

ARIZONA STATE OBSCENITY & LIBRARY/SCHOOL FILTERING STATUTES

(Last Updated Summer 2012)

A.R.S.

A.R.S. § 13-3501. Definitions

In this chapter, unless the context otherwise requires:

1. "Harmful to minors" means that quality of any description or representation, in whatever form, of nudity, sexual activity, sexual conduct, sexual excitement, or sadomasochistic abuse, when both:

(a) To the average adult applying contemporary state standards with respect to what is suitable for minors, it both:

(i) Appeals to the prurient interest, when taken as a whole. In order for an item as a whole to be found or intended to have an appeal to the prurient interest, it is not necessary that the item be successful in arousing or exciting any particular form of prurient interest either in the hypothetical average person, in a member of its intended and probable recipient group or in the trier of fact.

(ii) Portrays the description or representation in a patently offensive way.

(b) Taken as a whole does not have serious literary, artistic, political, or scientific value for minors.

2. "Item" means any material or performance which depicts or describes sexual activity and includes any book, leaflet, pamphlet, magazine, booklet, picture, drawing, photograph, film, negative, slide, motion picture, figure, object, article, novelty device, recording, transcription, live or recorded telephone message or other similar items whether tangible or intangible and including any performance, exhibition, transmission or dissemination of any of the above. An item also includes a live performance or exhibition which depicts sexual activity to the public or an audience of one or more persons. An item is obscene within the meaning of this chapter when all of the following apply:

(a) The average person, applying contemporary state standards, would find that the item, taken as a whole, appeals to the prurient interest. In order for an item as a whole to be found or intended to have an appeal to the prurient interest, it is not necessary that the item be successful in arousing or exciting any particular form of prurient interest either in the hypothetical average person, in a member of its intended and probable recipient group or in the trier of fact.

(b) The average person, applying contemporary state standards, would find that the item depicts or describes, in a patently offensive way, sexual activity as that term is described in this section.

(c) The item, taken as a whole, lacks serious literary, artistic, political or scientific value.

3. "Knowledge of the character" means having general knowledge or awareness, or reason to know, or a belief or ground for belief which warrants further inspection or inquiry of that which is reasonably susceptible to examination by the defendant both:

(a) That the item contains, depicts or describes nudity, sexual activity, sexual conduct, sexual excitement or sadomasochistic abuse, whichever is applicable, whether or not there is actual knowledge of the specific contents thereof. This knowledge can be proven by direct or circumstantial evidence, or both.

(b) If relevant to a prosecution for violating section 13-3506, 13-3506.01 or 13-3507, the age of the minor, provided that an honest mistake shall constitute an excuse from liability under this chapter if the defendant made a reasonable bona fide attempt to ascertain the true age of such minor.

4. "Nudity" means the showing of the human male or female genitals, pubic area or buttocks with less than a full opaque covering, or the showing of the female breast with less

ARIZONA STATE OBSCENITY & LIBRARY/SCHOOL FILTERING STATUTES

(Last Updated Summer 2012)

than a fully opaque covering of any portion thereof below the top of the nipple, or the depiction of covered male genitals in a discernibly turgid state.

5. "Sadomasochistic abuse" means flagellation or torture by or upon a person clad in undergarments, a mask or bizarre costume, or the condition of being fettered, bound or otherwise physically restrained on the part of one so clothed, for the purpose or in the context of sexual gratification or abuse.

6. "Sexual activity" means:

(a) Patently offensive representations or descriptions of ultimate sexual acts, normal or perverted, actual or simulated.

(b) Patently offensive representations or descriptions of masturbation, excretory functions, sadomasochistic abuse and lewd exhibition of the genitals.

7. "Sexual conduct" means acts of masturbation, homosexuality, sexual intercourse, or physical contact with a person's clothed or unclothed genitals, pubic area, buttocks or, if such person is a female, breast.

8. "Sexual excitement" means the condition of human male or female genitals when in a state of sexual stimulation or arousal.

9. "Ultimate sexual acts" means sexual intercourse, vaginal or anal, fellatio, cunnilingus, bestiality or sodomy. A sexual act is simulated when it depicts explicit sexual activity which gives the appearance of consummation of ultimate sexual acts.

§ 13-3502. Production, publication, sale, possession and presentation of obscene items; classification

A person is guilty of a class 5 felony who, with knowledge of the character of the item involved, knowingly:

1. Prints, copies, manufactures, prepares, produces, or reproduces any obscene item for purposes of sale or commercial distribution.

2. Publishes, sells, rents, lends, transports or transmits in intrastate commerce, imports, sends or causes to be sent into this state for sale or commercial distribution or commercially distributes or exhibits any obscene item, or offers to do any such things.

3. Has in his possession with intent to sell, rent, lend, transport, or commercially distribute any obscene item.

4. Presents or participates in presenting the live, recorded or exhibited performance of any obscene item to the public or an audience for consideration or commercial purpose.

§ 13-3503. Seizure of obscene things; disposition

An obscene or indecent writing, paper, book, picture, print or figure found in possession, or under control of a person arrested therefor, shall be delivered to the magistrate before whom the person arrested is required to be taken, and if the magistrate finds it is obscene or indecent, he shall deliver one copy to the county attorney of the county in which the accused is liable to prosecution, and at once destroy all other copies. The copy delivered to the county attorney shall be destroyed upon conviction of the accused.

ARIZONA STATE OBSCENITY & LIBRARY/SCHOOL FILTERING STATUTES

(Last Updated Summer 2012)

§ 13-3504. Coercing acceptance of obscene articles or publications; classification

A. No person, firm, association or corporation shall, as a condition to any sale, allocation, consignment or delivery for resale of any paper, magazine, book, periodical or publication require that the purchaser or consignee receive for resale any other item, article, book, or other publication which is obscene. No person, firm, association or corporation shall deny or threaten to deny any franchise or impose or threaten to impose any penalty, financial or otherwise, by reason of the failure or refusal of any person to accept such items, articles, books, or publications, or by reason of the return thereof.

B. A violation of any provision of subsection A is a class 5 felony.

§ 13-3505. Obscene prints and articles; jurisdiction

A. The superior court has jurisdiction to enjoin the sale or distribution of obscene prints and articles, as described in subsection B of this section.

B. The county attorney of any county or the city attorney of any city in which a person, firm, association or corporation publishes, sells or distributes or is about to sell or distribute or has in his possession with intent to sell or distribute or is about to acquire possession with intent to sell or distribute any book, magazine, pamphlet, comic book, story paper, writing, paper, picture, drawing, photograph, figure, image or any written or printed matter of an indecent character, which is obscene, lewd, lascivious, filthy, indecent or disgusting, or which contains an article or instrument of indecent or immoral use or purports to be for indecent or immoral use or purpose, or in any other respect defined insection 13-3501, may maintain an action on behalf of such county or city for an injunction against such person, firm, association or corporation in the superior court to prevent the sale or further sale or the distribution or further distribution of the acquisition, publication or possession within the state of any book, magazine, pamphlet, comic book, story paper, writing, paper, picture, drawing, photographed figure or image or any written or printed matter of an indecent character, described in this subsection or in section 13-3501.

C. The person, firm, association or corporation sought to be enjoined shall be entitled to a trial of the issues within ten days after joinder of issue and a decision shall be rendered by the court within ten days of the conclusion of the trial.

D. If a final order or judgment of injunction is entered against the person, firm, association or corporation sought to be enjoined, such final order of judgment shall contain a provision directing the person, firm, association or corporation to surrender to the sheriff of the county in which the action was brought any of the matter described in subsection B of this section and such sheriff shall be directed to seize and destroy such obscene prints and articles.

E. In any action brought as provided in this section, such county attorney or city attorney bringing the action shall not be required to file any undertaking before the issuance of an injunction order provided for in subsection C of this section.

F. The sheriff directed to seize and destroy such obscene prints and articles shall not be liable for damages sustained by reason of the injunction order in cases where judgment is rendered in favor of the person, firm, association or corporation sought to be enjoined.

G. Every person, firm, association or corporation who sells, distributes, or acquires possession with intent to sell or distribute any of the matter described in subsection B of this section, after the service upon him of a summons and complaint in an action brought pursuant to this section is chargeable with knowledge of the contents thereof.

ARIZONA STATE OBSCENITY & LIBRARY/SCHOOL FILTERING STATUTES

(Last Updated Summer 2012)

§ 13-3506. Furnishing harmful items to minors; applicability; classification

- A. It is unlawful for any person, with knowledge of the character of the item involved, to recklessly furnish, present, provide, make available, give, lend, show, advertise or distribute to minors any item that is harmful to minors.
- B. This section does not apply to the transmission or sending of items over the internet.
- C. A violation of this section is a class 4 felony.

§ 13-3506.01. Furnishing harmful items to minors; internet activity; classification; definitions

- A. It is unlawful for any person, with knowledge of the character of the item involved, to intentionally or knowingly transmit or send to a minor by means of electronic mail, personal messaging or any other direct internet communication an item that is harmful to minors when the person knows or believes at the time of the transmission that a minor in this state will receive the item.
- B. This section does not apply to:
 - 1. Posting material on an internet web site, bulletin board or newsgroup.
 - 2. Sending material via a mailing list or listserv that is not administered by the sender. For the purposes of this paragraph, "mailing list" or "listserv" means a method of internet communication where a message is sent to an internet address and then is retransmitted to one or more subscribers to the mailing list or listserv.
- C. It is not a defense to a prosecution for a violation of this section that the recipient of the transmission was a peace officer posing as a minor.
- D. A violation of this section is a class 4 felony.
- E. The failure to report a violation of this section is a Class 6 felony as prescribed by section 13-3620.
- F. For the purposes of this section:
 - 1. "Internet" means the combination of computer facilities and electromagnetic transmission media, and related equipment and software, comprising the interconnected worldwide network of computer networks that employ the transmission control protocol or internet protocol or any successor protocol to transmit information.
 - 2. "Internet web site" means a location where material placed in a computer server-based file archive is publicly accessible, over the internet, using hypertext transfer protocol or any successor protocol.

§ 13-3507. Public display of explicit sexual materials; classification; definitions

- A. It is unlawful for any person knowingly to place explicit sexual material upon public display, or knowingly to fail to take prompt action to remove such a display from property in his possession or under his control after learning of its existence.
- B. A person who violates any provision of this section is guilty of a class 6 felony.
- C. For the purposes of this section:
 - 1. "Explicit sexual material" means any drawing, photograph, film negative, motion picture, figure, object, novelty device, recording, transcription or any book, leaflet, pamphlet, magazine, booklet or other item, the cover or contents of which depicts human genitalia or depicts or verbally describes nudity, sexual activity, sexual conduct, sexual excitement or sadomasochistic abuse in a way which is harmful to minors. Explicit sexual material does not include any depiction or description which,

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ARIZONA STATE OBSCENITY & LIBRARY/SCHOOL FILTERING STATUTES

(Last Updated Summer 2012)

taken in context, possesses serious educational value for minors or which possesses serious literary, artistic, political or scientific value.

2. "Public display" means the placing of material on or in a billboard, viewing screen, theater marquee, newsstand, display rack, vending machine, window, showcase, display case or similar place so that material within the definition of paragraph 1 of this subsection is easily visible or readily accessible from a public thoroughfare, from the property of others, or in any place where minors are invited as part of the general public.

§ 13-3509. Duty to report; classification

A. A person who is asked to record, film, photograph, develop or duplicate any visual or print medium depicting sexual activity, whether or not the person would be compensated, shall immediately report, or cause a report to be made of, such request to a municipal or county peace officer. The report shall include the name or names of the person, persons or business making the request, if known, and shall describe what was requested.

B. A person who knowingly violates this section is guilty of a class 6 felony.

§ 13-3510. Evidence of obscenity

A. Expert testimony or other ancillary evidence is not required to determine obscenity if the allegedly obscene item has been placed in evidence. The item itself is the best evidence of what it represents.

B. If a person relied upon a rating given to a film or motion picture by the motion picture association of America or an equivalent rating association, the rating and evidence concerning the person's reliance on such rating shall be admissible in evidence in a trial for violation of this article.

§ 13-3511. Exemption; broadcasts and telecasts

The provisions of this chapter shall not apply to broadcasts or telecasts through facilities licensed under the federal communications act or title 9, chapter 5, article 1.1.

§ 13-3512. Obscene or indecent telephone communications to minors for commercial purposes; violation; classification

A. It is unlawful for any person to knowingly make by means of a telephone, directly or by a recording device, any obscene or indecent communication for commercial purposes to any person who is under the age of eighteen years. The communication is unlawful regardless of whether the maker of the communication placed the call.

B. A person who violates this section is guilty of a class 4 felony.

ARIZONA STATE OBSCENITY & LIBRARY/SCHOOL FILTERING STATUTES

(Last Updated Summer 2012)

§ 13-3513. Sale or distribution of material harmful to minors through vending machines; classification

- A. It is unlawful for any person to knowingly display, sell or offer to sell in any coin-operated or slug-operated vending machine or mechanically or electronically controlled vending machine that is located in a public place, other than a public place from which minors are excluded, any material that is harmful to minors as defined in section 13-3501.
- B. It is a defense in any prosecution for a violation of subsection A that the defendant has taken reasonable steps to ascertain that the person is eighteen years of age or older and has taken either of the following measures to restrict access to the material that is harmful to minors:
1. Required the person receiving the material that is harmful to minors to use an authorized access or identification card to use the vending machine and has established a procedure to immediately cancel the card of any person after receiving notice that the card has been lost, stolen or used by persons under eighteen years of age or that the card is no longer desired.
 2. Required the person receiving the material that is harmful to minors to use a token in order to use the vending machine.
- C. A person who violates this section is guilty of a class 6 felony.

§ 13-3551. Definitions

In this chapter, unless the context otherwise requires:

1. "Communication service provider" has the same meaning prescribed in section 13-3001.
2. "Computer" has the same meaning prescribed in section 13-2301, subsection E.
3. "Computer system" has the same meaning prescribed in section 13-2301, subsection E.
4. "Exploitive exhibition" means the actual or simulated exhibition of the genitals or pubic or rectal areas of any person for the purpose of sexual stimulation of the viewer.
5. "Minor" means a person or persons who were under eighteen years of age at the time a visual depiction was created, adapted or modified.
6. "Network" has the same meaning prescribed in section 13-2301, subsection E.
7. "Producing" means financing, directing, manufacturing, issuing, publishing or advertising for pecuniary gain.
8. "Remote computing service" has the same meaning prescribed in section 13-3001.
9. "Sexual conduct" means actual or simulated:
 - (a) Sexual intercourse, including genital-genital, oral-genital, anal-genital or oral-anal, whether between persons of the same or opposite sex.
 - (b) Penetration of the vagina or rectum by any object except when done as part of a recognized medical procedure.
 - (c) Sexual bestiality.
 - (d) Masturbation, for the purpose of sexual stimulation of the viewer.
 - (e) Sodomasochistic abuse for the purpose of sexual stimulation of the viewer.
 - (f) Defecation or urination for the purpose of sexual stimulation of the viewer.
10. "Simulated" means any depicting of the genitals or rectal areas that gives the appearance of sexual conduct or incipient sexual conduct.
11. "Visual depiction" includes each visual image that is contained in an undeveloped film, videotape or photograph or data stored in any form and that is capable of conversion into a visual image.

ARIZONA STATE OBSCENITY & LIBRARY/SCHOOL FILTERING STATUTES

(Last Updated Summer 2012)

§ 13-3553. Sexual exploitation of a minor; evidence; classification

- A. A person commits sexual exploitation of a minor by knowingly:
 - 1. Recording, filming, photographing, developing or duplicating any visual depiction in which a minor is engaged in exploitive exhibition or other sexual conduct.
 - 2. Distributing, transporting, exhibiting, receiving, selling, purchasing, electronically transmitting, possessing or exchanging any visual depiction in which a minor is engaged in exploitive exhibition or other sexual conduct.
- B. If any visual depiction of sexual exploitation of a minor is admitted into evidence, the court shall seal that evidence at the conclusion of any grand jury proceeding, hearing or trial.
- C. Sexual exploitation of a minor is a class 2 felony and if the minor is under fifteen years of age it is punishable pursuant to section 13-705.

§ 13-3554. Luring a minor for sexual exploitation; classification

- A. A person commits luring a minor for sexual exploitation by offering or soliciting sexual conduct with another person knowing or having reason to know that the other person is a minor.
- B. It is not a defense to a prosecution for a violation of this section that the other person is not a minor.
- C. Luring a minor for sexual exploitation is a class 3 felony, and if the minor is under fifteen years of age it is punishable pursuant to section 13-705.

§ 13-3555. Portraying adult as minor; classification

- A. It is unlawful for any person depicted in a visual depiction or live act as a participant in any exploitive exhibition or sexual conduct to masquerade as a minor.
- B. It is unlawful for any person knowingly to produce, record, film, photograph, develop, duplicate, distribute, transport, exhibit, electronically transmit, sell, purchase or exchange any visual depiction whose text, title or visual representation depicts a participant in any exploitive exhibition or sexual conduct as a minor even though any such participant is an adult.
- C. Any person who violates this section is guilty of a class 1 misdemeanor.

§ 13-3556. Permissible inferences

In a prosecution relating to the sexual exploitation of children, the trier of fact may draw the inference that a participant is a minor if the visual depiction or live act through its title, text or visual representation depicts the participant as a minor.

§ 13-3557. Equipment; forfeiture

On the conviction of a person for a violation of section 13-3552, 13-3553, 13-3554 or 13-3560, the court shall order that any photographic equipment, computer system or instrument of communication that is owned or used exclusively by the person and that was used in the commission of the offense be forfeited and sold, destroyed or otherwise properly disposed.

ARIZONA STATE OBSCENITY & LIBRARY/SCHOOL FILTERING STATUTES

(Last Updated Summer 2012)

§ 13-3558. Admitting minors to public displays of sexual conduct; constructive knowledge of age; classification

- A. It is unlawful for an owner, operator or employee to admit a person under the age of eighteen into any business establishment where persons, in the course of their employment expose their genitals or anus or the areola or nipple of the female breast.
- B. An owner, operator or employee who admits a person to an establishment without evidence of the person's age as required in section 4-241, subsection A is deemed to have constructive knowledge of the person's age.
- C. A person who violates this section is guilty of a class 6 felony.

§ 13-3559. Reporting suspected visual depictions of sexual exploitation of a minor; immunity

- A. Any communication service provider, remote computing service, system administrator, computer repair technician or other person who discovers suspected visual depictions of sexual exploitation of a minor on a computer, computer system or network or in any other storage medium may report that discovery to a law enforcement officer.
- B. A person who on discovery in good faith reports the discovery of suspected visual depictions of sexual exploitation of a minor is immune from civil liability.
- C. It is an affirmative defense to a prosecution for a violation of section 13-3553 that on discovery a person in good faith reports the discovery of unsolicited suspected visual depictions involving the sexual exploitation of a minor.

§ 13-3560. Aggravated luring a minor for sexual exploitation; classification; definitions

- A. A person commits aggravated luring a minor for sexual exploitation if the person does both of the following:
 - 1. Knowing the character and content of the depiction, uses an electronic communication device to transmit at least one visual depiction of material that is harmful to minors for the purpose of initiating or engaging in communication with a recipient who the person knows or has reason to know is a minor.
 - 2. By means of the communication, offers or solicits sexual conduct with the minor. The offer or solicitation may occur before, contemporaneously with, after or as an integrated part of the transmission of the visual depiction.
- B. It is not a defense to a prosecution for a violation of this section that the other person is not a minor or that the other person is a peace officer posing as a minor.
- C. Aggravated luring a minor for sexual exploitation is a class 2 felony, and if the minor is under fifteen years of age it is punishable pursuant to section 13-705, subsection D.
- D. The defense prescribed in section 13-1407, subsection F applies to a prosecution pursuant to this section.
- E. For the purposes of this section:
 - 1. "Electronic communication device" means any electronic device that is capable of transmitting visual depictions and includes any of the following:
 - (a) A computer, computer system or network as defined in section 13-2301.
 - (b) A cellular or wireless telephone as defined in section 13-4801.

ARIZONA STATE OBSCENITY & LIBRARY/SCHOOL FILTERING STATUTES

(Last Updated Summer 2012)

2. "Harmful to minors" has the same meaning prescribed in section 13-3501.

§ 13-3561. Unlawful age misrepresentation; classification; definition

- A. A person commits unlawful age misrepresentation if the person is at least eighteen years of age, and knowing or having reason to know that the recipient of a communication is a minor, uses an electronic communication device to knowingly misrepresent the person's age for the purpose of committing any sexual offense involving the recipient that is listed in section 13-3821, subsection A.
- B. It is not a defense to a prosecution for a violation of this section that the recipient is not a minor.
- C. This section does not apply to peace officers who act in their official capacity within the scope of their authority and in the line of duty.
- D. Unlawful age misrepresentation is a class 3 felony, and if the minor is under fifteen years of age it is punishable pursuant to section 13-705.
- E. For the purposes of this section, "electronic communication device" means any electronic device that is capable of transmitting visual depictions and includes any of the following:
 1. A computer, computer system or network as defined in section 13-2301.
 2. A cellular or wireless telephone as defined in section 13-4801.

§ 38-448. State employees; access to internet pornography prohibited; cause for dismissal; definitions

- A. Except to the extent required in conjunction with a bona fide, agency approved research project or other agency approved undertaking, an employee of an agency shall not knowingly use agency owned or agency leased computer equipment to access, download, print or store any information infrastructure files or services that depict nudity, sexual activity, sexual excitement or ultimate sexual acts as defined in section 13-3501. Agency heads shall give, in writing, any agency approvals. Agency approvals are available for public inspection pursuant to section 39-121.
- B. An employee who violates this section performs an act that is cause for discipline or dismissal of the employee and for an employee in state service is considered misuse or unauthorized use of state property pursuant to section 41-770.
- C. All agencies shall immediately furnish their current employees with copies of this section. All agencies shall furnish all new employees with copies of this section at the time of authorizing an employee to use an agency computer.
- D. For the purposes of this section:
 1. "Agency" means:
 - (a) All offices, agencies, departments, boards, councils or commissions of this state.
 - (b) All state universities.
 - (c) All community college districts.
 - (d) All legislative agencies.
 - (e) All departments or agencies of the state supreme court or the court of appeals.
 2. "Information infrastructure" means telecommunications, cable and computer networks and includes the internet, the world wide web, usenet, bulletin board systems, on-line systems and telephone networks.

ARIZONA STATE OBSCENITY & LIBRARY/SCHOOL FILTERING STATUTES

(Last Updated Summer 2012)

§ 13-1401. Definitions

In this chapter, unless the context otherwise requires:

1. "Oral sexual contact" means oral contact with the penis, vulva or anus.
2. "Sexual contact" means any direct or indirect touching, fondling or manipulating of any part of the genitals, anus or female breast by any part of the body or by any object or causing a person to engage in such contact.
3. "Sexual intercourse" means penetration into the penis, vulva or anus by any part of the body or by any object or masturbatory contact with the penis or vulva.
4. "Spouse" means a person who is legally married and cohabiting.
5. "Without consent" includes any of the following:
 - (a) The victim is coerced by the immediate use or threatened use of force against a person or property.
 - (b) The victim is incapable of consent by reason of mental disorder, mental defect, drugs, alcohol, sleep or any other similar impairment of cognition and such condition is known or should have reasonably been known to the defendant. For purposes of this subdivision, "mental defect" means the victim is unable to comprehend the distinctively sexual nature of the conduct or is incapable of understanding or exercising the right to refuse to engage in the conduct with another.
 - (c) The victim is intentionally deceived as to the nature of the act.
 - (d) The victim is intentionally deceived to erroneously believe that the person is the victim's spouse.

§ 13-1402. Indecent exposure; exception; classification

- A. A person commits indecent exposure if he or she exposes his or her genitals or anus or she exposes the areola or nipple of her breast or breasts and another person is present, and the defendant is reckless about whether the other person, as a reasonable person, would be offended or alarmed by the act.
- B. Indecent exposure does not include an act of breast-feeding by a mother.
- C. Indecent exposure to a person who is fifteen or more years of age is a class 1 misdemeanor. Indecent exposure to a person who is under fifteen years of age is a class 6 felony.
- D. A person who is convicted of a felony violation of this section and who has two or more historical prior felony convictions for a violation of this section or section 13-1403 involving indecent exposure or public sexual indecency to a minor who is under fifteen years of age shall be sentenced to a term of imprisonment as follows:

Mitigated	Minimum	Presumptive	Maximum	Aggravated
6 years	8 years	10 years	12 years	15 years
- E. The presumptive term imposed pursuant to subsection D of this section may be mitigated or aggravated pursuant to section 13-701, subsections D and E.

§ 13-1403. Public sexual indecency; public sexual indecency to a minor; classification

ARIZONA STATE OBSCENITY & LIBRARY/SCHOOL FILTERING STATUTES

(Last Updated Summer 2012)

A. A person commits public sexual indecency by intentionally or knowingly engaging in any of the following acts, if another person is present, and the defendant is reckless about whether such other person, as a reasonable person, would be offended or alarmed by the act:

1. An act of sexual contact.
2. An act of oral sexual contact.
3. An act of sexual intercourse.
4. An act of bestiality.

B. A person commits public sexual indecency to a minor if the person intentionally or knowingly engages in any of the acts listed in subsection A of this section and such person is reckless about whether a minor who is under fifteen years of age is present.

C. Public sexual indecency is a class 1 misdemeanor. Public sexual indecency to a minor is a class 5 felony.

D. A person who is convicted of a felony violation of this section and who has two or more historical prior felony convictions for a violation of this section or section 13-1402 involving indecent exposure or public sexual indecency to a minor who is under fifteen years of age shall be sentenced to a term of imprisonment as follows:

Mitigated	Minimum	Presumptive	Maximum	Aggravated
6 years	8 years	10 years	12 years	15 years

E. The presumptive term imposed pursuant to subsection D of this section may be mitigated or aggravated pursuant to section 13-701, subsections D and E.

FILTERING LAWS:

§ 34-501. Definitions

*AMENDED by **2012 Ariz. HB 2712** (amended text highlighted in green)

Synopsis

AN ACT AMENDING SECTIONS 34-501 AND 34-502, ARIZONA REVISED STATUTES; RELATING TO COMPUTER ACCESS BY MINORS.

Text, **2012 Ariz. HB 2712**:

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

Section 1. Section 34-501, Arizona Revised Statutes, is amended to read:

§ 34-501. Definitions

In this article, unless the context otherwise requires:

1. "CHILD PORNOGRAPHY" MEANS THE VISUAL DEPICTION OF SEXUAL EXPLOITATION OF A MINOR AS PRESCRIBED IN SECTION 13-3553.
2. "Harmful to minors" has the same meaning prescribed in section 13-3501.
3. "OBSCENE" HAS THE SAME MEANING PRESCRIBED IN 20 UNITED STATES CODE SECTION 9101.
4. "Public access computer" means a computer that IS ALL OF THE FOLLOWING :
 - (a) Located in a public school or public library.
 - (b) AUTHORIZED FOR USE BY OR AVAILABLE FOR USE by a minor.
 - (c) Connected to any computer communication system.
 - (d) VISIBLE TO A MINOR.

ARIZONA STATE OBSCENITY & LIBRARY/SCHOOL FILTERING STATUTES

(Last Updated Summer 2012)

5. "TECHNOLOGY PROTECTION MEASURE" MEANS A TECHNOLOGY THAT BLOCKS OR FILTERS INTERNET ACCESS TO VISUAL DEPICTIONS.

§ 34-502. Computer access; harmful to minors

*AMENDED by **2012 Ariz. HB 2712**: (amended text highlighted in green)

Synopsis

AN ACT AMENDING SECTIONS 34-501 AND 34-502, ARIZONA REVISED STATUTES; RELATING TO COMPUTER ACCESS BY MINORS.

Text, **2012 Ariz. HB 2712**:

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

Sec. 2. Section 34-502, Arizona Revised Statutes, is amended to read:

§ 34-502. Computer access; harmful to minors

Computer access; child pornography; visual depictions harmful to minors; obscene; procedures

A. A public school that provides a public access computer shall **DEPLOY AND ENFORCE A TECHNOLOGY PROTECTION MEASURE** to prevent minors from gaining access to **VISUAL DEPICTIONS** that **ARE CHILD PORNOGRAPHY, harmful to minors OR OBSCENE**. **THE GOVERNING BOARD OF EVERY SCHOOL DISTRICT SHALL PRESCRIBE POLICIES,** standards and rules for the enforcement of this subsection. **EVERY SCHOOL DISTRICT SHALL MAKE ITS POLICIES, STANDARDS AND RULES AVAILABLE TO THE PUBLIC.**

B. A public library that provides a public access **computer** shall do ~~one or~~ both of the following:

1. **DEPLOY AND ENFORCE A TECHNOLOGY PROTECTION MEASURE TO PREVENT MINORS FROM GAINING ACCESS TO VISUAL DEPICTIONS THAT ARE CHILD PORNOGRAPHY, HARMFUL TO MINORS OR OBSCENE.**

2. **DEPLOY AND ENFORCE A TECHNOLOGY PROTECTION MEASURE TO PREVENT ANYONE FROM GAINING ACCESS TO VISUAL DEPICTIONS THAT ARE CHILD PORNOGRAPHY OR OBSCENE.**

C. **AN ADMINISTRATOR, SUPERVISOR OR OTHER REPRESENTATIVE OF A PUBLIC LIBRARY MAY DISABLE A TECHNOLOGY PROTECTION MEASURE DESCRIBED IN SUBSECTION B OF THIS SECTION IF BOTH OF THE FOLLOWING APPLY:**

1. **THE REQUEST IS FROM A LIBRARY PATRON WHO IS NOT A MINOR.**

2. **THE TECHNOLOGY IS DISABLED ONLY TO ENABLE ACCESS FOR RESEARCH OR OTHER LAWFUL PURPOSES.**

D. **THE DIRECTOR OF THE ARIZONA STATE LIBRARY, ARCHIVES AND PUBLIC RECORDS SHALL ADOPT rules for the enforcement of subsection B OF THIS SECTION. THE DIRECTOR OF THE ARIZONA STATE LIBRARY, ARCHIVES AND PUBLIC RECORDS SHALL MAKE THE RULES AVAILABLE TO THE PUBLIC. A PUBLIC LIBRARY SHALL POST THE RULES AND ITS POLICIES IN A CONSPICUOUS PLACE FOR LIBRARY PATRONS TO VIEW.**

E. **A GOVERNING BODY THAT OPERATES A PUBLIC LIBRARY SHALL DEVELOP A POLICY FOR THE LIBRARY TO IMPLEMENT THE RULES DEVELOPED PURSUANT TO SUBSECTION D OF THIS SECTION THAT ARE ADOPTED AT AN OPEN MEETING. THE GOVERNING BODY SHALL REVIEW THE POLICY AT LEAST EVERY THREE YEARS. THE POLICY SHALL:**

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ARIZONA STATE OBSCENITY & LIBRARY/SCHOOL FILTERING STATUTES

(Last Updated Summer 2012)

1. STATE THAT IT RESTRICTS ACCESS TO INTERNET OR ONLINE SITES THAT CONTAIN MATERIAL DESCRIBED IN THIS SECTION.
2. STATE HOW THE LIBRARY INTENDS TO MEET THE REQUIREMENTS OF THIS SECTION.
3. REQUIRE THE PUBLIC LIBRARY TO INFORM PATRONS THAT ADMINISTRATIVE PROCEDURES AND GUIDELINES FOR THE STAFF TO FOLLOW IN ENFORCING THE RULES HAVE BEEN ADOPTED AND ARE AVAILABLE FOR REVIEW AT THE LIBRARY.
4. REQUIRE THE PUBLIC LIBRARY TO INFORM PATRONS THAT PROCEDURES FOR USE BY PATRONS AND STAFF TO HANDLE COMPLAINTS ABOUT THE RULE, ITS ENFORCEMENT OR ABOUT OBSERVED PATRON BEHAVIOR HAVE BEEN ADOPTED AND ARE AVAILABLE FOR REVIEW AT THE LIBRARY.

F. A public school that complies with subsection A OF THIS SECTION or a public library that complies with subsection B OF THIS SECTION shall not be criminally liable or liable for any damages that might arise from a minor gaining access to VISUAL DEPICTIONS that ARE CHILD PORNOGRAPHY, harmful to minors OR OBSCENE through the use of a public access computer that is owned or controlled by the public school or public library.

G. IF THE STATE BOARD OF EDUCATION OR THE SUPERINTENDENT OF PUBLIC INSTRUCTION DETERMINES THAT A SCHOOL DISTRICT OR CHARTER SCHOOL IS IN VIOLATION OF SUBSECTION A OF THIS SECTION, THE STATE BOARD OF EDUCATION OR THE SUPERINTENDENT OF PUBLIC INSTRUCTION SHALL NOTIFY THE SCHOOL DISTRICT OR CHARTER SCHOOL THAT IT IS IN VIOLATION OF SUBSECTION A OF THIS SECTION. IF THE STATE BOARD OF EDUCATION OR THE SUPERINTENDENT OF PUBLIC INSTRUCTION DETERMINES THAT THE SCHOOL DISTRICT OR CHARTER SCHOOL HAS FAILED TO COMPLY WITH SUBSECTION A OF THIS SECTION WITHIN SIXTY DAYS AFTER A NOTICE HAS BEEN ISSUED PURSUANT TO THIS SUBSECTION, THE STATE BOARD OF EDUCATION OR THE SUPERINTENDENT OF PUBLIC INSTRUCTION MAY DIRECT THE DEPARTMENT OF EDUCATION TO WITHHOLD UP TO TEN PER CENT OF THE MONTHLY APPORTIONMENT OF STATE AID THAT WOULD OTHERWISE BE DUE THE SCHOOL DISTRICT OR CHARTER SCHOOL. THE DEPARTMENT OF EDUCATION SHALL ADJUST THE SCHOOL DISTRICT OR CHARTER SCHOOL'S APPORTIONMENT ACCORDINGLY. WHEN THE STATE BOARD OF EDUCATION OR THE SUPERINTENDENT OF PUBLIC INSTRUCTION DETERMINES THAT THE SCHOOL DISTRICT OR CHARTER SCHOOL IS IN COMPLIANCE WITH SUBSECTION A OF THIS SECTION, THE DEPARTMENT OF EDUCATION SHALL RESTORE THE FULL AMOUNT OF STATE AID PAYMENTS TO THE SCHOOL DISTRICT OR CHARTER SCHOOL.

H. IF THE GOVERNING BODY THAT OPERATES A PUBLIC LIBRARY DETERMINES THAT THE PUBLIC LIBRARY IS IN VIOLATION OF SUBSECTION B OF THIS SECTION, THE GOVERNING BODY SHALL NOTIFY THE PUBLIC LIBRARY THAT IT IS IN VIOLATION OF SUBSECTION B OF THIS SECTION. IF THE GOVERNING BODY DETERMINES THAT THE PUBLIC LIBRARY HAS FAILED TO COMPLY WITH SUBSECTION B OF THIS SECTION WITHIN SIXTY DAYS AFTER A NOTICE HAS BEEN ISSUED PURSUANT TO THIS SUBSECTION, THE GOVERNING BODY MAY DIRECT THE APPROPRIATE DEPARTMENT OR AGENCY TO WITHHOLD UP TO TEN PER CENT OF THE MONTHLY APPORTIONMENT OF PUBLIC MONIES THAT WOULD OTHERWISE BE DUE TO THE PUBLIC LIBRARY. WHEN THE GOVERNING BODY DETERMINES THAT THE PUBLIC LIBRARY IS IN COMPLIANCE WITH SUBSECTION B OF THIS SECTION, THE GOVERNING BODY SHALL RESTORE THE FULL AMOUNT OF PUBLIC MONIES TO THE PUBLIC LIBRARY.

History

Approved by the Governor April 3, 2012

ARIZONA STATE OBSCENITY & LIBRARY/SCHOOL FILTERING STATUTES

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