1604.07 or the sentence is commuted.

D. Chapter 10 of this title does not apply to a violation of subsection C, paragraph 1 of this section.

E. Notwithstanding any other law, in the enforcement of this section a peace officer may lawfully stop any person who is operating a motor vehicle if the officer has reasonable suspicion to believe the person is in violation of any civil traffic law.

F. For the purposes of this section:

1. "Family member" means the person's parent, grandparent, sibling or any other person who is related to the person by consanguinity or affinity to the second degree.

2. "Procurement of transportation" means any participation in or facilitation of transportation and includes:

(a) Providing services that facilitate transportation including travel arrangement services or money transmission services.

(b) Providing property that facilitates transportation, including a weapon, a vehicle or other means of transportation or false identification, or selling, leasing, renting or otherwise making available a drop house as defined in section 13-2322.

3. "Smuggling of human beings" means the transportation, procurement of transportation or use of property or real property by a person or an entity that knows or has reason to know that the person or persons transported or to be transported are not United States citizens, permanent resident aliens or persons otherwise lawfully in this state or have attempted to enter, entered or remained in the United States in violation of law.

13-2320. Residential mortgage fraud; classification; definitions

A. A person commits residential mortgage fraud if, with the intent to defraud, the person does any of the following:

1. Knowingly makes any deliberate misstatement, misrepresentation or material omission during the mortgage lending process that is relied on by a mortgage lender, borrower or other party to the mortgage lending process.

2. Knowingly uses or facilitates the use of any deliberate misstatement, misrepresentation or material omission during the mortgage lending process that is relied on by a mortgage lender, borrower or other party to the mortgage lending process.

3. Receives any proceeds or other monies in connection with a residential mortgage loan that the person knows resulted from a violation of paragraph 1 or 2 of this subsection.

4. Files or causes to be filed with the office of the county recorder of any county of this state any residential mortgage loan document that the person knows to contain a deliberate misstatement, misrepresentation or material omission.

B. An offense involving residential mortgage fraud shall not be based solely on information that is lawfully disclosed under federal disclosure laws, regulations and interpretations related to the mortgage lending process.

C. This section does not apply to a person who is not aware that the information that is relied on by the mortgage lender, borrower or other party to the mortgage lending process is a deliberate misstatement, misrepresentation or material omission.

D. A person who violates this section is guilty of a class 4 felony, except that a person who engages or participates in a pattern of residential mortgage fraud or who conspires to engage or participate in a pattern of residential mortgage fraud is guilty of a class 2 felony.

E. For the purposes of this section:

1. "Mortgage lending process" means the process through which a person seeks or obtains a residential mortgage loan including solicitation, application, origination, negotiation of terms, third-party provider services, underwriting, signing, closing and funding of the loan.

2. "Pattern of residential mortgage fraud" means one or more violations of subsection A that involve two or more residential properties and that have the same or similar intents, results, accomplices, victims or methods of commission or are otherwise interrelated by distinguishing characteristics.

3. "Residential mortgage loan" means a loan or agreement to extend credit to a person that is secured by a deed to secure debt, security deed, mortgage, security interest, deed of trust or other document representing a security interest or lien on any interest in one to four family residential property and includes the renewal or refinancing of any loan.

13-2321. Participating in or assisting a criminal street gang; classification

A. A person commits participating in a criminal street gang by any of the following:

1. Intentionally organizing, managing, directing, supervising or financing a criminal street gang with the intent to promote or further the criminal objectives of the criminal street gang.

2. Knowingly inciting or inducing others to engage in violence or intimidation to promote or further the criminal objectives of a criminal street gang.

3. Furnishing advice or direction in the conduct, financing or management of a criminal street gang's affairs with the intent to promote or further the criminal objectives of a criminal street gang.

4. Intentionally promoting or furthering the criminal objectives of a criminal street gang by inducing or committing any act or omission by a public servant in violation of the public servant's official duty.

B. A person commits assisting a criminal street gang by committing any felony offense, whether completed or preparatory for the benefit of, at the direction of or in association with any criminal street gang.

C. Participating in a criminal street gang is a class 2 felony.

D. Assisting a criminal street gang is a class 3 felony.

E. Use of a common name or common identifying sign or symbol shall be admissible and may be considered in proving the existence of a criminal street gang or membership in a criminal street gang.

13-2322. Unlawful transactions involving drop house properties; classification; definition

A. A person or company that owns, sells, leases or brokers a transaction involving property or real property that the person or company knows will be used as a drop house is guilty of a class 4 felony.

B. It is a defense to a prosecution pursuant to this section if both of the following apply:

1. The person or company acquires actual knowledge that the property or real property is being used as a drop house after the person or company acquires ownership of, sells, leases or brokers a transaction involving the property or real property.

2. The person or company reports this information to a law enforcement agency.

C. For the purposes of this section, "drop house" means property or real property that is used to facilitate smuggling pursuant to section 13-2319.

13-2323. Participating in or assisting a human smuggling organization; classification

A. A person commits participating in a human smuggling organization by any of the following:

1. Intentionally organizing, managing, directing, supervising or financing a human smuggling organization with the intent to promote or further the criminal objectives of the human smuggling organization.

2. Knowingly directing or instructing others to engage in violence or intimidation to promote or further the criminal objectives of a human smuggling organization.

3. Furnishing advice or direction in the conduct, financing or management of a human smuggling organization's affairs with the intent to promote or further the criminal objectives of a human smuggling organization.

4. Intentionally promoting or furthering the criminal objectives of a human smuggling organization by inducing or committing any act or omission by a public servant in violation of the public servant's official duty.

B. A person commits assisting a human smuggling organization by committing any felony offense, whether completed or preparatory, at the direction of or in association with any human smuggling organization.

- C. Participating in a human smuggling organization is a class 2 felony.**
- D. Assisting a human smuggling organization is a class 3 felony.**