

13-3601. Domestic violence; definition; classification; sentencing option; arrest and procedure for violation; weapon seizure

A. "Domestic violence" means any act that is a dangerous crime against children as defined in section 13-705 or an offense prescribed in section 13-1102, 13-1103, 13-1104, 13-1105, 13-1201, 13-1202, 13-1203, 13-1204, 13-1302, 13-1303, 13-1304, 13-1406, 13-1425, 13-1502, 13-1503, 13-1504, 13-1602 or 13-2810, section 13-2904, subsection A, paragraph 1, 2, 3 or 6, section 13-2910, subsection A, paragraph 8 or 9, section 13-2915, subsection A, paragraph 3 or section 13-2916, 13-2921, 13-2921.01, 13-2923, 13-3019, 13-3601.02 or 13-3623, if any of the following applies:

1. The relationship between the victim and the defendant is one of marriage or former marriage or of persons residing or having resided in the same household.

2. The victim and the defendant have a child in common.

3. The victim or the defendant is pregnant by the other party.

4. The victim is related to the defendant or the defendant's spouse by blood or court order as a parent, grandparent, child, grandchild, brother or sister or by marriage as a parent-in-law, grandparent-in-law, stepparent, step-grandparent, stepchild, step-grandchild, brother-in-law or sister-in-law.

5. The victim is a child who resides or has resided in the same household as the defendant and is related by blood to a former spouse of the defendant or to a person who resides or who has resided in the same household as the defendant.

6. The relationship between the victim and the defendant is currently or was previously a romantic or sexual relationship. The following factors may be considered in determining whether the relationship between the victim and the defendant is currently or was previously a romantic or sexual relationship:

(a) The type of relationship.

(b) The length of the relationship.

(c) The frequency of the interaction between the victim and the defendant.

(d) If the relationship has terminated, the length of time since the termination.

B. A peace officer, with or without a warrant, may arrest a person if the officer has probable cause to believe that domestic violence has been committed and the officer has probable cause to believe that the person to be arrested has committed the offense, whether the offense is a felony or a misdemeanor and whether the offense was committed within or without the presence of the peace officer. In cases of domestic violence involving the infliction of physical injury or involving the discharge, use or threatening exhibition of a deadly weapon or dangerous instrument, the peace officer shall arrest a person who is at least fifteen years of age, with or without a warrant, if the officer has probable cause to believe that the offense has been committed and the officer has probable cause to believe that the person to be arrested has committed the offense, whether the offense was committed within or without the presence of the peace officer, unless the officer has reasonable grounds to believe that the circumstances at the time are such that the victim will be protected from further injury. Failure to make an arrest does not give rise to civil liability except pursuant to section 12-820.02. In order to arrest both parties, the peace officer shall have probable cause to believe that both parties independently have committed an act of domestic violence. An act of self-defense that is justified under chapter 4 of this title is not deemed to be an act of domestic violence. The release procedures available under section 13-3883, subsection A, paragraph 4 and section 13-3903 are not applicable to arrests made pursuant to this subsection.

C. A peace officer may question the persons who are present to determine if a firearm is present on the premises. On learning or observing that a firearm is present on the premises, the peace officer may temporarily seize the firearm if the firearm is in plain view or was found pursuant to a consent to search and if the officer reasonably believes that the firearm would expose the victim or another person in the household to a risk of serious bodily injury or death. A firearm that is owned or possessed by the victim shall not be seized unless there is probable cause to believe that both parties independently have committed an act of domestic violence.

D. If a firearm is seized pursuant to subsection C of this section, the peace officer shall give the owner or possessor of the firearm a receipt for each seized firearm. The receipt shall indicate the identification or serial number or other identifying characteristic of each seized firearm. Each seized firearm shall be held for at least seventy-two hours by the law enforcement agency that seized the firearm.

E. If a firearm is seized pursuant to subsection C of this section, the victim shall be notified by a peace officer before the firearm is released from temporary custody.

F. If there is reasonable cause to believe that returning a firearm to the owner or possessor may endanger the victim, the person who reported the assault or threat or another person in the household, the

prosecutor shall file a notice of intent to retain the firearm in the appropriate superior, justice or municipal court. The prosecutor shall serve notice on the owner or possessor of the firearm by certified mail. The notice shall state that the firearm will be retained for not more than six months following the date of seizure. On receipt of the notice, the owner or possessor may request a hearing for the return of the firearm, to dispute the grounds for seizure or to request an earlier return date. The court shall hold the hearing within ten days after receiving the owner's or possessor's request for a hearing. At the hearing, unless the court determines that the return of the firearm may endanger the victim, the person who reported the assault or threat or another person in the household, the court shall order the return of the firearm to the owner or possessor.

G. A peace officer is not liable for any act or omission in the good faith exercise of the officer's duties under subsections C, D, E and F of this section.

H. Each indictment, information, complaint, summons or warrant that is issued and that involves domestic violence shall state that the offense involved domestic violence and shall be designated by the letters DV. A domestic violence charge shall not be dismissed or a domestic violence conviction shall not be set aside for failure to comply with this subsection.

I. A person who is arrested pursuant to subsection B of this section may be released from custody in accordance with the Arizona rules of criminal procedure or any other applicable statute. Any order for release, with or without an appearance bond, shall include pretrial release conditions that are necessary to provide for the protection of the alleged victim and other specifically designated persons and may provide for additional conditions that the court deems appropriate, including participation in any counseling programs available to the defendant.

J. When a peace officer responds to a call alleging that domestic violence has been or may be committed, the officer shall inform in writing any alleged or potential victim of the procedures and resources available for the protection of the victim including:

1. An order of protection pursuant to section 13-3602, an injunction pursuant to section 25-315 and an injunction against harassment pursuant to section 12-1809.

2. The emergency telephone number for the local police agency.

3. Telephone numbers for emergency services in the local community.

4. Websites for local resources related to domestic violence.

K. A peace officer is not civilly liable for noncompliance with subsection J of this section.

L. If a person is convicted of an offense involving domestic violence and the victim was pregnant at the time of the commission of the offense, at the time of sentencing the court shall take into consideration the fact that the victim was pregnant and may increase the sentence.

M. An offense that is included in domestic violence carries the classification prescribed in the section of this title in which the offense is classified. If the defendant committed a felony offense listed in subsection A of this section against a pregnant victim and knew that the victim was pregnant or if the defendant committed a felony offense causing physical injury to a pregnant victim and knew that the victim was pregnant, the maximum sentence otherwise authorized for that violation shall be increased by up to two years.

N. When a peace officer responds to a call alleging that domestic violence has been or may be committed, the officer shall determine if a minor is present. If a minor is present, the peace officer shall conduct a child welfare check to determine if the child is safe and if the child might be a victim of domestic violence or child abuse.

13-3601.01. Domestic violence; treatment; definition

A. The judge shall order a person who is convicted of a misdemeanor domestic violence offense to complete a domestic violence offender treatment program that is provided by a facility approved by the department of health services or a probation department. If a person has previously been ordered to complete a domestic violence offender treatment program pursuant to this section, the judge shall order the person to complete a domestic violence offender treatment program unless the judge deems that alternative sanctions are more appropriate. The department of health services shall adopt and enforce guidelines that establish standards for domestic violence offender treatment program approval.

B. On conviction of a misdemeanor domestic violence offense, if a person within a period of sixty months has previously been convicted of a violation of a domestic violence offense or is convicted of a misdemeanor domestic violence offense and has previously been convicted of an act in another state, a

court of the United States or a tribal court that if committed in this state would be a domestic violence offense, the judge may order the person to be placed on supervised probation and the person may be incarcerated as a condition of probation. If the court orders supervised probation, the court may conduct an intake assessment when the person begins the term of probation and may conduct a discharge summary when the person is released from probation. If the person is incarcerated and the court receives confirmation that the person is employed or is a student, the court, on pronouncement of any jail sentence, may provide in the sentence that the person, if the person is employed or is a student and can continue the person's employment or studies, may continue the employment or studies for not more than twelve hours a day nor more than five days a week. The person shall spend the remaining day, days or parts of days in jail until the sentence is served and shall be allowed out of jail only long enough to complete the actual hours of employment or studies.

C. A person who is ordered to complete a domestic violence offender treatment program shall pay the cost of the program.

D. If a person is ordered to attend a domestic violence offender treatment program pursuant to this section, the program shall report to the court whether the person has attended the program and has successfully completed the program.

E. For the purposes of this section, prior convictions for misdemeanor domestic violence offenses apply to convictions for offenses that were committed on or after January 1, 1999.

F. For the purposes of this section, "domestic violence offense" means an offense involving domestic violence as defined in section 13-3601.

13-3601.02. Aggravated domestic violence; classification; definition

A. A person is guilty of aggravated domestic violence if the person within a period of eighty-four months commits a third or subsequent violation of a domestic violence offense or is convicted of a violation of a domestic violence offense and has previously been convicted of any combination of convictions of a domestic violence offense or acts in another state, a court of the United States or a tribal court that if committed in this state would be a violation of a domestic violence offense.

B. A person who is convicted under this section and who within a period of eighty-four months has been convicted of two prior violations of a domestic violence offense or acts in another state, a court of the United States or a tribal court that if committed in this state would be a domestic violence offense is not eligible for probation, pardon, commutation or suspension of sentence or release on any other basis until the person has served not less than four months in jail.

C. A person who is convicted under this section and who within a period of eighty-four months has been convicted of three or more prior violations of a domestic violence offense or acts in another state, a court of the United States or a tribal court that if committed in this state would be a domestic violence offense is not eligible for probation, pardon, commutation or suspension of sentence or release on any other basis until the person has served not less than eight months in jail.

D. The dates of the commission of the offenses are the determining factor in applying the eighty-four month provision in subsection A of this section regardless of the sequence in which the offenses were committed. For purposes of this section, a third or subsequent violation for which a conviction occurs does not include a conviction for an offense arising out of the same series of acts.

E. For the purposes of this section, prior convictions for misdemeanor domestic violence offenses apply only to convictions for offenses that were committed on or after January 1, 1999.

F. Aggravated domestic violence is a class 5 felony.

G. For the purposes of this section, "domestic violence offense" means an offense involving domestic violence as defined in section 13-3601.

13-3602. Order of protection; procedure; contents; arrest for violation; penalty; protection order from another jurisdiction

A. A person may file a verified petition, as in civil actions, with a magistrate, justice of the peace or superior court judge for an order of protection for the purpose of restraining a person from committing an act included in domestic violence. If the person is a minor, the parent, legal guardian or person who has legal custody of the minor shall file the petition unless the court determines otherwise. The petition shall name the parent, guardian or custodian as the plaintiff and the minor is a specifically designated person for the

purposes of subsection G of this section. If a person is either temporarily or permanently unable to request an order, a third party may request an order of protection on behalf of the plaintiff. After the request, the judicial officer shall determine if the third party is an appropriate requesting party for the plaintiff. For the purposes of this section, notwithstanding the location of the plaintiff or defendant, any court in this state may issue or enforce an order of protection.

B. An order of protection shall not be granted:

1. Unless the party who requests the order files a written verified petition for an order.

2. Against a person who is less than twelve years of age unless the order is granted by the juvenile division of the superior court.

3. Against more than one defendant.

C. The petition shall state the:

1. Name of the plaintiff. The plaintiff's address shall be disclosed to the court for purposes of service. If the address of the plaintiff is unknown to the defendant, the plaintiff may request that the address be protected. On the plaintiff's request, the address shall not be listed on the petition. Whether the court issues an order of protection, the protected address shall be maintained in a separate document or automated database and is not subject to release or disclosure by the court or any form of public access except as ordered by the court.

2. Name and address, if known, of the defendant.

3. Specific statement, including dates, of the domestic violence alleged.

4. Relationship between the parties pursuant to section 13-3601, subsection A and whether there is pending between the parties an action for maternity or paternity, annulment, legal separation or dissolution of marriage.

5. Name of the court in which any prior or pending proceeding or order was sought or issued concerning the conduct that is sought to be restrained.

6. Desired relief.

D. A fee shall not be charged for filing a petition under this section or for service of process. On request of the plaintiff, each order of protection that is issued by a municipal court shall be served by the police agency for that city if the defendant can be served within the city. If the defendant cannot be served within the city, the police agency in the city in which the defendant can be served shall serve the order. If the order cannot be served within a city, the sheriff shall serve the order. On request of the plaintiff, each order of protection that is issued by a justice of the peace shall be served by the constable or sheriff for that jurisdiction if the defendant can be served within the jurisdiction. If the defendant cannot be served within that jurisdiction, the constable or sheriff in the jurisdiction in which the defendant can be served shall serve the order. On request of the plaintiff, each order of protection that is issued by a superior court judge or commissioner shall be served by the sheriff of the county. If the defendant cannot be served within that jurisdiction, the sheriff in the jurisdiction in which the defendant can be served shall serve the order. Each court shall provide, without charge, forms for purposes of this section for assisting parties without counsel. The court shall make reasonable efforts to provide to both parties an appropriate information sheet on emergency and counseling services that are available in the local area.

E. The court shall review the petition, any other pleadings on file and any evidence offered by the plaintiff, including any evidence of harassment by electronic contact or communication, to determine whether the orders requested should issue without further hearing. The court shall issue an order of protection under subsection G of this section if the court determines that there is reasonable cause to believe any of the following:

1. The defendant may commit an act of domestic violence.

2. The defendant has committed an act of domestic violence within the past year or within a longer period of time if the court finds that good cause exists to consider a longer period.

F. For the purposes of determining the period of time under subsection E, paragraph 2 of this section, any time that the defendant has been incarcerated or out of this state shall not be counted. If the court denies the requested relief, it may schedule a further hearing within ten days, with reasonable notice to the defendant.

G. If a court issues an order of protection, the court may do any of the following:

1. Enjoin the defendant from committing a violation of one or more of the offenses included in domestic violence.

2. Grant one party the use and exclusive possession of the parties' residence on a showing that there is reasonable cause to believe that physical harm may otherwise result. If the other party is accompanied by

a law enforcement officer, the other party may return to the residence on one occasion to retrieve belongings. A law enforcement officer is not liable for any act or omission in the good faith exercise of the officer's duties under this paragraph.

3. Restrain the defendant from contacting the plaintiff or other specifically designated persons and from coming near the residence, place of employment or school of the plaintiff or other specifically designated locations or persons on a showing that there is reasonable cause to believe that physical harm may otherwise result.

4. If the court finds that the defendant is a credible threat to the physical safety of the plaintiff or other specifically designated persons, prohibit the defendant from possessing or purchasing a firearm for the duration of the order. If the court prohibits the defendant from possessing a firearm, the court shall also order the defendant to transfer any firearm owned or possessed by the defendant immediately after service of the order to the appropriate law enforcement agency for the duration of the order. If the defendant does not immediately transfer the firearm, the defendant shall transfer the firearm within twenty-four hours after service of the order.

5. If the order was issued after notice and a hearing at which the defendant had an opportunity to participate, require the defendant to complete a domestic violence offender treatment program that is provided by a facility approved by the department of health services or a probation department or any other program deemed appropriate by the court.

6. Grant relief that is necessary for the protection of the alleged victim and other specifically designated persons and that is proper under the circumstances.

7. Grant the petitioner the exclusive care, custody or control of any animal that is owned, possessed, leased, kept or held by the petitioner, the respondent or a minor child residing in the residence or household of the petitioner or the respondent, and order the respondent to stay away from the animal and forbid the respondent from taking, transferring, encumbering, concealing, committing an act of cruelty or neglect in violation of section 13-2910 or otherwise disposing of the animal.

H. The court shall not grant a mutual order of protection. If opposing parties separately file verified petitions for an order of protection, the courts after consultation between the judges involved may consolidate the petitions of the opposing parties for hearing. This does not prohibit a court from issuing cross orders of protection.

I. At any time during the period during which the order is in effect, a party who is under an order of protection or who is restrained from contacting the other party is entitled to one hearing on written request. No fee may be charged for requesting a hearing. A hearing that is requested by a party who is under an order of protection or who is restrained from contacting the other party shall be held within ten days from the date requested unless the court finds good cause to continue the hearing. If exclusive use of the home is awarded, the hearing shall be held within five days from the date requested. The hearing shall be held at the earliest possible time. An ex parte order that is issued under this section shall state on its face that the defendant is entitled to a hearing on written request and shall include the name and address of the judicial office where the request may be filed. After the hearing, the court may modify, quash or continue the order.

J. The order shall include the following statement:

Warning

This is an official court order. If you disobey this order, you will be subject to arrest and prosecution for the crime of interfering with judicial proceedings and any other crime you may have committed in disobeying this order.

K. A copy of the petition and the order shall be served on the defendant within one year from the date the order is signed. An order of protection that is not served on the defendant within one year expires. An order is effective on the defendant on service of a copy of the order and petition. An order expires one year after service on the defendant. A modified order is effective on service and expires one year after service of the initial order and petition.

L. A supplemental information form that is utilized by the court or a law enforcement agency solely for the purposes of service of process on the defendant and that contains information provided by the plaintiff is confidential.

M. Each affidavit, acceptance or return of service shall be promptly filed with the clerk of the issuing court. This filing shall be completed in person, shall be made by fax or shall be postmarked, if sent by mail, no later than the end of the seventh court business day after the date of service. If the filing is made by fax, the original affidavit, acceptance or return of service shall be promptly filed with the court. Within twenty-four hours after the affidavit, acceptance or return of service has been filed, excluding weekends and

holidays, the court from which the order or any modified order was issued shall forward to the sheriff of the county in which the court is located a copy of the order of protection and a copy of the affidavit or certificate of service of process or acceptance of service. On receiving these copies, the sheriff shall register the order. Registration of an order means that a copy of the order of protection and a copy of the affidavit or acceptance of service have been received by the sheriff's office. The sheriff shall maintain a central repository for orders of protection so that the existence and validity of the orders can be easily verified. The effectiveness of an order does not depend on its registration, and for enforcement purposes pursuant to section 13-2810, a copy of an order of the court, whether or not registered, is presumed to be a valid existing order of the court for a period of one year from the date of service of the order on the defendant.

N. A peace officer, with or without a warrant, may arrest a person if the peace officer has probable cause to believe that the person has violated section 13-2810 by disobeying or resisting an order that is issued in any jurisdiction in this state pursuant to this section, whether or not such violation occurred in the presence of the officer. Criminal violations of an order issued pursuant to this section shall be referred to an appropriate law enforcement agency. The law enforcement agency shall request that a prosecutorial agency file the appropriate charges. A violation of an order of protection shall not be adjudicated by a municipal or justice court unless a complaint has been filed or other legal process has been requested by the prosecuting agency. The provisions for release under section 13-3883, subsection A, paragraph 4 and section 13-3903 do not apply to an arrest made pursuant to this section. For the purposes of this section, any court in this state has jurisdiction to enforce a valid order of protection that is issued in this state and that has been violated in any jurisdiction in this state.

O. A person who is arrested pursuant to subsection M of this section may be released from custody in accordance with the Arizona rules of criminal procedure or any other applicable statute. An order for release, with or without an appearance bond, shall include pretrial release conditions that are necessary to provide for the protection of the alleged victim and other specifically designated persons and may provide for any other additional conditions that the court deems appropriate, including participation in any counseling programs available to the defendant. The agency with custody of the defendant shall make reasonable efforts to contact the victim and other specifically designated persons in the order of protection, if known to the custodial agency, who requested notification immediately on release of the arrested person from custody.

P. The remedies provided in this section for enforcement of the orders of the court are in addition to any other civil and criminal remedies available. The superior court shall have exclusive jurisdiction to issue orders of protection in all cases if it appears from the petition that an action for maternity or paternity, annulment, legal separation or dissolution of marriage is pending between the parties. A municipal court or justice court shall not issue an order of protection if it appears from the petition that an action for maternity or paternity, annulment, legal separation or dissolution of marriage is pending between the parties. After issuance of an order of protection, if the municipal court or justice court determines that an action for maternity or paternity, annulment, legal separation or dissolution of marriage is pending between the parties, the municipal court or justice court shall stop further proceedings in the action and forward all papers, together with a certified copy of docket entries or any other record in the action, to the superior court where they shall be docketed in the pending superior court action and shall proceed as though the petition for an order of protection had been originally brought in the superior court. Notwithstanding any other law and unless prohibited by an order of the superior court, a municipal court or justice court may hold a hearing on all matters relating to its ex parte order of protection if the hearing was requested before receiving written notice of the pending superior court action. No order of protection shall be invalid or determined to be ineffective merely because it was issued by a lower court at a time when an action for maternity or paternity, annulment, legal separation or dissolution of marriage was pending in a higher court. After a hearing with notice to the affected party, the court may enter an order requiring any party to pay the costs of the action, including reasonable attorney fees, if any. An order that is entered by a justice court or municipal court after a hearing pursuant to this section may be appealed to the superior court as provided in title 22, chapter 2, article 4, section 22-425, subsection B and the superior court rules of civil appellate procedure without regard to an amount in controversy. No fee may be charged to either party for filing an appeal. For the purposes of this subsection, "pending" means, with respect to an action for annulment, legal separation or dissolution of marriage or for maternity or paternity, either that:

1. An action has been commenced but a final judgment, decree or order has not been entered.
2. A post-decree proceeding has been commenced but a judgment, decree or order finally determining the proceeding has not been entered.

Q. A peace officer who makes an arrest pursuant to this section or section 13-3601 is not civilly or criminally liable for the arrest if the officer acts on probable cause and without malice.

R. In addition to persons authorized to serve process pursuant to rule 4(d) of the Arizona rules of civil procedure, a peace officer or a correctional officer as defined in section 41-1661 who is acting in the officer's official capacity may serve an order of protection that is issued pursuant to this section. Service of the order of protection has priority over other service of process that does not involve an immediate threat to the safety of a person.

S. A valid protection order that is related to domestic or family violence and that is issued by a court in another state, a court of a United States territory or a tribal court shall be accorded full faith and credit and shall be enforced as if it were issued in this state for as long as the order is effective in the issuing jurisdiction. For the purposes of this subsection:

1. A protection order includes any injunction or other order that is issued for the purpose of preventing violent or threatening acts or harassment against, contact or communication with or physical proximity to another person. A protection order includes temporary and final orders other than support or child custody orders that are issued by civil and criminal courts if the order is obtained by the filing of an independent action or is a pendente lite order in another proceeding. The civil order shall be issued in response to a complaint, petition or motion that was filed by or on behalf of a person seeking protection.

2. A protection order is valid if the issuing court had jurisdiction over the parties and the matter under the laws of the issuing state, a United States territory or an Indian tribe and the person against whom the order was issued had reasonable notice and an opportunity to be heard. If the order is issued ex parte, the notice and opportunity to be heard shall be provided within the time required by the laws of the issuing state, a United States territory or an Indian tribe and within a reasonable time after the order was issued.

3. A mutual protection order that is issued against both the party who filed a petition or a complaint or otherwise filed a written pleading for protection against abuse and the person against whom the filing was made is not entitled to full faith and credit if either:

(a) The person against whom an initial order was sought has not filed a cross or counter petition or other written pleading seeking a protection order.

(b) The issuing court failed to make specific findings supporting the entitlement of both parties to be granted a protection order.

4. A peace officer may presume the validity of and rely on a copy of a protection order that is issued by another state, a United States territory or an Indian tribe if the order was given to the officer by any source. A peace officer may also rely on the statement of any person who is protected by the order that the order remains in effect. A peace officer who acts in good faith reliance on a protection order is not civilly or criminally liable for enforcing the protection order pursuant to this section.

13-3603. Definition; punishment

A person who provides, supplies or administers to a pregnant woman, or procures such woman to take any medicine, drugs or substance, or uses or employs any instrument or other means whatever, with intent thereby to procure the miscarriage of such woman, unless it is necessary to save her life, shall be punished by imprisonment in the state prison for not less than two years nor more than five years.

13-3603.01. Partial-birth abortions; classification; civil action; definitions

A. Any physician who knowingly performs a partial-birth abortion and thereby kills a human fetus is guilty of a class 6 felony and shall be fined under this title or imprisoned not more than two years, or both.

B. This section does not apply to a partial-birth abortion that is necessary to save the life of a mother whose life is endangered by a physical disorder, physical illness or physical injury, including a life-endangering physical condition caused by or arising from the pregnancy itself.

C. The father of the fetus if married to the mother at the time she receives a partial-birth abortion procedure and the maternal grandparents of the fetus if the mother is not at least eighteen years of age at the time of the partial-birth abortion may bring a civil action to obtain appropriate relief unless the pregnancy resulted from the plaintiff's criminal conduct or the plaintiff consented to the partial-birth abortion. Relief pursuant to this subsection includes the following:

1. Money damages for all injuries, psychological and physical, resulting from the violation of this section.

2. Statutory damages in an amount equal to three times the cost of the partial-birth abortion.

D. This section shall not subject a woman upon whom a partial-birth abortion is performed to any criminal prosecution or civil liability.

E. A defendant who is accused of an offense under this section may seek a hearing before the Arizona medical board if the defendant is licensed pursuant to title 32, chapter 13 or the Arizona board of osteopathic examiners in medicine and surgery if the defendant is licensed pursuant to title 32, chapter 17 on whether the physician's conduct was necessary to save the life of the mother whose life was endangered by a physical disorder, physical illness or physical injury, including a life-endangering physical condition caused by or arising from the pregnancy itself. The findings on that issue are admissible, in the court's discretion, on that issue at the trial of the defendant. On a motion of the defendant, the court shall, in its discretion, delay the beginning of the trial for not more than thirty days to permit a hearing to take place.

F. For the purposes of this section:

1. "Partial-birth abortion" means an abortion in which the person performing the abortion does both of the following:

(a) Deliberately and intentionally vaginally delivers a living fetus until, in the case of a headfirst presentation, the entire fetal head is outside the body of the mother or, in the case of breech presentation, any part of the fetal trunk past the naval is outside the body of the mother for the purpose of performing an overt act that the person knows will kill the partially delivered living fetus.

(b) Performs the overt act, other than completion of delivery, that kills the partially delivered living fetus.

2. "Physician" means a doctor of medicine or a doctor of osteopathy who is licensed pursuant to title 32, chapter 13 or 17 or any other individual legally authorized by this state to perform abortions. Any individual who is not a physician or who is not otherwise legally authorized by this state to perform abortions but who nevertheless directly performs a partial-birth abortion shall be subject to this section.

13-3603.02. Abortion; sex and race selection; injunctive and civil relief; failure to report; definition

A. A person who knowingly does any of the following is guilty of a class 3 felony:

1. Performs an abortion knowing that the abortion is sought based on the sex or race of the child or the race of a parent of that child.

2. Uses force or the threat of force to intentionally injure or intimidate any person for the purpose of coercing a sex-selection or race-selection abortion.

3. Solicits or accepts monies to finance a sex-selection or race-selection abortion.

B. The attorney general or the county attorney may bring an action in superior court to enjoin the activity described in subsection A of this section.

C. The father of the unborn child who is married to the mother at the time she receives a sex-selection or race-selection abortion, or, if the mother has not attained eighteen years of age at the time of the abortion, the maternal grandparents of the unborn child, may bring a civil action on behalf of the unborn child to obtain appropriate relief with respect to a violation of subsection A of this section. The court may award reasonable attorney fees as part of the costs in an action brought pursuant to this subsection. For the purposes of this subsection, "appropriate relief" includes monetary damages for all injuries, whether psychological, physical or financial, including loss of companionship and support, resulting from the violation of subsection A of this section.

D. A physician, physician's assistant, nurse, counselor or other medical or mental health professional who knowingly does not report known violations of this section to appropriate law enforcement authorities shall be subject to a civil fine of not more than ten thousand dollars.

E. A woman on whom a sex-selection or race-selection abortion is performed is not subject to criminal prosecution or civil liability for any violation of this section or for a conspiracy to violate this section.

F. For the purposes of this section, "abortion" has the same meaning prescribed in section 36-2151.

13-3604. Soliciting abortion; punishment; exception

A woman who solicits from any person any medicine, drug or substance whatever, and takes it, or who submits to an operation, or to the use of any means whatever, with intent thereby to procure a

miscarriage, unless it is necessary to preserve her life, shall be punished by imprisonment in the state prison for not less than one nor more than five years.

13-3605. Advertising to produce abortion or prevent conception; punishment

A person who wilfully writes, composes or publishes a notice or advertisement of any medicine or means for producing or facilitating a miscarriage or abortion, or for prevention of conception, or who offers his services by a notice, advertisement or otherwise, to assist in the accomplishment of any such purposes, is guilty of a misdemeanor.

13-3606. Bigamy; classification; exception

A. A person having a spouse living who knowingly marries any other person is guilty of a class 5 felony.

B. Subsection A of this section does not extend to a person whose spouse by the former marriage has been absent for five successive years without being known to such person within that time to be living, nor to any person whose former marriage has been pronounced void, annulled or dissolved by judgment of a competent court.

13-3607. Marrying spouse of another; classification

A person who knowingly marries the spouse of another, in any case in which such spouse would be guilty of bigamy, is guilty of a class 5 felony.

13-3608. Incest; classification

Persons who are eighteen or more years of age and are within the degrees of consanguinity within which marriages are declared by law to be incestuous and void, who knowingly intermarry with each other, or who knowingly commit fornication or adultery with each other are guilty of a class 4 felony.

13-3609. Child bigamy; classification; definitions

A. A person commits child bigamy if the person knowingly does any of the following:

1. Is at least eighteen years of age, has a spouse and marries a child.
2. Is at least eighteen years of age and, either alone or in association with others, directs, causes or controls the marriage of a child to a person who already has a spouse.
3. Is at least eighteen years of age and, either alone or in association with others, directs, causes or controls the marriage of a child if the child already has a spouse.
4. Is at least eighteen years of age and marries a child if the child already has a spouse.
5. Transports or finances the transportation of a child to promote marriage between the child and a person who already has a spouse.
6. Transports or finances the transportation of a child who already has a spouse to promote marriage between the child and another person.

B. This section does not apply if a person who marries a child:

1. Has a spouse who has been absent for at least five successive years without being known to the person within that time to be living.
2. Has a former marriage that has been pronounced void, annulled or dissolved by judgment of a competent court.

C. A violation of this section is a class 3 felony.

D. For the purposes of this section:

1. "Marriage" means the state of joining together as husband and wife through an agreement, promise or ceremony regardless of whether a marriage license has been issued by the appropriate authority.
2. "Marry" means to join together as husband and wife through an agreement, promise or ceremony regardless of whether a marriage license has been issued by the appropriate authority.
3. "Spouses" means two persons living together as husband and wife, including the assumption of those marital rights, duties and obligations that are usually manifested by married people, including but not necessarily dependent on sexual relations.

13-3610. Abandonment of spouse; classification

A married person, having sufficient ability to provide for his or her spouse's support or who is able to earn the means of such spouse's support, who knowingly abandons and leaves such spouse in a destitute condition, is guilty of a class 1 misdemeanor.

13-3611. Refusal or neglect to provide for spouse; classification

A married person, having sufficient ability to provide for his or her spouse's support or who is able to earn the means of such spouse's support, who knowingly fails or refuses to provide the spouse with necessary food, clothing, shelter or medical attendance, unless by such spouse's misconduct he or she was justified in so doing, is guilty of a class 1 misdemeanor.

13-3612. Definitions; contributing to dependency or delinquency

For the purposes of sections 13-3613 through 13-3618, unless the context otherwise requires:

1. "Delinquency" means any act that tends to debase or injure the morals, health or welfare of a child.
2. "Delinquent person" includes any person under the age of eighteen years who violates a law of this state, or an ordinance of a county, city or town defining crime.
3. "Dependent person" means a person under the age of eighteen years:
 - (a) Who is found begging, receiving or gathering alms, whether actually begging or under the pretext of selling or offering anything for sale.
 - (b) Who is found in a street, road or public place with the intent of begging, gathering or receiving alms.
 - (c) Who is a vagrant.
 - (d) Who is found wandering and who does not have a home, or a settled place of abode, or a guardian or any visible means of subsistence.
 - (e) Who has no parent or guardian willing to exercise, or capable of exercising, proper parental control over the dependent person.
 - (f) Who is destitute.
 - (g) Whose home, by reason of neglect, cruelty or depravity of the dependent person's parents, or either of them, or on the part of the dependent person's guardian, or on the part of the person in whose custody or care the dependent person may be, is an unfit place for such person.
 - (h) Who frequents the company of reputed criminals, vagrants or prostitutes.
 - (i) Who is found living or being in a house of prostitution or assignation.
 - (j) Who habitually visits, without a parent or guardian, a saloon or place where spirituous, vinous or malt liquors are sold, bartered or given away.
 - (k) Who persistently refuses to obey the reasonable orders or directions of the dependent person's parent or guardian.
 - (l) Who is incorrigible and who is beyond the control and power of the dependent person's parents, guardian or custodian by reason of the vicious conduct or nature of the person.
 - (m) Whose father or mother is dead, or has abandoned the family, or is an habitual drunkard, or whose father or mother does not provide for the person, and it appears that the person is destitute of a suitable home or adequate means of obtaining an honest living, or who is in danger of being brought up to lead an idle, dissolute and immoral life, or when both parents are dead, or the mother or father, if living, is unable to provide proper support and care of the person.
 - (n) Who habitually uses intoxicating liquor as a beverage, habitually smokes cigarettes or uses opium, cocaine, morphine or other similar drugs without direction of a competent physician or a qualified registered nurse practitioner.
 - (o) Who from any cause is in danger of growing up to lead an idle, dissolute or immoral life.

13-3613. Contributing to delinquency and dependency; classification; procedure

A. A person who by any act, causes, encourages or contributes to the dependency or delinquency of a child, as defined by section 13-3612, or who for any cause is responsible therefor is guilty of a class 1 misdemeanor.

B. The procedure and prosecution shall be the same as in other criminal cases.

C. When the charge concerns the dependency of a child or children, the offense for convenience may be termed contributory dependency, and when the charge concerns the delinquency of a child or children, the offense for convenience may be termed contributory delinquency.

13-3614. Proof of guilt

In order to find a person guilty of violating the provisions of section 13-3613, it is not necessary to prove that the child has actually become dependent or delinquent, if it appears from the evidence that through any act of neglect or omission of duty, or by any improper act or conduct on the part of such person the dependency or delinquency of a child may have been caused or merely encouraged.

13-3615. Suspension of sentence upon posting bond; custody of child; revocation of suspension

A. The sentence which may be imposed by section 13-3613, or its execution, may be suspended by the court upon condition that defendant give a good and sufficient bond to the state in such penal sum as the court determines, not exceeding one thousand dollars, conditioned for the payment of an amount the court may order, not exceeding thirty dollars per month, for the support, care and maintenance of the child to whose dependency the person has contributed, and the money shall be expended under direction of the court for such purposes.

B. In suspending the sentence, or its execution, the court may also permit the child to remain in the custody of the defendant upon conditions as the court deems proper.

C. When it appears to the court that any condition contained in the bond or imposed by the court in permitting the child to remain in custody of defendant has been breached, the court may revoke the suspension, and the sentence thereunder shall commence from the date upon which the sentence is imposed or ordered to be enforced.

13-3616. Conditions of bond; forfeiture; disposition of proceeds recovered

A. A condition of the bond provided in section 13-3615, shall be that it shall not be necessary to bring a separate action to recover the penalty of such bond if forfeited, but that the court may order a citation to issue to the sureties thereon, requiring that they appear at a time named by the court, not less than ten nor more than twenty days from issuance thereof, and show cause why a judgment should not be entered for the penalty of the bond. Upon failure to appear or failure to show sufficient cause, the court shall enter judgment in behalf of the state against the principal and sureties.

B. Any monies collected or paid upon the bond shall be paid to the clerk of the court, and applied first to the payment of all court costs, and then to the care and maintenance of the child in such manner and upon such terms as the court may direct. If the money is unnecessary for such purposes, it shall be paid within one year to the county treasurer.

13-3617. Limitation on period of suspension or stay; discharge of defendant

Sentence shall not be suspended, or execution stayed, for more than two years, and if at any time within such period, it appears to the satisfaction of the court that the person has complied with the conditions of the suspension, or is for any cause entitled to be released, the court may discharge him and exonerate the bond.

13-3618. Construction and effect of chapter

A. The provisions of sections 13-3612 through 13-3618 shall be liberally construed in favor of the state for the protection of the child from neglect or omission of parental duty toward the child, and also to protect children of the state from the effects of the improper conduct, acts or bad example of any person which may be calculated to cause, encourage or contribute to, the dependency or delinquency of children, although such person is in no way related to the child.

B. Nothing in sections 13-3612 through 13-3618 shall be construed to be in conflict with, repeal or prevent proceedings under any law of this state which may otherwise define any specific conduct of a person as a crime which might also constitute contributory dependency, or to prevent or interfere with proceedings upon any such law.

C. The provisions of sections 13-3612 through 13-3618 shall not be construed to be inconsistent with or to repeal any law providing for the support by the parent or parents of their minor children, or any law providing for punishment of cruelty to children, or taking of indecent liberties with, or selling liquor, tobacco or firearms to children, or permitting them to be in evil or disreputable places, and nothing in any such laws or similar laws shall be construed to be inconsistent with or to repeal the provisions of this chapter relating to contributing to the dependency or delinquency of a child, or prevent proceedings under this chapter.

13-3619. Permitting life, health or morals of minor to be imperiled by neglect, abuse or immoral associations; classification

A person having custody of a minor under sixteen years of age who knowingly causes or permits the life of such minor to be endangered, its health to be injured or its moral welfare to be imperiled, by neglect, abuse or immoral associations, is guilty of a class 1 misdemeanor.

13-3620. Duty to report abuse, physical injury, neglect and denial or deprivation of medical or surgical care or nourishment of minors; medical records; exception; violation; classification; definitions

A. Any person who reasonably believes that a minor is or has been the victim of physical injury, abuse, child abuse, a reportable offense or neglect that appears to have been inflicted on the minor by other than accidental means or that is not explained by the available medical history as being accidental in nature or who reasonably believes there has been a denial or deprivation of necessary medical treatment or surgical care or nourishment with the intent to cause or allow the death of an infant who is protected under section 36-2281 shall immediately report or cause reports to be made of this information to a peace officer or to the department of child safety, except if the report concerns a person who does not have care, custody or control of the minor, the report shall be made to a peace officer only. A member of the clergy, a christian science practitioner or a priest who has received a confidential communication or a confession in that person's role as a member of the clergy, as a christian science practitioner or as a priest in the course of the discipline enjoined by the church to which the member of the clergy, the christian science practitioner or the priest belongs may withhold reporting of the communication or confession if the member of the clergy, the christian science practitioner or the priest determines that it is reasonable and necessary within the concepts of the religion. This exemption applies only to the communication or confession and not to personal observations the member of the clergy, the christian science practitioner or the priest may otherwise make of the minor. For the purposes of this subsection, "person" means:

1. Any physician, physician's assistant, optometrist, dentist, osteopath, chiropractor, podiatrist, behavioral health professional, nurse, psychologist, counselor or social worker who develops the reasonable belief in the course of treating a patient.

2. Any peace officer, child welfare investigator, child safety worker, member of the clergy, priest or christian science practitioner.

3. The parent, stepparent or guardian of the minor.

4. School personnel or domestic violence victim advocates who develop the reasonable belief in the course of their employment.

5. Any other person who has responsibility for the care or treatment of the minor.

B. A report is not required under this section either:

1. For conduct prescribed by sections 13-1404 and 13-1405 if the conduct involves only minors who are fourteen, fifteen, sixteen or seventeen years of age and there is nothing to indicate that the conduct is other than consensual.

2. If a minor is of elementary school age, the physical injury occurs accidentally in the course of typical playground activity during a school day, occurs on the premises of the school that the minor attends and is reported to the legal parent or guardian of the minor and the school maintains a written record of the incident.

C. If a physician, psychologist or behavioral health professional receives a statement from a person other than a parent, stepparent, guardian or custodian of the minor during the course of providing sex offender treatment that is not court ordered or that does not occur while the offender is incarcerated in the state department of corrections or the department of juvenile corrections, the physician, psychologist or behavioral health professional may withhold the reporting of that statement if the physician, psychologist or behavioral health professional determines it is reasonable and necessary to accomplish the purposes of the treatment.

D. Reports shall be made immediately either electronically or by telephone. The reports shall contain the following information, if known:

1. The names and addresses of the minor and the minor's parents or the person or persons having custody of the minor.

2. The minor's age and the nature and extent of the minor's abuse, child abuse, physical injury or neglect, including any evidence of previous abuse, child abuse, physical injury or neglect.

3. Any other information that the person believes might be helpful in establishing the cause of the abuse, child abuse, physical injury or neglect.

E. A health care professional who is regulated pursuant to title 32 and who, after a routine newborn physical assessment of a newborn infant's health status or following notification of positive toxicology screens of a newborn infant, reasonably believes that the newborn infant may be affected by the presence of alcohol

or a drug listed in section 13-3401 shall immediately report this information, or cause a report to be made, to the department of child safety. For the purposes of this subsection, "newborn infant" means a newborn infant who is under thirty days of age.

F. Any person other than one required to report or cause reports to be made under subsection A of this section who reasonably believes that a minor is or has been a victim of abuse, child abuse, physical injury, a reportable offense or neglect may report the information to a peace officer or to the department of child safety, except if the report concerns a person who does not have care, custody or control of the minor, the report shall be made to a peace officer only.

G. A person who has custody or control of medical records of a minor for whom a report is required or authorized under this section shall make the records, or a copy of the records, available to a peace officer, child welfare investigator or child safety worker investigating the minor's neglect, child abuse, physical injury or abuse on written request for the records signed by the peace officer, child welfare investigator or child safety worker. Records disclosed pursuant to this subsection are confidential and may be used only in a judicial or administrative proceeding or investigation resulting from a report required or authorized under this section.

H. When reports are received by a peace officer, the officer shall immediately notify the department of child safety. Notwithstanding any other statute, when the department receives these reports, it shall immediately notify a peace officer in the appropriate jurisdiction.

I. Any person who is required to receive reports pursuant to subsection A of this section may take or cause to be taken photographs of the minor and the vicinity involved. Medical examinations of the involved minor may be performed.

J. A person who furnishes a report, information or records required or authorized under this section, or a person who participates in a judicial or administrative proceeding or investigation resulting from a report, information or records required or authorized under this section, is immune from any civil or criminal liability by reason of that action unless the person acted with malice or unless the person has been charged with or is suspected of abusing or neglecting the child or children in question.

K. Except for the attorney client privilege or the privilege under subsection L of this section, no privilege applies to any:

1. Civil or criminal litigation or administrative proceeding in which a minor's neglect, dependency, abuse, child abuse, physical injury or abandonment is an issue.

2. Judicial or administrative proceeding resulting from a report, information or records submitted pursuant to this section.

3. Investigation of a minor's child abuse, physical injury, neglect or abuse conducted by a peace officer or the department of child safety.

L. In any civil or criminal litigation in which a child's neglect, dependency, physical injury, abuse, child abuse or abandonment is an issue, a member of the clergy, a christian science practitioner or a priest shall not, without his consent, be examined as a witness concerning any confession made to him in his role as a member of the clergy, a christian science practitioner or a priest in the course of the discipline enjoined by the church to which he belongs. This subsection does not discharge a member of the clergy, a christian science practitioner or a priest from the duty to report pursuant to subsection A of this section.

M. If psychiatric records are requested pursuant to subsection G of this section, the custodian of the records shall notify the attending psychiatrist, who may excise from the records, before they are made available:

1. Personal information about individuals other than the patient.

2. Information regarding specific diagnosis or treatment of a psychiatric condition, if the attending psychiatrist certifies in writing that release of the information would be detrimental to the patient's health or treatment.

N. If any portion of a psychiatric record is excised pursuant to subsection M of this section, a court, on application of a peace officer, child welfare investigator or child safety worker, may order that the entire record or any portion of the record that contains information relevant to the reported abuse, child abuse, physical injury or neglect be made available to the peace officer, child welfare investigator or child safety worker investigating the abuse, child abuse, physical injury or neglect.

O. A person who violates this section is guilty of a class 1 misdemeanor, except if the failure to report involves a reportable offense, the person is guilty of a class 6 felony.

P. For the purposes of this section:

1. "Abuse" has the same meaning prescribed in section 8-201.

2. "Child abuse" means child abuse pursuant to section 13-3623.

3. "Neglect" has the same meaning prescribed in section 8-201.

4. "Reportable offense" means any of the following:

(a) Any offense listed in chapters 14 and 35.1 of this title or section 13-3506.01.

(b) Surreptitious photographing, videotaping, filming or digitally recording or viewing a minor pursuant to section 13-3019.

(c) Child prostitution pursuant to section 13-3212.

(d) Incest pursuant to section 13-3608.

(e) Unlawful mutilation pursuant to section 13-1214.

13-3620.01. False reports; violation; classification

A. A person acting with malice who knowingly and intentionally makes a false report of child abuse or neglect or a person acting with malice who coerces another person to make a false report of child abuse or neglect is guilty of a class 1 misdemeanor.

B. A person who knowingly and intentionally makes a false report that a person has violated the provisions of subsection A of this section is guilty of a class 1 misdemeanor.

13-3621. Hire or use of child under sixteen for public vocation; classification

A person having in his care, custody or control, in any capacity, a child under the age of sixteen years, who knowingly sells, apprentices or otherwise disposes of such child to any person under any name, title or pretense for the purpose of giving a performance, begging or peddling, in a public street or highway, or in any mendicant or wandering business whatsoever, or a person who receives, uses or has in his custody, a child for such purpose, is guilty of a class 2 misdemeanor.

13-3622. Furnishing of tobacco product, vapor product or tobacco or shisha instruments or paraphernalia to minor; minor accepting or receiving tobacco product, vapor product or tobacco or shisha instruments or paraphernalia; illegally obtaining tobacco product, vapor product or tobacco or shisha instruments or paraphernalia by underage person; classification; definitions

A. A person who knowingly sells, gives or furnishes a tobacco product, a vapor product or any instrument or paraphernalia that is solely designed for the smoking or ingestion of tobacco or shisha, including a hookah or waterpipe, to a minor is guilty of a petty offense.

B. A minor who buys, or has in his possession or knowingly accepts or receives from any person, a tobacco product, a vapor product or any instrument or paraphernalia that is solely designed for the smoking or ingestion of tobacco or shisha, including a hookah or waterpipe, is guilty of a petty offense, and if the offense involves any instrument or paraphernalia that is solely designed for the smoking or ingestion of tobacco or shisha, shall pay a fine of not less than one hundred dollars or perform not less than thirty hours of community restitution.

C. A minor who misrepresents the minor's age to any person by means of a written instrument of identification with the intent to induce the person to sell, give or furnish a tobacco product, a vapor product or any instrument or paraphernalia that is solely designed for the smoking or ingestion of tobacco or shisha, including a hookah or waterpipe, in violation of subsection A or B of this section is guilty of a petty offense and, notwithstanding section 13-802, shall pay a fine of not more than five hundred dollars.

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

1. Cigars, cigarettes or cigarette papers, smoking or chewing tobacco or any instrument or paraphernalia that is solely designed for the smoking or ingestion of tobacco or shisha, including a hookah or waterpipe, if it is used or intended to be used in connection with a bona fide practice of a religious belief and as an integral part of a religious or ceremonial exercise.

2. Any instrument or paraphernalia that is solely designed for the smoking or ingestion of tobacco or shisha, including a hookah or waterpipe, that is given to or possessed by a minor if the instrument or paraphernalia was a gift or souvenir and is not used or intended to be used by the minor to smoke or ingest tobacco or shisha.

E. For the purposes of this section:

1. "Shisha" includes any mixture of tobacco leaf and honey, molasses or dried fruit or any other sweetener.

2. "Tobacco product" means any of the following:

(a) Cigars.

(b) Cigarettes.

(c) Cigarette papers of any kind.

(d) Smoking tobacco of any kind.

(e) Chewing tobacco of any kind.

3. "Vapor product" means a noncombustible tobacco derived product containing nicotine that employs a mechanical heating element, battery or circuit, regardless of shape or size, that can be used to heat a liquid nicotine solution contained in cartridges. Vapor product does not include any product that is regulated by the United States food and drug administration under chapter V of the federal food, drug and cosmetic act.

13-3623. Child or vulnerable adult abuse; emotional abuse; classification; exceptions; definitions

A. Under circumstances likely to produce death or serious physical injury, any person who causes a child or vulnerable adult to suffer physical injury or, having the care or custody of a child or vulnerable adult, who causes or permits the person or health of the child or vulnerable adult to be injured or who causes or permits a child or vulnerable adult to be placed in a situation where the person or health of the child or vulnerable adult is endangered is guilty of an offense as follows:

1. If done intentionally or knowingly, the offense is a class 2 felony and if the victim is under fifteen years of age it is punishable pursuant to section 13-705.

2. If done recklessly, the offense is a class 3 felony.

3. If done with criminal negligence, the offense is a class 4 felony.

B. Under circumstances other than those likely to produce death or serious physical injury to a child or vulnerable adult, any person who causes a child or vulnerable adult to suffer physical injury or abuse or, having the care or custody of a child or vulnerable adult, who causes or permits the person or health of the child or vulnerable adult to be injured or who causes or permits a child or vulnerable adult to be placed in a situation where the person or health of the child or vulnerable adult is endangered is guilty of an offense as follows:

1. If done intentionally or knowingly, the offense is a class 4 felony.

2. If done recklessly, the offense is a class 5 felony.

3. If done with criminal negligence, the offense is a class 6 felony.

C. For the purposes of subsections A and B of this section, the terms endangered and abuse include but are not limited to circumstances in which a child or vulnerable adult is permitted to enter or remain in any structure or vehicle in which volatile, toxic or flammable chemicals are found or equipment is possessed by any person for the purpose of manufacturing a dangerous drug in violation of section 13-3407, subsection A, paragraph 3 or 4. Notwithstanding any other provision of this section, a violation committed under the circumstances described in this subsection does not require that a person have care or custody of the child or vulnerable adult.

D. A person who intentionally or knowingly engages in emotional abuse of a vulnerable adult who is a patient or resident in any setting in which health care, health-related services or assistance with one or more of the activities of daily living is provided or, having the care or custody of a vulnerable adult, who intentionally or knowingly subjects or permits the vulnerable adult to be subjected to emotional abuse is guilty of a class 6 felony.

E. This section does not apply to:

1. A health care provider as defined in section 36-3201 who permits a patient to die or the patient's condition to deteriorate by not providing health care if that patient refuses that care directly or indirectly through a health care directive as defined in section 36-3201, through a surrogate pursuant to section 36-3231 or through a court appointed guardian as provided for in title 14, chapter 5, article 3.

2. A vulnerable adult who is being furnished spiritual treatment through prayer alone and who would not otherwise be considered to be abused, neglected or endangered if medical treatment were being furnished.

F. For the purposes of this section:

1. "Abuse", when used in reference to a child, means abuse as defined in section 8-201, except for those acts in the definition that are declared unlawful by another statute of this title and, when used in reference to a vulnerable adult, means:

(a) Intentional infliction of physical harm.

(b) Injury caused by criminally negligent acts or omissions.

(c) Unlawful imprisonment, as described in section 13-1303.

- (d) Sexual abuse or sexual assault.
- 2. "Child" means an individual who is under eighteen years of age.
- 3. "Emotional abuse" means a pattern of ridiculing or demeaning a vulnerable adult, making derogatory remarks to a vulnerable adult, verbally harassing a vulnerable adult or threatening to inflict physical or emotional harm on a vulnerable adult.
- 4. "Physical injury" means the impairment of physical condition and includes any skin bruising, pressure sores, bleeding, failure to thrive, malnutrition, dehydration, burns, fracture of any bone, subdural hematoma, soft tissue swelling, injury to any internal organ or any physical condition that imperils health or welfare.
- 5. "Serious physical injury" means physical injury that creates a reasonable risk of death or that causes serious or permanent disfigurement, serious impairment of health or loss or protracted impairment of the function of any bodily organ or limb.
- 6. "Vulnerable adult" means an individual who is eighteen years of age or older and who is unable to protect himself from abuse, neglect or exploitation by others because of a mental or physical impairment.

13-3623.01. Safe haven for newborn infants; definitions

A. A person is not guilty of abuse of a child pursuant to section 13-3623, subsection B solely for leaving an unharmed newborn infant with a safe haven provider.

B. A fire station and a health care institution that is classified by the department of health services pursuant to section 36-405 as a general hospital or a rural general hospital shall post a notice that it accepts a newborn infant pursuant to this section. The notice shall be placed on the exterior of the building in a location that is noticeable to the public. The words "baby safe haven" shall be printed in bold-faced capital letters that are not less than two inches in height. The notice may include an identifying logo. A fire station or hospital that does not post a notice as prescribed by this subsection is not subject to civil liability. A notice that is valid before September 30, 2009 remains valid after September 30, 2009.

C. If a parent or agent of a parent voluntarily delivers the parent's newborn infant to a safe haven provider, the safe haven provider shall take custody of the newborn infant if both of the following are true:

- 1. The parent did not express an intent to return for the newborn infant.
- 2. The safe haven provider reasonably believes that the child is a newborn infant.

D. The safe haven provider shall comply with the requirements of section 8-528 and report the receipt of a newborn infant to of the department of child safety as soon as practicable after taking custody of the newborn infant. The department shall report the number of newborn infants delivered to safe haven providers pursuant to section 8-526.

E. A parent or agent of a parent who leaves a newborn infant with a safe haven provider may remain anonymous, and the safe haven provider shall not require the parent or agent to answer any questions. A safe haven provider shall offer written information about information and referral organizations.

F. A safe haven provider who receives a newborn infant pursuant to this section is not liable for any civil or other damages for any act or omission by the safe haven provider in maintaining custody of the newborn infant if the safe haven provider acts in good faith without gross negligence.

G. This section does not preclude the prosecution of the person for any offense based on any act not covered by this section.

H. For the purposes of this section:

- 1. "Newborn infant" means an infant who is seventy-two hours old or younger.
- 2. "Safe haven provider" means any of the following:
 - (a) A firefighter who is on duty.
 - (b) An emergency medical technician who is on duty.
 - (c) A health care institution that is classified by the department of health services pursuant to section 36-405 as a general hospital or a rural general hospital. The parent or agent must deliver the newborn infant to a medical staff member at the health care institution.
 - (d) A staff member or volunteer at any of the following that posts a public notice that it is willing to accept a newborn infant pursuant to this section:
 - (i) A private child welfare agency licensed pursuant to title 8, chapter 4, article 4.
 - (ii) An adoption agency licensed pursuant to section 8-126.

(iii) A church. For the purposes of this item, "church" means a building that is erected or converted for use as a church, where services are regularly convened, that is used primarily for religious worship and schooling and that a reasonable person would conclude is a church by reason of design, signs or architectural or other features.

13-3624. Emergency orders of protection

A. In counties with a population of one hundred fifty thousand persons or more according to the most recent United States decennial census, the presiding judge of the superior court, during the hours that the courts are closed, shall make available on a rotating basis a judge, justice of the peace, magistrate or commissioner who shall issue emergency orders of protection by telephone.

B. In counties with a population of less than one hundred fifty thousand persons according to the most recent United States decennial census, a judge, justice of the peace, magistrate or commissioner may issue an emergency order by telephone. The court, within twenty-four hours after a defendant is arrested for an act of domestic violence, shall register a certified copy of the release order with the sheriff's office of the county in which the order was issued. The court shall notify the sheriff's office of material changes in the release order, if the conditions of the release order are no longer in effect and when the charges are resolved. The sheriff in each county shall maintain a central repository for release orders so that the existence and validity of the orders can be easily verified. The law enforcement agency shall advise domestic violence victims where the victim may verify the registration and conditions of a release order.

C. The judge, justice of the peace, magistrate or commissioner who is authorized to issue emergency orders of protection may issue a written or oral ex parte emergency order of protection if a peace officer states that the officer has reasonable grounds to believe that a person is in immediate and present danger of domestic violence based on an allegation of a recent incident of actual domestic violence.

D. An emergency order of protection may include any of the following:

1. The defendant may be enjoined from committing a violation of one or more of the offenses included in domestic violence.

2. One party may be granted the use and exclusive possession of the parties' residence on a showing that there is reasonable cause to believe that physical harm may otherwise result.

3. The defendant may be restrained from contacting the plaintiff, coming near the residence, place of employment or school of the plaintiff or other specifically designated locations or persons on a showing that there is reasonable cause to believe that physical harm may otherwise result.

4. If the court finds that the defendant may inflict bodily injury or death on the plaintiff, the defendant may be prohibited from possessing or purchasing a firearm for the duration of the order.

E. An emergency order of protection expires at the close of the next day of judicial business following the day of issue unless otherwise continued by the court.

F. A judge, justice of the peace, magistrate or commissioner may issue an oral emergency order of protection pursuant to subsection C of this section upon request of the alleged victim, if there is a finding that a person's life or health is in imminent danger. If a person is either temporarily or permanently unable to request an order, a third party may request an order of protection on behalf of the plaintiff. After the request, the judicial officer shall determine if the third party is an appropriate requesting party for the plaintiff. The officer who receives the verbal order shall write and sign the order. The emergency order shall be served on the respondent, and a copy shall be given to the protected party. The emergency order shall be filed as soon as practicable after its issuance. The officer shall file a certificate of service with the court and shall verbally notify the sheriff's office that the emergency order of protection has been issued. If a person who is named in the order and who has not received personal service of the order but has received actual notice of the existence and substance of the order commits an act that violates the order, the person is subject to any penalty for the violation.

G. The availability of an emergency order of protection is not affected by either party leaving the residence.

H. A law enforcement agency that has jurisdiction to enforce an emergency order of protection shall enforce the emergency order when it has reasonable cause to believe that the order has been violated.

I. Failure of a law enforcement agency to enforce an emergency order of protection pursuant to this section does not give rise to civil liability except pursuant to section 12-820.02.

13-3625. Unlawful sale or purchase of children; classification

A. Except for adoptions pursuant to title 8, chapter 1 and guardianships pursuant to title 14, chapter 5, a person shall not sell or offer to sell a child for money or other valuable consideration and shall not purchase or offer to purchase a child in exchange for money or other valuable consideration.

B. A person who violates this section is guilty of a class 5 felony.