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Arizona Revised Statutes Criminal Law

13-401. Unavailability of justification defense; justification as defense

A. Even though a person is justified under this chapter in threatening or using physical force or deadly physical force against another, if in doing so such person recklessly injures or kills an innocent third person, the justification afforded by this chapter is unavailable in a prosecution for the reckless injury or killing of the innocent third person.

B. Except as provided in subsection A, justification, as defined in this chapter, is a defense in any prosecution for an offense pursuant to this title.

13-402. Justification; execution of public duty

A. Unless inconsistent with the other sections of this chapter defining justifiable use of physical force or deadly physical force or with some other superseding provision of law, conduct which would otherwise constitute an offense is justifiable when it is required or authorized by law.

B. The justification afforded by subsection A also applies if:

1. A reasonable person would believe such conduct is required or authorized by the judgment or direction of a competent court or tribunal or in the lawful execution of legal process, notwithstanding lack of jurisdiction of the court or defect in the legal process; or
2. A reasonable person would believe such conduct is required or authorized to assist a peace officer in the performance of such officer's duties, notwithstanding that the officer exceeded the officer's legal authority.

13-403. Justification; use of physical force

The use of physical force upon another person which would otherwise constitute an offense is justifiable and not criminal under any of the following circumstances:

1. A parent or guardian and a teacher or other person entrusted with the care and supervision of a minor or incompetent person may use reasonable and appropriate physical force upon the minor or incompetent person when and to the extent reasonably necessary and appropriate to maintain discipline.
2. A superintendent or other entrusted official of a jail, prison or correctional institution may use physical force for the preservation of peace, to maintain order or discipline, or to prevent the commission of any felony or misdemeanor.
3. A person responsible for the maintenance of order in a place where others are assembled or on a common motor carrier of passengers, or a person acting under his direction, may use physical force if and to the extent that a reasonable person would

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believe it necessary to maintain order, but such person may use deadly physical force only if reasonably necessary to prevent death or serious physical injury.

4. A person acting under a reasonable belief that another person is about to commit suicide or to inflict serious physical injury upon himself may use physical force upon that person to the extent reasonably necessary to thwart the result.

5. A duly licensed physician or a registered nurse or a person acting under his direction, or any other person who renders emergency care at the scene of an emergency occurrence, may use reasonable physical force for the purpose of administering a recognized and lawful form of treatment which is reasonably adapted to promoting the physical or mental health of the patient if:

(a) The treatment is administered with the consent of the patient or, if the patient is a minor or an incompetent person, with the consent of his parent, guardian or other person entrusted with his care and supervision except as otherwise provided by law; or

(b) The treatment is administered in an emergency when the person administering such treatment reasonably believes that no one competent to consent can be consulted and that a reasonable person, wishing to safeguard the welfare of the patient, would consent.

6. A person may otherwise use physical force upon another person as further provided in this chapter.

13-404. Justification; self-defense

A. Except as provided in subsection B of this section, a person is justified in threatening or using physical force against another when and to the extent a reasonable person would believe that physical force is immediately necessary to protect himself against the other's use or attempted use of unlawful physical force.

B. The threat or use of physical force against another is not justified:

1. In response to verbal provocation alone; or

2. To resist an arrest that the person knows or should know is being made by a peace officer or by a person acting in a peace officer's presence and at his direction, whether the arrest is lawful or unlawful, unless the physical force used by the peace officer exceeds that allowed by law; or

3. If the person provoked the other's use or attempted use of unlawful physical force, unless:

(a) The person withdraws from the encounter or clearly communicates to the other his intent to do so reasonably believing he cannot safely withdraw from the encounter; and

(b) The other nevertheless continues or attempts to use unlawful physical force against the person.

13-405. Justification; use of deadly physical force

A. A person is justified in threatening or using deadly physical force against another:



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1. If such person would be justified in threatening or using physical force against the other under section 13-404, and

2. When and to the degree a reasonable person would believe that deadly physical force is immediately necessary to protect himself against the other's use or attempted use of unlawful deadly physical force.

B. A person has no duty to retreat before threatening or using deadly physical force pursuant to this section if the person is in a place where the person may legally be and is not engaged in an unlawful act.

13-406. Justification; defense of a third person

A person is justified in threatening or using physical force or deadly physical force against another to protect a third person if, under the circumstances as a reasonable person would believe them to be, such person would be justified under section 13-404 or 13-405 in threatening or using physical force or deadly physical force to protect himself against the unlawful physical force or deadly physical force a reasonable person would believe is threatening the third person he seeks to protect.

13-407. Justification; use of physical force in defense of premises

A. A person or his agent in lawful possession or control of premises is justified in threatening to use deadly physical force or in threatening or using physical force against another when and to the extent that a reasonable person would believe it immediately necessary to prevent or terminate the commission or attempted commission of a criminal trespass by the other person in or upon the premises.

B. A person may use deadly physical force under subsection A only in the defense of himself or third persons as described in sections 13-405 and 13-406.

C. In this section, "premises" means any real property and any structure, movable or immovable, permanent or temporary, adapted for both human residence and lodging whether occupied or not.

13-408. Justification; use of physical force in defense of property

A person is justified in using physical force against another when and to the extent that a reasonable person would believe it necessary to prevent what a reasonable person would believe is an attempt or commission by the other person of theft or criminal damage involving tangible movable property under his possession or control, but such person may use deadly physical force under these circumstances as provided in sections 13-405, 13-406 and 13-411.

13-409. Justification; use of physical force in law enforcement

A person is justified in threatening or using physical force against another if in making or assisting in making an arrest or detention or in preventing or assisting in preventing the escape after arrest or detention of that other person, such person uses or threatens to use physical force and all of the following exist:

1. A reasonable person would believe that such force is immediately necessary to effect the arrest or detention or prevent the escape.

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2. Such person makes known the purpose of the arrest or detention or believes that it is otherwise known or cannot reasonably be made known to the person to be arrested or detained.

3. A reasonable person would believe the arrest or detention to be lawful.

13-410. Justification; use of deadly physical force in law enforcement

A. The threatened use of deadly physical force by a person against another is justified pursuant to section 13-409 only if a reasonable person effecting the arrest or preventing the escape would believe the suspect or escapee is:

1. Actually resisting the discharge of a legal duty with deadly physical force or with the apparent capacity to use deadly physical force; or

2. A felon who has escaped from lawful confinement; or

3. A felon who is fleeing from justice or resisting arrest with physical force.

B. The use of deadly physical force by a person other than a peace officer against another is justified pursuant to section 13-409 only if a reasonable person effecting the arrest or preventing the escape would believe the suspect or escapee is actually resisting the discharge of a legal duty with physical force or with the apparent capacity to use deadly physical force.

C. The use of deadly force by a peace officer against another is justified pursuant to section 13-409 only when the peace officer reasonably believes that it is necessary:

1. To defend himself or a third person from what the peace officer reasonably believes to be the use or imminent use of deadly physical force.

2. To effect an arrest or prevent the escape from custody of a person whom the peace officer reasonably believes:

(a) Has committed, attempted to commit, is committing or is attempting to commit a felony involving the use or a threatened use of a deadly weapon.

(b) Is attempting to escape by use of a deadly weapon.

(c) Through past or present conduct of the person which is known by the peace officer that the person is likely to endanger human life or inflict serious bodily injury to another unless apprehended without delay.

(d) Is necessary to lawfully suppress a riot if the person or another person participating in the riot is armed with a deadly weapon.

D. Notwithstanding any other provisions of this chapter, a peace officer is justified in threatening to use deadly physical force when and to the extent a reasonable officer believes it necessary to protect himself against another's potential use of physical force or deadly physical force.

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13-411. Justification; use of force in crime prevention; applicability

A. A person is justified in threatening or using both physical force and deadly physical force against another if and to the extent the person reasonably believes that physical force or deadly physical force is immediately necessary to prevent the other's commission of arson of an occupied structure under section 13-1704, burglary in the second or first degree under section 13-1507 or 13-1508, kidnapping under section 13-1304, manslaughter under section 13-1103, second or first degree murder under section 13-1104 or 13-1105, sexual conduct with a minor under section 13-1405, sexual assault under section 13-1406, child molestation under section 13-1410, armed robbery under section 13-1904 or aggravated assault under section 13-1204, subsection A, paragraphs 1 and 2.

B. There is no duty to retreat before threatening or using physical force or deadly physical force justified by subsection A of this section.

C. A person is presumed to be acting reasonably for the purposes of this section if the person is acting to prevent what the person reasonably believes is the imminent or actual commission of any of the offenses listed in subsection A of this section.

D. This section includes the use or threatened use of physical force or deadly physical force in a person's home, residence, place of business, land the person owns or leases, conveyance of any kind, or any other place in this state where a person has a right to be.

13-412. Duress

A. Conduct which would otherwise constitute an offense is justified if a reasonable person would believe that he was compelled to engage in the proscribed conduct by the threat or use of immediate physical force against his person or the person of another which resulted or could result in serious physical injury which a reasonable person in the situation would not have resisted.

B. The defense provided by subsection A is unavailable if the person intentionally, knowingly or recklessly placed himself in a situation in which it was probable that he would be subjected to duress.

C. The defense provided by subsection A is unavailable for offenses involving homicide or serious physical injury.

13-413. No civil liability for justified conduct

No person in this state shall be subject to civil liability for engaging in conduct otherwise justified pursuant to the provisions of this chapter.

13-415. Justification; domestic violence

If there have been past acts of domestic violence as defined in section 13-3601, subsection A against the defendant by the victim, the state of mind of a reasonable person under sections 13-404, 13-405 and 13-406 shall be determined from the perspective of a reasonable person who has been a victim of those past acts of domestic violence.

13-416. Justification; use of reasonable and necessary means; definition

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A. A security officer who is employed by a private contractor may use all reasonable and necessary means, including deadly force, to prevent a prisoner in the custody of the private contractor from the following:

1. Escaping from the custody of a law enforcement officer, an authorized custodial agent or a correctional facility.
2. Taking another person as a hostage or causing death or serious bodily harm to another person.

B. Security officers who are described in subsection A and who are employed by private prisons in this state shall meet or exceed the minimal training standards established by the American correctional association.

C. For the purposes of this section, "private contractor" means a person that contracts with any governmental entity to provide detention or incarceration services for prisoners.

13-417. Necessity defense

A. Conduct that would otherwise constitute an offense is justified if a reasonable person was compelled to engage in the proscribed conduct and the person had no reasonable alternative to avoid imminent public or private injury greater than the injury that might reasonably result from the person's own conduct.

B. An accused person may not assert the defense under subsection A if the person intentionally, knowingly or recklessly placed himself in the situation in which it was probable that the person would have to engage in the proscribed conduct.

C. An accused person may not assert the defense under subsection A for offenses involving homicide or serious physical injury.

13-418. Justification; use of force in defense of residential structure or occupied vehicles; definitions

A. Notwithstanding any other provision of this chapter, a person is justified in threatening to use or using physical force or deadly physical force against another person if the person reasonably believes himself or another person to be in imminent peril of death or serious physical injury and the person against whom the physical force or deadly physical force is threatened or used was in the process of unlawfully or forcefully entering, or had unlawfully or forcefully entered, a residential structure or occupied vehicle, or had removed or was attempting to remove another person against the other person's will from the residential structure or occupied vehicle.

B. A person has no duty to retreat before threatening or using physical force or deadly physical force pursuant to this section.

C. For the purposes of this section:

1. "Residential structure" has the same meaning prescribed in section 13-1501.
2. "Vehicle" means a conveyance of any kind, whether or not motorized, that is designed to transport persons or property.

13-419. Presumptions; defense of a residential structure or occupied vehicle; exceptions; definitions

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A. A person is presumed to reasonably believe that the threat or use of physical force or deadly force is immediately necessary for the purposes of sections 13-404 through 13-408, section 13-418 and section 13-421 if the person knows or has reason to believe that the person against whom physical force or deadly force is threatened or used is unlawfully or forcefully entering or has unlawfully or forcefully entered and is present in the person's residential structure or occupied vehicle.

B. For the purposes of sections 13-404 through 13-408, section 13-418 and section 13-421, a person who is unlawfully or forcefully entering or who has unlawfully or forcefully entered and is present in a residential structure or occupied vehicle is presumed to pose an imminent threat of unlawful deadly harm to any person who is in the residential structure or occupied vehicle.

C. The presumptions in subsections A and B of this section do not apply if:

1. The person against whom physical force or deadly physical force was threatened or used has the right to be in or is a lawful resident of the residential structure or occupied vehicle, including an owner, lessee, invitee or titleholder, and an order of protection or injunction against harassment has not been filed against that person.
2. The person against whom physical force or deadly physical force was threatened or used is the parent or grandparent, or has legal custody or guardianship, of a child or grandchild sought to be removed from the residential structure or occupied vehicle.
3. The person who threatens or uses physical force or deadly physical force is engaged in an unlawful activity or is using the residential structure or occupied vehicle to further an unlawful activity.
4. The person against whom physical force or deadly physical force was threatened or used is a law enforcement officer who enters or attempts to enter a residential structure or occupied vehicle in the performance of official duties.

D. For the purposes of this section:

1. "Residential structure" has the same meaning prescribed in section 13-1501.
2. "Vehicle" means a conveyance of any kind, whether or not motorized, that is designed to transport persons or property.

13-421. Justification; defensive display of a firearm; definition

A. The defensive display of a firearm by a person against another is justified when and to the extent a reasonable person would believe that physical force is immediately necessary to protect himself against the use or attempted use of unlawful physical force or deadly physical force.

B. This section does not apply to a person who:

1. Intentionally provokes another person to use or attempt to use unlawful physical force.
2. Uses a firearm during the commission of a serious offense as defined in section 13-706 or violent crime as defined in section 13-901.03.

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C. This section does not require the defensive display of a firearm before the use of physical force or the threat of physical force by a person who is otherwise justified in the use or threatened use of physical force.

D. For the purposes of this section, "defensive display of a firearm" includes:

1. Verbally informing another person that the person possesses or has available a firearm.
2. Exposing or displaying a firearm in a manner that a reasonable person would understand was meant to protect the person against another's use or attempted use of unlawful physical force or deadly physical force.
3. Placing the person's hand on a firearm while the firearm is contained in a pocket, purse or other means of containment or transport.

13-1101. Definitions

In this chapter, unless the context otherwise requires:

1. "Premeditation" means that the defendant acts with either the intention or the knowledge that he will kill another human being, when such intention or knowledge precedes the killing by any length of time to permit reflection. Proof of actual reflection is not required, but an act is not done with premeditation if it is the instant effect of a sudden quarrel or heat of passion.
2. "Homicide" means first degree murder, second degree murder, manslaughter or negligent homicide.
3. "Person" means a human being.
4. "Adequate provocation" means conduct or circumstances sufficient to deprive a reasonable person of self-control.

13-1102. Negligent homicide; classification

A. A person commits negligent homicide if with criminal negligence the person causes the death of another person, including an unborn child.

B. An offense under this section applies to an unborn child in the womb at any stage of its development. A person may not be prosecuted under this section if any of the following applies:

1. The person was performing an abortion for which the consent of the pregnant woman, or a person authorized by law to act on the pregnant woman's behalf, has been obtained or for which the consent was implied or authorized by law.
2. The person was performing medical treatment on the pregnant woman or the pregnant woman's unborn child.
3. The person was the unborn child's mother.

C. Negligent homicide is a class 4 felony.

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13-1103. Manslaughter; classification

A. A person commits manslaughter by:

1. Recklessly causing the death of another person; or
2. Committing second degree murder as prescribed in section 13-1104, subsection A upon a sudden quarrel or heat of passion resulting from adequate provocation by the victim; or
3. Intentionally providing the physical means that another person uses to commit suicide, with the knowledge that the person intends to commit suicide; or
4. Committing second degree murder as prescribed in section 13-1104, subsection A, paragraph 3, while being coerced to do so by the use or threatened immediate use of unlawful deadly physical force upon such person or a third person which a reasonable person in his situation would have been unable to resist; or
5. Knowingly or recklessly causing the death of an unborn child by any physical injury to the mother.

B. An offense under subsection A, paragraph 5 of this section applies to an unborn child in the womb at any stage of its development. A person shall not be prosecuted under subsection A, paragraph 5 of this section if any of the following applies:

1. The person was performing an abortion for which the consent of the pregnant woman, or a person authorized by law to act on the pregnant woman's behalf, has been obtained or for which the consent was implied or authorized by law.
2. The person was performing medical treatment on the pregnant woman or the pregnant woman's unborn child.
3. The person was the unborn child's mother.

C. Manslaughter is a class 2 felony.

13-1104. Second degree murder; classification

A. A person commits second degree murder if without premeditation:

1. The person intentionally causes the death of another person, including an unborn child or, as a result of intentionally causing the death of another person, causes the death of an unborn child; or
2. Knowing that the person's conduct will cause death or serious physical injury, the person causes the death of another person, including an unborn child or, as a result of knowingly causing the death of another person, causes the death of an unborn child; or
3. Under circumstances manifesting extreme indifference to human life, the person recklessly engages in conduct that creates a grave risk of death and thereby causes the death of another person, including an unborn child or, as a result of recklessly causing the death of another person, causes the death of an unborn child.

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B. An offense under this section applies to an unborn child in the womb at any stage of its development. A person may not be prosecuted under this section if any of the following applies:

1. The person was performing an abortion for which the consent of the pregnant woman, or a person authorized by law to act on the pregnant woman's behalf, has been obtained or for which the consent was implied or authorized by law.
2. The person was performing medical treatment on the pregnant woman or the pregnant woman's unborn child.
3. The person was the unborn child's mother.

C. Second degree murder is a class 1 felony and is punishable as provided by section 13-705 if the victim is under fifteen years of age or is an unborn child, section 13-706, subsection A or section 13-710.

13-1105. First degree murder; classification

A. A person commits first degree murder if:

1. Intending or knowing that the person's conduct will cause death, the person causes the death of another person, including an unborn child, with premeditation or, as a result of causing the death of another person with premeditation, causes the death of an unborn child.
2. Acting either alone or with one or more other persons the person commits or attempts to commit sexual conduct with a minor under section 13-1405, sexual assault under section 13-1406, molestation of a child under section 13-1410, terrorism under section 13-2308.01, marijuana offenses under section 13-3405, subsection A, paragraph 4, dangerous drug offenses under section 13-3407, subsection A, paragraphs 4 and 7, narcotics offenses under section 13-3408, subsection A, paragraph 7 that equal or exceed the statutory threshold amount for each offense or combination of offenses, involving or using minors in drug offenses under section 13-3409, drive by shooting under section 13-1209, kidnapping under section 13-1304, burglary under section 13-1506, 13-1507 or 13-1508, arson under section 13-1703 or 13-1704, robbery under section 13-1902, 13-1903 or 13-1904, escape under section 13-2503 or 13-2504, child abuse under section 13-3623, subsection A, paragraph 1 or unlawful flight from a pursuing law enforcement vehicle under section 28-622.01 and, in the course of and in furtherance of the offense or immediate flight from the offense, the person or another person causes the death of any person.
3. Intending or knowing that the person's conduct will cause death to a law enforcement officer, the person causes the death of a law enforcement officer who is in the line of duty.

B. Homicide, as prescribed in subsection A, paragraph 2 of this section, requires no specific mental state other than what is required for the commission of any of the enumerated felonies.

C. An offense under subsection A, paragraph 1 of this section applies to an unborn child in the womb at any stage of its development. A person shall not be prosecuted under subsection A, paragraph 1 of this section if any of the following applies:

1. The person was performing an abortion for which the consent of the pregnant woman, or a person authorized by law to act on the pregnant woman's behalf, has been obtained or for which the consent was implied or authorized by law.
2. The person was performing medical treatment on the pregnant woman or the pregnant woman's unborn child.

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3. The person was the unborn child's mother.

D. First degree murder is a class 1 felony and is punishable by death or life imprisonment as provided by sections 13-751 and 13-752.

13-1201. Endangerment; classification

A. A person commits endangerment by recklessly endangering another person with a substantial risk of imminent death or physical injury.

B. Endangerment involving a substantial risk of imminent death is a class 6 felony. In all other cases, it is a class 1 misdemeanor.

13-1202. Threatening or intimidating; classification

A. A person commits threatening or intimidating if the person threatens or intimidates by word or conduct:

1. To cause physical injury to another person or serious damage to the property of another; or

2. To cause, or in reckless disregard to causing, serious public inconvenience including, but not limited to, evacuation of a building, place of assembly or transportation facility; or

3. To cause physical injury to another person or damage to the property of another in order to promote, further or assist in the interests of or to cause, induce or solicit another person to participate in a criminal street gang, a criminal syndicate or a racketeering enterprise.

B. Threatening or intimidating pursuant to subsection A, paragraph 1 or 2 is a class 1 misdemeanor, except that it is a class 6 felony if:

1. The offense is committed in retaliation for a victim's either reporting criminal activity or being involved in an organization, other than a law enforcement agency, that is established for the purpose of reporting or preventing criminal activity.

2. The person is a criminal street gang member.

C. Threatening or intimidating pursuant to subsection A, paragraph 3 is a class 3 felony.

13-1203. Assault; classification

A. A person commits assault by:

1. Intentionally, knowingly or recklessly causing any physical injury to another person; or

2. Intentionally placing another person in reasonable apprehension of imminent physical injury; or



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3. Knowingly touching another person with the intent to injure, insult or provoke such person.

B. Assault committed intentionally or knowingly pursuant to subsection A, paragraph 1 is a class 1 misdemeanor. Assault committed recklessly pursuant to subsection A, paragraph 1 or assault pursuant to subsection A, paragraph 2 is a class 2 misdemeanor. Assault committed pursuant to subsection A, paragraph 3 is a class 3 misdemeanor.

13-1204. Aggravated assault; classification; definitions

A. A person commits aggravated assault if the person commits assault as prescribed by section 13-1203 under any of the following circumstances:

1. If the person causes serious physical injury to another.
2. If the person uses a deadly weapon or dangerous instrument.
3. If the person commits the assault by any means of force that causes temporary but substantial disfigurement, temporary but substantial loss or impairment of any body organ or part or a fracture of any body part.
4. If the person commits the assault while the victim is bound or otherwise physically restrained or while the victim's capacity to resist is substantially impaired.
5. If the person commits the assault after entering the private home of another with the intent to commit the assault.
6. If the person is eighteen years of age or older and commits the assault on a minor under fifteen years of age.
7. If the person commits assault as prescribed by section 13-1203, subsection A, paragraph 1 or 3 and the person is in violation of an order of protection issued against the person pursuant to section 13-3602 or 13-3624.
8. If the person commits the assault knowing or having reason to know that the victim is any of the following:
 - (a) A peace officer or a person summoned and directed by the officer.
 - (b) A constable or a person summoned and directed by the constable while engaged in the execution of any official duties or if the assault results from the execution of the constable's official duties.
 - (c) A firefighter, fire investigator, fire inspector, emergency medical technician or paramedic engaged in the execution of any official duties or a person summoned and directed by such individual while engaged in the execution of any official duties or if the assault results from the execution of the official duties of the firefighter, fire investigator, fire inspector, emergency medical technician or paramedic.
 - (d) A teacher or other person employed by any school and the teacher or other employee is on the grounds of a school or grounds adjacent to the school or is in any part of a building or vehicle used for school purposes, any teacher or school nurse visiting a private home in the course of the teacher's or nurse's professional duties or any teacher engaged in any authorized and organized classroom activity held on other than school grounds.



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(e) A health care practitioner who is certified or licensed pursuant to title 32, chapter 13, 15, 17 or 25, or a person summoned and directed by the licensed health care practitioner while engaged in the person's professional duties. This subdivision does not apply if the person who commits the assault is seriously mentally ill, as defined in section 36-550, or is afflicted with alzheimer's disease or related dementia.

(f) A prosecutor while engaged in the execution of any official duties or if the assault results from the execution of the prosecutor's official duties.

(g) A code enforcement officer as defined in section 39-123 while engaged in the execution of any official duties or if the assault results from the execution of the code enforcement officer's official duties.

(h) A state or municipal park ranger while engaged in the execution of any official duties or if the assault results from the execution of the park ranger's official duties.

(i) A public defender while engaged in the execution of any official duties or if the assault results from the execution of the public defender's official duties.

(j) A judicial officer while engaged in the execution of any official duties or if the assault results from the execution of the judicial officer's official duties.

9. If the person knowingly takes or attempts to exercise control over any of the following:

(a) A peace officer's or other officer's firearm and the person knows or has reason to know that the victim is a peace officer or other officer employed by one of the agencies listed in paragraph 10, subdivision (a), item (i), (ii), (iii), (iv) or (v) of this subsection.

(b) Any weapon other than a firearm that is being used by a peace officer or other officer or that the officer is attempting to use, and the person knows or has reason to know that the victim is a peace officer or other officer employed by one of the agencies listed in paragraph 10, subdivision (a), item (i), (ii), (iii), (iv) or (v) of this subsection.

(c) Any implement that is being used by a peace officer or other officer or that the officer is attempting to use, and the person knows or has reason to know that the victim is a peace officer or other officer employed by one of the agencies listed in paragraph 10, subdivision (a), item (i), (ii), (iii), (iv) or (v) of this subsection. For the purposes of this subdivision, "implement" means an object that is designed for or that is capable of restraining or injuring an individual. Implement does not include handcuffs.

10. If the person meets both of the following conditions:

(a) Is imprisoned or otherwise subject to the custody of any of the following:

(i) The state department of corrections.

(ii) The department of juvenile corrections.

(iii) A law enforcement agency.



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(iv) A county or city jail or an adult or juvenile detention facility of a city or county.

(v) Any other entity that is contracting with the state department of corrections, the department of juvenile corrections, a law enforcement agency, another state, any private correctional facility, a county, a city or the federal bureau of prisons or other federal agency that has responsibility for sentenced or unsentenced prisoners.

(b) Commits an assault knowing or having reason to know that the victim is acting in an official capacity as an employee of any of the entities listed in subdivision (a) of this paragraph.

11. If the person uses a simulated deadly weapon.

B. A person commits aggravated assault if the person commits assault by either intentionally, knowingly or recklessly causing any physical injury to another person, intentionally placing another person in reasonable apprehension of imminent physical injury or knowingly touching another person with the intent to injure the person, and both of the following occur:

1. The person intentionally or knowingly impedes the normal breathing or circulation of blood of another person by applying pressure to the throat or neck or by obstructing the nose and mouth either manually or through the use of an instrument.

2. Any of the circumstances exists that are set forth in section 13-3601, subsection A, paragraph 1, 2, 3, 4, 5 or 6.

C. A person who is convicted of intentionally or knowingly committing aggravated assault on a peace officer pursuant to subsection A, paragraph 1 or 2 of this section shall be sentenced to imprisonment for not less than the presumptive sentence authorized under chapter 7 of this title and is not eligible for suspension of sentence, commutation or release on any basis until the sentence imposed is served.

D. It is not a defense to a prosecution for assaulting a peace officer or a mitigating circumstance that the peace officer was not on duty or engaged in the execution of any official duties.

E. Except pursuant to subsections F and G of this section, aggravated assault pursuant to subsection A, paragraph 1 or 2, paragraph 9, subdivision (a) or paragraph 11 of this section is a class 3 felony except if the aggravated assault is a violation of subsection A, paragraph 1 or 2 of this section and the victim is under fifteen years of age it is a class 2 felony punishable pursuant to section 13-705. Aggravated assault pursuant to subsection A, paragraph 3 or subsection B of this section is a class 4 felony. Aggravated assault pursuant to subsection A, paragraph 9, subdivision (b) or paragraph 10 of this section is a class 5 felony. Aggravated assault pursuant to subsection A, paragraph 4, 5, 6, 7 or 8 or paragraph 9, subdivision (c) of this section is a class 6 felony.

F. Aggravated assault pursuant to subsection A, paragraph 1 or 2 of this section committed on a peace officer is a class 2 felony. Aggravated assault pursuant to subsection A, paragraph 3 of this section committed on a peace officer is a class 3 felony. Aggravated assault pursuant to subsection A, paragraph 8, subdivision (a) of this section committed on a peace officer is a class 5 felony unless the assault results in any physical injury to the peace officer, in which case it is a class 4 felony.

G. Aggravated assault pursuant to:

1. Subsection A, paragraph 1 or 2 of this section is a class 2 felony if committed on a prosecutor.



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2. Subsection A, paragraph 3 of this section is a class 3 felony if committed on a prosecutor.

3. Subsection A, paragraph 8, subdivision (f) of this section is a class 5 felony if the assault results in physical injury to a prosecutor.

H. For the purposes of this section:

1. "Judicial officer" means a justice of the supreme court, judge, justice of the peace or magistrate or a commissioner or hearing officer of a state, county or municipal court.

2. "Prosecutor" means a county attorney, a municipal prosecutor or the attorney general and includes an assistant or deputy county attorney, municipal prosecutor or attorney general.

13-1205. Unlawfully administering intoxicating liquors, narcotic drug or dangerous drug; classification

A. A person commits unlawfully administering intoxicating liquors, a narcotic drug or dangerous drug if, for a purpose other than lawful medical or therapeutic treatment, such person knowingly introduces or causes to be introduced into the body of another person, without such other person's consent, intoxicating liquors, a narcotic drug or dangerous drug.

B. Unlawfully administering intoxicating liquors, a narcotic drug or dangerous drug is a class 6 felony.

C. If the victim is a minor, then the offense shall be a class 5 felony.

13-1206. Dangerous or deadly assault by prisoner or juvenile; classification

A person, while in the custody of the state department of corrections, the department of juvenile corrections, a law enforcement agency or a county or city jail, who commits an assault involving the discharge, use or threatening exhibition of a deadly weapon or dangerous instrument or who intentionally or knowingly inflicts serious physical injury upon another person is guilty of a class 2 felony. If the person is an adult or is a juvenile convicted as an adult pursuant to section 8-327 or 13-501 or the rules of procedure for the juvenile court, the person shall not be eligible for suspension of sentence, probation, pardon or release from confinement on any basis until the sentence imposed by the court has been served or commuted. A sentence imposed pursuant to this section shall be consecutive to any other sentence presently being served by the convicted person.

13-1208. Assault; vicious animals; classification; exception; definition

A. A person who intentionally or knowingly causes any dog to bite and inflict serious physical injury on a human being or otherwise cause serious physical injury to a human being is guilty of a class 3 felony, unless the person would be justified in using physical force or deadly physical force in self-defense or defense of a third person pursuant to chapter 4 of this title.

B. A person who owns a dog that the owner knows or has reason to know has a history of biting or a propensity to cause injury or to otherwise endanger the safety of human beings without provocation or that has been found to be a vicious animal by a court of competent jurisdiction and that bites, inflicts physical injury on or attacks a human being while at large is guilty of a class 5 felony.

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C. A person who owns or who is responsible for the care of a dog that the owner or responsible person knows or has reason to know has a history of biting or a propensity to cause injury or to otherwise endanger the safety of human beings without provocation or that has been found to be a vicious animal by a court of competent jurisdiction and who does not take reasonable care to prohibit the dog from escaping to the outside of a residence or enclosed area, yard or structure is guilty of a class 1 misdemeanor.

D. This section does not apply to dogs that are owned or used by a law enforcement agency and that are used in the performance of police work.

E. For the purposes of this section, "reasonable care" means the degree of care that a person of ordinary prudence would exercise in the same or similar circumstances.

13-1209. Drive by shooting; forfeiture; driver license revocation; classification; definitions

A. A person commits drive by shooting by intentionally discharging a weapon from a motor vehicle at a person, another occupied motor vehicle or an occupied structure.

B. Motor vehicles that are used in violation of this section are subject to seizure for forfeiture in the manner provided for in chapter 39 of this title.

C. Notwithstanding title 28, chapter 8, the judge shall order the surrender to the judge of any driver license of the convicted person and, on surrender of the license, shall invalidate or destroy the license and forward the abstract of conviction to the department of transportation with an order of the court revoking the driving privilege of the person for a period of at least one year but not more than five years. On receipt of the abstract of conviction and order, the department of transportation shall revoke the driving privilege of the person for the period of time ordered by the judge.

D. Drive by shooting is a class 2 felony.

E. As used in this section:

1. "Motor vehicle" has the same meaning prescribed in section 28-101.

2. "Occupied structure" has the same meaning prescribed in section 13-3101.

13-1210. Assaults on hospital employees, public safety employees or volunteers and state hospital employees; disease testing; petition; hearing; notice; definitions

A. A hospital employee, a public safety employee or volunteer or the employing agency, officer or entity may petition the court for an order authorizing testing of another person for the human immunodeficiency virus, common blood borne diseases or other diseases specified in the petition if there are reasonable grounds to believe an exposure occurred and one of the following applies:

1. The person is charged in any criminal complaint and the complaint alleges that the person interfered with the official duties of the hospital employee or the public safety employee or volunteer by biting, scratching, spitting or transferring blood or other bodily fluids on or through the skin or membranes of the hospital employee or the public safety employee or volunteer.



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2. There is probable cause to believe that the person interfered with the official duties of the hospital employee or the public safety employee or volunteer by biting, scratching, spitting or transferring blood or other bodily fluids on or through the skin or membranes of the hospital employee or public safety employee or volunteer and that the person is deceased.

3. There is probable cause to believe that the person bit, scratched, spat or transferred blood or other bodily fluid on or through the skin or membranes of a hospital employee or a public safety employee or volunteer who was performing an official duty.

4. The person is arrested, charged or in custody and the hospital employee or the public safety employee or volunteer alleges, by affidavit, that the person interfered with the official duties of the hospital employee or the public safety employee or volunteer by biting, scratching, spitting or transferring blood or other bodily fluids on or through the skin or membranes of the hospital employee or the public safety employee or volunteer.

5. The public safety employee or volunteer, as part of the employee's or volunteer's official duties, was rendering aid to the person as a result of a medical emergency and was exposed to blood or other bodily fluids on or through the skin or membranes.

6. The public safety employee or volunteer, as part of the employee's or volunteer's official duties, was rendering aid to the person as a result of a medical emergency and was exposed to blood or other bodily fluids on or through the skin or membranes, and the person is deceased.

B. An employee of the Arizona state hospital or the employing agency may petition the court for an order authorizing testing of another person for the human immunodeficiency virus, common blood borne diseases or other diseases specified in the petition if there are reasonable grounds to believe an exposure occurred and the person is a patient who is confined to the Arizona state hospital and who is alleged to have interfered with the official duties of the Arizona state hospital employee by biting, scratching, spitting or transferring blood or other bodily fluids on or through the skin or membranes of the Arizona state hospital employee.

C. The court shall hear the petition promptly. If the court finds that probable cause exists to believe that a possible transfer of blood or other bodily fluids occurred between the person and the hospital employee, the public safety employee or volunteer or the Arizona state hospital employee, the court shall order that either:

1. The person provide two specimens of blood for testing.
2. If the person is deceased, the medical examiner draw two specimens of blood for testing.

D. Notwithstanding subsection C, paragraph 2 of this section, on written notice from the agency, officer or entity employing the hospital employee or the public safety employee or volunteer, the medical examiner is authorized to draw two specimens of blood for testing during the autopsy or other examination of the deceased person's body. The medical examiner shall release the specimen to the employing agency, officer or entity for testing only after the court issues its order pursuant to subsection C, paragraph 2 of this section. If the court does not issue an order within thirty days after the medical examiner collects the specimen, the medical examiner shall destroy the specimen.

E. Notice of the test results shall be provided as prescribed by the department of health services to the person tested, to the hospital employee, the public safety employee or volunteer or the Arizona state hospital employee named in the petition and to the employee's or volunteer's employing agency, officer or entity and, if the person tested is incarcerated or detained, to the officer in charge and the chief medical officer of the facility in which the person is incarcerated or detained.



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F. Section 36-665 does not apply to this section.

G. For the purposes of this section:

1. "Arizona state hospital" includes the Arizona community protection and treatment center.
2. "Arizona state hospital employee" means an employee of the Arizona state hospital who has direct patient contact.
3. "Hospital employee" means a private hospital employee or volunteer or a person who is authorized to perform official duties at a private hospital while performing those authorized duties.
4. "Private hospital" means a hospital that is not maintained and operated by this state or any political subdivision of this state.
5. "Private prison security officer" means a security officer who is employed by a private contractor that contracts with a governmental entity to provide detention or incarceration facility services for offenders.
6. "Public safety employee or volunteer" means a law enforcement officer, any employee, contractor or volunteer of a state or local law enforcement agency or correctional facility, a probation officer, a surveillance officer, an adult or juvenile correctional service officer, a detention officer, a private prison security officer, a firefighter, an emergency medical technician or any other person who is authorized to perform official duties or be present within a correctional facility.

13-1211. Discharging a firearm at a structure; classification; definitions

- A. A person who knowingly discharges a firearm at a residential structure is guilty of a class 2 felony.
- B. A person who knowingly discharges a firearm at a nonresidential structure is guilty of a class 3 felony.
- C. For the purposes of this section:

1. "Nonresidential structure" means a structure other than a residential structure.
2. "Residential structure" means a movable or immovable or permanent or temporary structure that is adapted for both human residence or lodging.
3. "Structure" means any building, vehicle, railroad car or place with sides and a floor that is separately securable from any other structure attached to it and that is being used for lodging, business or transportation.

13-1302. Custodial interference; child born out of wedlock; defenses; classification



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A. A person commits custodial interference if, knowing or having reason to know that the person has no legal right to do so, the person does one of the following:

1. Takes, entices or keeps from lawful custody any child, or any person who is incompetent, and who is entrusted by authority of law to the custody of another person or institution.
2. Before the entry of a court order determining custodial rights, takes, entices or withholds any child from the other parent denying that parent access to any child.
3. If the person is one of two persons who have joint legal custody of a child, takes, entices or withholds from physical custody the child from the other custodian.
4. At the expiration of access rights outside this state, intentionally fails or refuses to return or impedes the return of a child to the lawful custodian.

B. If a child is born out of wedlock, the mother is the legal custodian of the child for the purposes of this section until paternity is established and custody or access is determined by a court.

C. It is a defense to a prosecution pursuant to subsection A, paragraph 2 if both of the following apply:

1. The defendant has begun the process to obtain an order of protection or files a petition for custody within a reasonable period of time and the order of protection or petition states the defendant's belief that the child was at risk if left with the other parent.
2. The defendant is the child's parent and has the right of custody and the defendant either:
 - (a) Has a good faith and reasonable belief that the taking, enticing or withholding is necessary to protect the child from immediate danger.
 - (b) Is a victim of domestic violence by the other parent and has a good faith and reasonable belief that the child will be in immediate danger if the child is left with the other parent.

D. Subsection A, paragraphs 2 and 3 do not apply to a person who is the child's parent if both of the following apply:

1. The person has filed an emergency petition regarding custodial rights with the superior court and has received a hearing date from the court.
2. The person has a good faith and reasonable belief that the child will be in immediate danger if the child is left with the other parent.

E. A violation of this section is:

1. A class 3 felony if committed by a person other than the parent or agent of the parent or custodian or agent of the custodian.

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2. Notwithstanding paragraph 3 of this subsection, a class 4 felony if the child or incompetent person is taken, enticed or kept from lawful custody out of this state by the parent or agent of the parent or custodian or the agent of the custodian.

3. A class 6 felony if committed by a parent or agent of the parent or custodian or agent of the custodian.

4. A class 1 misdemeanor if the child or incompetent person is voluntarily returned without physical injury by the parent or defendant or the agent of the parent or defendant no later than forty-eight hours after the parent or defendant takes, entices or keeps from lawful custody the child or incompetent person.

13-1303. Unlawful imprisonment; classification; definition

A. A person commits unlawful imprisonment by knowingly restraining another person.

B. In any prosecution for unlawful imprisonment, it is a defense that:

1. The restraint was accomplished by a peace officer or detention officer acting in good faith in the lawful performance of his duty; or
2. The defendant is a relative of the person restrained and the defendant's sole intent is to assume lawful custody of that person and the restraint was accomplished without physical injury.

C. Unlawful imprisonment is a class 6 felony unless the victim is released voluntarily by the defendant without physical injury in a safe place before arrest in which case it is a class 1 misdemeanor.

D. For the purposes of this section, "detention officer" means a person other than an elected official who is employed by a county, city or town and who is responsible for the supervision, protection, care, custody or control of inmates in a county or municipal correctional institution. Detention officer does not include counselors or secretarial, clerical or professionally trained personnel.

13-1304. Kidnapping; classification; consecutive sentence

A. A person commits kidnapping by knowingly restraining another person with the intent to:

1. Hold the victim for ransom, as a shield or hostage; or
2. Hold the victim for involuntary servitude; or
3. Inflict death, physical injury or a sexual offense on the victim, or to otherwise aid in the commission of a felony; or
4. Place the victim or a third person in reasonable apprehension of imminent physical injury to the victim or the third person; or
5. Interfere with the performance of a governmental or political function; or
6. Seize or exercise control over any airplane, train, bus, ship or other vehicle.

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B. Kidnapping is a class 2 felony unless the victim is released voluntarily by the defendant without physical injury in a safe place before arrest and before accomplishing any of the further enumerated offenses in subsection A of this section in which case it is a class 4 felony. If the victim is released pursuant to an agreement with the state and without any physical injury, it is a class 3 felony. If the victim is under fifteen years of age kidnapping is a class 2 felony punishable pursuant to section 13-705. The sentence for kidnapping of a victim under fifteen years of age shall run consecutively to any other sentence imposed on the defendant and to any undischarged term of imprisonment of the defendant.

13-1502. [Criminal trespass in the third degree; classification](#)

A. A person commits criminal trespass in the third degree by:

1. Knowingly entering or remaining unlawfully on any real property after a reasonable request to leave by a law enforcement officer, the owner or any other person having lawful control over such property, or reasonable notice prohibiting entry.
2. Knowingly entering or remaining unlawfully on the right-of-way for tracks, or the storage or switching yards or rolling stock of a railroad company.

B. Pursuant to subsection A, paragraph 1 of this section, a request to leave by a law enforcement officer acting at the request of the owner of the property or any other person having lawful control over the property has the same legal effect as a request made by the property owner or other person having lawful control of the property.

C. Criminal trespass in the third degree is a class 3 misdemeanor.

13-1503. [Criminal trespass in the second degree; classification](#)

A. A person commits criminal trespass in the second degree by knowingly entering or remaining unlawfully in or on any nonresidential structure or in any fenced commercial yard.

B. Criminal trespass in the second degree is a class 2 misdemeanor.

13-1504. [Criminal trespass in the first degree; classification](#)

A. A person commits criminal trespass in the first degree by knowingly:

1. Entering or remaining unlawfully in or on a residential structure.
2. Entering or remaining unlawfully in a fenced residential yard.
3. Entering any residential yard and, without lawful authority, looking into the residential structure thereon in reckless disregard of infringing on the inhabitant's right of privacy.
4. Entering unlawfully on real property that is subject to a valid mineral claim or lease with the intent to hold, work, take or explore for minerals on the claim or lease.

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5. Entering or remaining unlawfully on the property of another and burning, defacing, mutilating or otherwise desecrating a religious symbol or other religious property of another without the express permission of the owner of the property.

6. Entering or remaining unlawfully in or on a critical public service facility.

B. Criminal trespass in the first degree under subsection A, paragraph 6 of this section is a class 5 felony. Criminal trespass in the first degree under subsection A, paragraph 1 or 5 of this section is a class 6 felony. Criminal trespass in the first degree under subsection A, paragraph 2, 3 or 4 of this section is a class 1 misdemeanor.

13-1505. Possession of burglary tools; master key; manipulation key; classification

A. A person commits possession of burglary tools by:

1. Possessing any explosive, tool, instrument or other article adapted or commonly used for committing any form of burglary as defined in sections 13-1506, 13-1507 and 13-1508 and intending to use or permit the use of such an item in the commission of a burglary.

2. Buying, selling, transferring, possessing or using a motor vehicle manipulation key or master key.

B. Subsection A, paragraph 2 of this section does not apply to a person who either:

1. Uses a master key in the course of the person's lawful business or occupation, including licensed vehicle dealers and manufacturers, key manufacturers who are engaged in the business of designing, making, altering, duplicating or repairing locks or keys, locksmiths, loan institutions that finance vehicles and law enforcement.

2. Transfers, possesses or uses no more than one manipulation key, unless the manipulation key is transferred, possessed or used with the intent to commit any theft or felony.

C. Possession of burglary tools is a class 6 felony.

13-1506. Burglary in the third degree; classification

A. A person commits burglary in the third degree by:

1. Entering or remaining unlawfully in or on a nonresidential structure or in a fenced commercial or residential yard with the intent to commit any theft or any felony therein.

2. Making entry into any part of a motor vehicle by means of a manipulation key or master key, with the intent to commit any theft or felony in the motor vehicle.

B. Burglary in the third degree is a class 4 felony.

13-1507. Burglary in the second degree; classification

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A. A person commits burglary in the second degree by entering or remaining unlawfully in or on a residential structure with the intent to commit any theft or any felony therein.

B. Burglary in the second degree is a class 3 felony.

13-1508. Burglary in the first degree; classification

A. A person commits burglary in the first degree if such person or an accomplice violates the provisions of either section 13-1506 or 13-1507 and knowingly possesses explosives, a deadly weapon or a dangerous instrument in the course of committing any theft or any felony.

B. Burglary in the first degree of a nonresidential structure or a fenced commercial or residential yard is a class 3 felony. It is a class 2 felony if committed in a residential structure.

13-1601. Definitions

In this chapter, unless the context otherwise requires:

1. "Damaging" means damage as defined in section 13-1701.
2. "Defacing" means any unnecessary act of substantially marring any surface or place, by any means, or any act of putting up, affixing, fastening, printing or painting any notice on any structure, without permission from the owner.
3. "Litter" includes any rubbish, refuse, waste material, offal, paper, glass, cans, bottles, organic or inorganic trash, debris, filthy or odoriferous objects, dead animals or any foreign substance of whatever kind or description, including junked or abandoned vehicles, whether or not any of these items are of value.
4. "Property of another" means property in which any person other than the defendant has an interest, including community property and other property in which the defendant also has an interest and, for damage caused by theft of scrap metal, the property of other persons damaged directly or indirectly as a result of the acts of the defendant.
5. "Tamper" means any act of interference.
6. "Tampering with utility property" means any of the following if committed against property that is owned or operated by a utility for the purposes of transmission or distribution:
 - (a) Rearranging, damaging, altering, interfering with or otherwise preventing the performance of a normal or customary function of utility property.
 - (b) Connecting any wire, conduit or device to any utility property without authorization.
 - (c) Defacing, puncturing, removing, reversing or altering any utility property.
 - (d) Preventing any meter from properly measuring or registering.

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(e) Taking, receiving, using or converting to personal use or the use of another any utility service that has not been measured or authorized.

(f) Diverting or changing the intended course or path of the utility service without the authorization or consent of the utility.

(g) Causing, procuring, permitting, aiding or abetting any person to do any of the acts listed in this paragraph.

7. "Utility" means any enterprise, public or private, that provides gas, electric, irrigation, steam, water, water conservation, sewer or communications services, as well as any common carrier on land, rail, sea or air.

13-1602. Criminal damage; classification

A. A person commits criminal damage by:

1. Recklessly defacing or damaging property of another person.
2. Recklessly tampering with property of another person so as substantially to impair its function or value.
3. Recklessly damaging property of a utility.
4. Recklessly parking any vehicle in such a manner as to deprive livestock of access to the only reasonably available water.
5. Recklessly drawing or inscribing a message, slogan, sign or symbol that is made on any public or private building, structure or surface, except the ground, and that is made without permission of the owner.
6. Intentionally tampering with utility property.

B. Criminal damage is punished as follows:

1. Criminal damage is a class 4 felony if the person recklessly damages property of another in an amount of ten thousand dollars or more.
2. Criminal damage is a class 4 felony if the person recklessly damages the property of a utility in an amount of five thousand dollars or more or if the person intentionally tampers with utility property and the damage causes an imminent safety hazard to any person.
3. Criminal damage is a class 5 felony if the person recklessly damages property of another in an amount of two thousand dollars or more but less than ten thousand dollars or if the damage is inflicted to promote, further or assist any criminal street gang or criminal syndicate with the intent to intimidate and the person is not subject to paragraph 1 or 2 of this subsection.
4. Criminal damage is a class 6 felony if the person recklessly damages property of another in an amount of one thousand dollars or more but less than two thousand dollars.

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5. Criminal damage is a class 1 misdemeanor if the person recklessly damages property of another in an amount of more than two hundred fifty dollars but less than one thousand dollars.

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

C. For a violation of subsection A, paragraph 5 of this section, in determining the amount of damage to property, damages include reasonable labor costs of any kind, reasonable material costs of any kind and any reasonable costs that are attributed to equipment that is used to abate or repair the damage to the property.

13-1603. Criminal littering or polluting; classification

A. A person commits criminal littering or polluting if the person without lawful authority does any of the following:

1. Throws, places, drops or permits to be dropped on public property or property of another that is not a lawful dump any litter, destructive or injurious material that the person does not immediately remove.
2. Discharges or permits to be discharged any sewage, oil products or other harmful substances into any waters or onto any shorelines within this state.
3. Dumps any earth, soil, stones, ores or minerals on any land.

B. Criminal littering or polluting is punishable as follows:

1. A class 6 felony if the act is a knowing violation of subsection A in which the amount of litter or other prohibited material or substance exceeds three hundred pounds in weight or one hundred cubic feet in volume or is done in any quantity for a commercial purpose.
2. A class 1 misdemeanor if the act is a knowing violation of subsection A, paragraph 1 in which the amount of litter or prohibited material or substance is more than one hundred pounds in weight but less than three hundred pounds in weight or more than thirty-five cubic feet in volume but less than one hundred cubic feet in volume and is not done for a commercial purpose.
3. A class 1 misdemeanor if the act is not punishable under paragraph 1 of this subsection and involves placing any destructive or injurious material on or within fifty feet of a highway, beach or shoreline of any body of water used by the public.
4. A class 2 misdemeanor if the act is not punishable under paragraph 1, 2 or 3 of this subsection.

C. If a fine is assessed for a violation of subsection A, paragraph 1 or 2, one hundred per cent of any assessed fine shall be deposited in the general fund of the county in which the fine was assessed. At least fifty per cent of the fine shall be used by the county for the purposes of illegal dumping cleanup.

13-1604. Aggravated criminal damage; classification

A. A person commits aggravated criminal damage by intentionally or recklessly without the express permission of the owner:

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1. Defacing, damaging or in any way changing the appearance of any building, structure, personal property or place used for worship or any religious purpose.
2. Defacing or damaging any building, structure or place used as a school or as an educational facility.
3. Defacing, damaging or tampering with any cemetery, mortuary or personal property of the cemetery or mortuary or other facility used for the purpose of burial or memorializing the dead.
4. Defacing, damaging or tampering with any utility or agricultural infrastructure or property, construction site or existing structure for the purpose of obtaining nonferrous metals.

B. Aggravated criminal damage is punishable as follows:

1. If the person intentionally or recklessly does any act described in subsection A of this section that causes damage to the property of another in an amount of ten thousand dollars or more, aggravated criminal damage:

- (a) Resulting from actions described in subsection A, paragraph 1, 2 or 3 of this section is a class 4 felony.
- (b) Resulting from actions described in subsection A, paragraph 4 of this section is a class 3 felony.

2. If the person intentionally or recklessly damages property of another in an amount of one thousand five hundred dollars or more but less than ten thousand dollars, aggravated criminal damage:

- (a) Resulting from actions described in subsection A, paragraph 1, 2 or 3 of this section is a class 5 felony.
- (b) Resulting from actions described in subsection A, paragraph 4 of this section is a class 4 felony.

3. In all other cases aggravated criminal damage is:

- (a) A class 6 felony if it results from actions described in subsection A, paragraph 1, 2 or 3 of this section.
- (b) A class 5 felony if it results from actions described in subsection A, paragraph 4 of this section.

C. In determining the amount of damage to property, damages include the cost of repair or replacement of the property that was damaged, the cost of the loss of crops and livestock, reasonable labor costs of any kind, reasonable material costs of any kind and any reasonable costs that are attributed to equipment that is used to abate or repair the damage to the property.

13-1701. Definitions

In this chapter, unless the context otherwise requires:

1. "Damage" means any physical or visual impairment of any surface.

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2. "Occupied structure" means any structure as defined in paragraph 4 in which one or more human beings either is or is likely to be present or so near as to be in equivalent danger at the time the fire or explosion occurs. The term includes any dwelling house, whether occupied, unoccupied or vacant.

3. "Property" means anything other than a structure which has value, tangible or intangible, public or private, real or personal, including documents evidencing value or ownership.

4. "Structure" means any building, object, vehicle, watercraft, aircraft or place with sides and a floor, used for lodging, business, transportation, recreation or storage.

5. "Wildland" means any brush covered land, cutover land, forest, grassland or woods.

13-1702. Reckless burning; classification

A. A person commits reckless burning by recklessly causing a fire or explosion which results in damage to an occupied structure, a structure, wildland or property.

B. Reckless burning is a class 1 misdemeanor.

13-1703. Arson of a structure or property; classification

A. A person commits arson of a structure or property by knowingly and unlawfully damaging a structure or property by knowingly causing a fire or explosion.

B. Arson of a structure is a class 4 felony. Arson of property is a class 4 felony if the property had a value of more than one thousand dollars. Arson of property is a class 5 felony if the property had a value of more than one hundred dollars but not more than one thousand dollars. Arson of property is a class 1 misdemeanor if the property had a value of one hundred dollars or less.

13-1704. Arson of an occupied structure; classification

A. A person commits arson of an occupied structure by knowingly and unlawfully damaging an occupied structure by knowingly causing a fire or explosion.

B. Arson of an occupied structure is a class 2 felony.

13-1705. Arson of an occupied jail or prison facility; classification.

A. A person commits arson of an occupied jail or prison facility by knowingly causing a fire or explosion which results in physical damage to the jail or prison facility.

B. Arson of an occupied jail or prison facility is a class 4 felony.

13-1706. Burning of wildlands; exceptions; classification



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A. It is unlawful for any person, without lawful authority, to intentionally, knowingly, recklessly or with criminal negligence to set or cause to be set on fire any wildland other than the person's own or to permit a fire that was set or caused to be set by the person to pass from the person's own grounds to the grounds of another person.

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

1. Open burning that is lawfully conducted in the course of agricultural operations.
2. Fire management operations that are conducted by a political subdivision.
3. Prescribed or controlled burns that are conducted with written authority from the state forester.
4. Lawful activities that are conducted pursuant to any rule, regulation or policy that is adopted by a state, tribal or federal agency.
5. In absence of a fire ban or other burn restrictions to a person on public lands, setting a fire for purposes of cooking or warming that does not spread sufficiently from its source to require action by a fire control agency.

C. A person who violates this section is guilty of an offense as follows:

1. If done with criminal negligence, the offense is a class 2 misdemeanor.
2. If done recklessly, the offense is a class 1 misdemeanor.
3. If done intentionally or knowingly and the person knows or reasonably should know that the person's conduct violates any order or rule that is issued by a governmental entity and that prohibits, bans, restricts or otherwise regulates fires during periods of extreme fire hazard, the offense is a class 6 felony.
4. If done intentionally and the person's conduct places another person in danger of death or serious bodily injury or places any building or occupied structure of another person in danger of damage, the offense is a class 3 felony.

13-1802. [Theft; classification; definitions](#)

(L13, Ch. 163, sec. 1)

A. A person commits theft if, without lawful authority, the person knowingly:

1. Controls property of another with the intent to deprive the other person of such property; or



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2. Converts for an unauthorized term or use services or property of another entrusted to the defendant or placed in the defendant's possession for a limited, authorized term or use; or
 3. Obtains services or property of another by means of any material misrepresentation with intent to deprive the other person of such property or services; or
 4. Comes into control of lost, mislaid or misdelivered property of another under circumstances providing means of inquiry as to the true owner and appropriates such property to the person's own or another's use without reasonable efforts to notify the true owner; or
 5. Controls property of another knowing or having reason to know that the property was stolen; or
 6. Obtains services known to the defendant to be available only for compensation without paying or an agreement to pay the compensation or diverts another's services to the person's own or another's benefit without authority to do so; or
 7. Controls the ferrous metal or nonferrous metal of another with the intent to deprive the other person of the metal; or
 8. Controls the ferrous metal or nonferrous metal of another knowing or having reason to know that the metal was stolen; or
 9. Purchases within the scope of the ordinary course of business the ferrous metal or nonferrous metal of another person knowing that the metal was stolen.
- B. A person commits theft if, without lawful authority, the person knowingly takes control, title, use or management of a vulnerable adult's property while acting in a position of trust and confidence and with the intent to deprive the vulnerable adult of the property. Proof that a person took control, title, use or management of a vulnerable adult's property without adequate consideration to the vulnerable adult may give rise to an inference that the person intended to deprive the vulnerable adult of the property.
- C. It is an affirmative defense to any prosecution under subsection B of this section that either:
1. The property was given as a gift consistent with a pattern of gift giving to the person that existed before the adult became vulnerable.
 2. The property was given as a gift consistent with a pattern of gift giving to a class of individuals that existed before the adult became vulnerable.
 3. The superior court approved the transaction before the transaction occurred.
- D. The inferences set forth in section 13-2305 apply to any prosecution under subsection A, paragraph 5 of this section.
- E. At the conclusion of any grand jury proceeding, hearing or trial, the court shall preserve any trade secret that is admitted in evidence or any portion of a transcript that contains information relating to the trade secret pursuant to section 44-405.



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F. Subsection B of this section does not apply to an agent who is acting within the scope of the agent's duties as or on behalf of a health care institution that is licensed pursuant to title 36, chapter 4 and that provides services to the vulnerable adult.

G. Theft of property or services with a value of twenty-five thousand dollars or more is a class 2 felony. Theft of property or services with a value of four thousand dollars or more but less than twenty-five thousand dollars is a class 3 felony. Theft of property or services with a value of three thousand dollars or more but less than four thousand dollars is a class 4 felony, except that theft of any vehicle engine or transmission is a class 4 felony regardless of value. Theft of property or services with a value of two thousand dollars or more but less than three thousand dollars is a class 5 felony. Theft of property or services with a value of one thousand dollars or more but less than two thousand dollars is a class 6 felony. Theft of any property or services valued at less than one thousand dollars is a class 1 misdemeanor, unless the property is taken from the person of another, is a firearm or is an animal taken for the purpose of animal fighting in violation of section 13-2910.01, in which case the theft is a class 6 felony.

H. A person who is convicted of a violation of subsection A, paragraph 1 or 3 of this section that involved property 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.

I. For the purposes of this section, the value of ferrous metal or nonferrous metal includes the amount of any damage to the property of another caused as a result of the theft of the metal.

J. In an action for theft of ferrous metal or nonferrous metal:

1. Unless satisfactorily explained or acquired in the ordinary course of business by an automotive recycler as defined and licensed pursuant to title 28, chapter 10 or by a scrap metal dealer as defined in section 44-1641, proof of possession of scrap metal that was recently stolen may give rise to an inference that the person in possession of the scrap metal was aware of the risk that it had been stolen or in some way participated in its theft.

2. Unless satisfactorily explained or sold in the ordinary course of business by an automotive recycler as defined and licensed pursuant to title 28, chapter 10 or by a scrap metal dealer as defined in section 44-1641, proof of the sale of stolen scrap metal at a price substantially below its fair market value may give rise to an inference that the person selling the scrap metal was aware of the risk that it had been stolen.

K. For the purposes of this section:

1. "Adequate consideration" means the property was given to the person as payment for bona fide goods or services provided by the person and the payment was at a rate that was customary for similar goods or services in the community that the vulnerable adult resided in at the time of the transaction.

2. "Ferrous metal" and "nonferrous metal" have the same meanings prescribed in section 44-1641.

3. "Pattern of gift giving" means two or more gifts that are the same or similar in type and monetary value.

4. "Position of trust and confidence" has the same meaning prescribed in section 46-456.



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5. "Property" includes all forms of real property and personal property.

6. "Vulnerable adult" has the same meaning prescribed in section 46-451.

13-1803. Unlawful use of means of transportation; classification

A. A person commits unlawful use of means of transportation if, without intent permanently to deprive, the person either:

1. Knowingly takes unauthorized control over another person's means of transportation.

2. Knowingly is transported or physically located in a vehicle that the person knows or has reason to know is in the unlawful possession of another person pursuant to paragraph 1 or section 13-1814.

B. A violation of subsection A, paragraph 1 of this section is a class 5 felony.

C. A violation of subsection A, paragraph 2 of this section is a class 6 felony.

13-1804. Theft by extortion; classification

A. A person commits theft by extortion by knowingly obtaining or seeking to obtain property or services by means of a threat to do in the future any of the following:

1. Cause physical injury to anyone by means of a deadly weapon or dangerous instrument or cause death or serious physical injury to anyone.

2. Cause physical injury to anyone except as provided in paragraph 1 of this subsection.

3. Cause damage to property.

4. Engage in other conduct constituting an offense.

5. Accuse anyone of a crime or bring criminal charges against anyone.

6. Expose a secret or an asserted fact, whether true or false, tending to subject anyone to hatred, contempt or ridicule or to impair the person's credit or business.

7. Take or withhold action as a public servant or cause a public servant to take or withhold action.

8. Cause anyone to part with any property.

9. Take or withhold action regarding an alleged claim of easement or other right of access to an adjoining property if both of the following occur:



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(a) The claimant's property interest is the result of a tax lien purchase or foreclosure pursuant to title 42, chapter 18.

(b) The fair market value of the claimant's property is equal to or less than the amount paid by the claimant for the purchase of the tax lien or foreclosure, including taxes paid after the lien purchase and any costs and attorney fees paid in connection with the lien foreclosure. For the purposes of this subdivision, "fair market value" means the fair market value as defined in section 33-814, subsection A as of the date of the theft.

B. It is an affirmative defense to a prosecution under subsection A, paragraph 5, 6 or 7 that the property obtained by threat of the accusation, exposure, lawsuit or other invocation of official action was lawfully claimed either as:

1. Restitution or indemnification for harm done under circumstances to which the accusation, exposure, lawsuit or other official action relates.
2. Compensation for property that was lawfully obtained or for lawful services.

C. Theft by extortion as defined in subsection A, paragraph 1 is a class 2 felony. Otherwise, theft by extortion is a class 4 felony.

13-1805. Shoplifting; detaining suspect; defense to wrongful detention; civil action by merchant; public services; classification

A. A person commits shoplifting if, while in an establishment in which merchandise is displayed for sale, the person knowingly obtains such goods of another with the intent to deprive that person of such goods by:

1. Removing any of the goods from the immediate display or from any other place within the establishment without paying the purchase price; or
2. Charging the purchase price of the goods to a fictitious person or any person without that person's authority; or
3. Paying less than the purchase price of the goods by some trick or artifice such as altering, removing, substituting or otherwise disfiguring any label, price tag or marking; or
4. Transferring the goods from one container to another; or
5. Concealment.

B. A person is presumed to have the necessary culpable mental state pursuant to subsection A of this section if the person does either of the following:

1. Knowingly conceals on himself or another person unpurchased merchandise of any mercantile establishment while within the mercantile establishment.
2. Uses an artifice, instrument, container, device or other article to facilitate the shoplifting.



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C. A merchant, or a merchant's agent or employee, with reasonable cause, may detain on the premises in a reasonable manner and for a reasonable time any person who is suspected of shoplifting as prescribed in subsection A of this section for questioning or summoning a law enforcement officer.

D. Reasonable cause is a defense to a civil or criminal action against a peace officer, a merchant or an agent or employee of the merchant for false arrest, false or unlawful imprisonment or wrongful detention.

E. If a minor engages in conduct that violates subsection A of this section, notwithstanding the fact that the minor may not be held responsible because of the person's minority, any merchant who is injured by the shoplifting of the minor may bring a civil action against the parent or legal guardian of the minor under either section 12-661 or 12-692.

F. Any merchant who is injured by the shoplifting of an adult or emancipated minor in violation of subsection A of this section may bring a civil action against the adult or emancipated minor pursuant to section 12-691.

G. In imposing sentence on a person who is convicted of violating this section, the court may require any person to perform public services designated by the court in addition to or in lieu of any fine that the court might impose.

H. Shoplifting property with a value of two thousand dollars or more, shoplifting property during any continuing criminal episode or shoplifting property if done to promote, further or assist any criminal street gang or criminal syndicate is a class 5 felony. Shoplifting property with a value of one thousand dollars or more but less than two thousand dollars is a class 6 felony. Shoplifting property valued at less than one thousand dollars is a class 1 misdemeanor, unless the property is a firearm in which case the shoplifting is a class 6 felony. For the purposes of this subsection, "continuing criminal episode" means theft of property with a value of one thousand five hundred dollars or more if committed during at least three separate incidences within a period of ninety consecutive days.

I. A person who in the course of shoplifting uses an artifice, instrument, container, device or other article with the intent to facilitate shoplifting or who commits shoplifting and who has previously committed or been convicted within the past five years of two or more offenses involving burglary, shoplifting, robbery, organized retail theft or theft is guilty of a class 4 felony.

13-1806. Unlawful failure to return rented or leased property; notice; classification

A. A person commits unlawful failure to return rented property if, without notice to and permission of the lessor of the property, the person knowingly fails without good cause to return the property within seventy-two hours after the time provided for return in the rental agreement.

B. If the property is not leased on a periodic tenancy basis, the person who rents out the property shall include the following information, clearly written as part of the terms of the rental agreement:

1. The date and time the property is required to be returned.
2. The maximum penalties if the property is not returned within seventy-two hours of the date and time listed in paragraph 1.

C. If the property is leased on a periodic tenancy basis without a fixed expiration or return date the lessor shall include within the lease clear written notice that the lessee is required to return the property within seventy-two hours from the date and time of the failure to pay any periodic lease payment required by the lease.



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D. It is a defense to prosecution under this section that the defendant was physically incapacitated and unable to request or obtain permission of the lessor to retain the property or that the property itself was in such a condition, through no fault of the defendant, that it could not be returned to the lessor within such time.

E. Unlawful failure to return rented or leased property if the property is a motor vehicle is a class 5 felony. In all other cases, unlawful failure to return rented or leased property is a class 1 misdemeanor.