Ashlesha Naik

From: Gary [redacted]
Sent: Thursday, November 12, 2026 8:51 AM
To: Arizona Sex Offender Management Board
Subject: Please include the attached documents in the material for the Nov 16 SOMB meeting
Attachments: Hardy - SOMB Remarks Nov 16.pdf; Hardy 1 - Rethinking_Arizona_Sex_Offense_Policy (2).pdf

Categories: Call to the Public Written Comments

Please include for Nov 16 2026

Gary W. Hardy, PhD
Co-Founder and Executive Director



POLICY REPORT / NOVEMBER 11, 2026

Rethinking Arizona Sex Offense Policy

Sentencing proportionality, changing risk, and judicial review

To Representative Khyl Powell, Arizona Sex Offender Management Board, and members of the Arizona Legislature

From Gary W. Hardy, Ph.D., Executive Director, Collaborative Justice Institute

I ask the Board to return the proposed early-termination criteria and court-filing template for revision at its November 16 meeting. I ask the Legislature to examine how Arizona punishes possession-only exploitation and when it denies courts the authority to review long probation terms. Both decisions call for a review of the assumptions Arizona inherited about sexual reoffending. How much weight should the state give to the original offense, and when should the evidence about present risk change what the state does?

Arizona has a duty to protect children and take seriously the continuing harm caused when images of their abuse are kept or circulated. The state also has a duty to punish possession of child sexual abuse material (CSAM) proportionately and to explain what public-safety benefit an additional restriction, year of supervision, or mandatory prison term is expected to provide. For a first-time adult convicted on ten qualifying possession-only counts, Arizona's ordinary minimum adds up to 100 calendar years. On the supervision side, SB 1092 bars early discharge for covered convictions beginning January 1, 2027, including cases in which probation was imposed for life. [2, 3, 7]

What Adam Grant asks us to do

In *Think Again*, Adam Grant describes how readily we defend a settled belief like a preacher, build a case against an opposing view like a prosecutor, or seek approval like a politician. His fourth mode asks us to act like scientists. State what we think a policy accomplishes, look for evidence that could disprove it, and revise our judgment when the evidence warrants it. Those habits apply to reform advocates as much as to officials. [1]

> **If Arizona were writing these laws and standards today, what evidence would lead us to write them the same way? What evidence would lead us to change them?**

This report brings together three Collaborative Justice Institute reports on the Board's draft, the history of Arizona's laws, and the national comparison. It uses specific statutory examples to frame the decisions before the Board and the Legislature. [15–17]

How Arizona Arrived Here

Year or period	Arizona and national developments
1951–1995	Arizona first adopted registration in 1951, repealed the earlier law in 1978, enacted its modern registration statute in 1983, and added community notification in 1995. Registration and public notification developed as distinct policies. [4]
1978–1985	Arizona initially targeted production and distribution of child sexual exploitation material. It added possession in 1983. In 1985, it adopted enhanced penalties for listed Dangerous Crimes Against Children (DCAC), including sexual exploitation involving children under 15, along with consecutive sentencing rules. [2, 3]
1994–2006	At the federal level, the Jacob Wetterling Act set registration standards in 1994. Megan's Law added community notification in 1996. The 2006 Adam Walsh Act established the current federal framework through the Sex Offender Registration and Notification Act (SORNA). [5]
2026–2027	SB 1662 requires individualized, narrowly tailored probation conditions unless otherwise required by law. SB 1092 bars early discharge for DCAC convictions on or after January 1, 2027. The two laws address different decisions. [7]

What the historical record supports

Arizona sought to address the continuing harm to children whose abuse was recorded and the demand for those images. The Arizona Supreme Court also recounts that a prosecutor told legislators in 1983 that a possession prohibition could aid prosecutions of child molesters. The Arizona Supreme Court in *State v. Williams* also described legislative concern about the "perceived recidivist nature" of people who commit covered crimes. Punishment, deterrence, and incapacitation all featured in its account. That history gives us several purposes to examine, each with a different evidentiary question. [3]

Arizona's 1985 sentencing framework predates *McKune*, *Smith*, and SORNA. It has its own legislative and judicial history. Congress's 2006 SORNA declaration likewise cited public protection and named victims of violent attacks as reasons for a national registration system. Both records warrant a closer look at when concern about particular harms became a basis for broadly applied rules. [3, 6, 29]

The concern I bring to both bodies is institutional. Arizona has revised these laws many times. For the specific policies discussed here, the question is whether lawmakers and the Board have revisited the underlying assumptions about who remains dangerous, how long risk persists, and which interventions reduce it. Each assumption should be stated plainly and tested against the best available evidence.

How an Assumption Became Authority

The October 26 Board discussion

At the October 26, 2026 Arizona SOMB meeting, Christopher Lobanov-Rostovsky, deputy director of the Colorado Division of Criminal Justice and former manager of Colorado's SOMB, spoke in his personal capacity. In discussing SORNA's origins, he described a belief at the time that all or most registrants would reoffend. Representative Powell observed that extreme cases can drive legislation and asked what empirical evidence would justify adoption. Lobanov-Rostovsky distinguished claimed investigative and information-sharing benefits from evidence of reduced reoffending. His account gives Arizona a specific premise to examine. Congress's stated purpose and the evidence behind individual provisions should also be examined directly. [21, 29]

From McKune v. Lile to Smith v. Doe

In *McKune v. Lile* (2002), a Fifth Amendment challenge involving a Kansas prison treatment program, Justice Kennedy's plurality described the risk as "frightening and high." For the estimate of up to 80% among untreated people, he cited a 1988 National Institute of Corrections practitioner's guide. In *Smith v. Doe* (2003), Kennedy's majority repeated the phrase, without restating the 80% figure. It accepted Alaska's use of conviction-based categories without individualized risk findings in holding that the state's then-existing registration and notification law was civil for purposes of the Ex Post Facto Clause. [6, 22]

What Ira Mark Ellman and Tara Ellman found

In their 2015 article, "Frightening and High," ASU law professor Ira Mark Ellman and coauthor Tara Ellman traced the guide's estimate to a 1986 *Psychology Today* article by Robert E. Freeman-Longo and R. Wall. The magazine article described a treatment program and gave no supporting citation for the figure. The Ellmans also examined a separate research source cited in *Smith* about reoffending decades later. They cautioned against drawing conclusions about the broader population from research on a selected group released from a Massachusetts treatment center for people deemed sexually dangerous. [6, 22]

The Ellmans' 2015 search found the phrase in 91 judicial opinions. The Kansas Supreme Court used it in *State v. Mossman* when it rejected a challenge to mandatory lifetime postrelease supervision, even though a psychologist had assessed the defendant as low risk. The Michigan Supreme Court questioned the claim's evidentiary basis in *People v. Betts* and held that Michigan's 2011 registry law could not be applied retroactively to the defendant. [22, 23]

For each proposed Arizona rule, ask who was studied, what counted as reoffending, how long people were followed, and whether that evidence justifies the scope and duration of the restriction.

RESEARCH

What the Evidence Says About Risk

Assumption to test	What the evidence shows
People convicted of sexual offenses uniformly reoffend at high rates.	A Bureau of Justice Statistics study of people released from state prison in 2005 found that 7.7% of those released after serving time for rape or sexual assault were arrested for rape or sexual assault within nine years, compared with 2.3% of other released prisoners. Elevated relative risk can coexist with a much lower absolute rate than older rhetoric suggests. [8]
Risk at release remains the same indefinitely.	Hanson and colleagues studied 7,740 people. For the group initially rated high risk, the observed five-year sexual recidivism rate was 22% at release. Among those in the same initial risk category who had remained offense-free in the community for ten years, the subsequent five-year rate was 4.2%. That supports reassessment after sustained safe conduct. [9]
Material-only and mixed offense histories predict similar contact risk.	A 2025 meta-analysis found roughly 0.6% detected contact sexual reoffending among people with a CSAM-exclusive offense history and 8.8% among those with both CSAM and contact offenses, over approximately five years. The CSAM-exclusive category is broader than the possession-only charging scenario in this report. [10]
Registration and notification reliably reduce sexual reoffending.	A synthesis of 18 studies found no statistically significant pooled reduction in recidivism associated with registration and notification. A separate study found different estimated effects for law-enforcement registration and public notification. Assess each policy against the outcomes it is designed to change. [11]

These studies use different populations, time horizons, and outcomes. Arrests and other official records capture detected events and miss some offending. The research supports distinguishing offense histories and reassessing risk over time. An individual recommendation still needs a current, appropriate assessment, corroborated conduct, and attention to victim safety. The studies do not estimate the effect of Arizona’s ten-count sentencing rule or SB 1092. [8–11]

The enduring harm to a child and the current risk posed by a particular person are both relevant. They answer different questions and require different evidence.

When Should Supervision Continue

Age at the offense and age today tell us different things

Hanson's analysis of 4,673 adult men across ten studies found that sexual recidivism generally declined with age at release, with different patterns across offense groups. A review of age studies reports a five-year detected rate of 2.4% in one pooled sample for those released at age 60 or older. Evidence on people released in their 70s is thinner. Helmus and colleagues found that revised age weights improved the fit of actuarial estimates for older adults. Assessors should document age at first known offense, age at the offense being reviewed, age at release, current age, and time safely in the community. Each answers a different question. [24, 25]

Sandler and Freeman studied 939 men released over age 60 who had been screened for civil management. The group whose offense leading to the current case occurred over age 60 had a higher rate of detected sexual reoffending than the group whose offense occurred earlier. Much of the difference was driven by a small group who had committed sexual offenses both before and after age 60. That selected sample illustrates why older age deserves real weight alongside the timing and pattern of known conduct. Hanson and colleagues' later work also found that the longer people remained sexual-offense-free in the community, the lower their observed subsequent risk. [26, 27]

Put the burden of explaining continued supervision on the record

Arizona allows probation up to life for specified convictions where probation is available. SB 1092 forecloses early discharge for covered DCAC convictions entered on or after January 1, 2027. For a person in their 60s or 70s with a lengthy period of safe conduct in the community, ask what present risk active supervision addresses, what each discretionary condition contributes, and what evidence could support reducing it. Where the law permits, the Board should recommend periodic reassessment of intensity and conditions, with discharge review where authorized. The Legislature should decide whether courts should have a review pathway in cases now subject to the categorical bar. [7, 14, 18, 24–27]

Count the consequences of keeping the current rules

The National Center for Missing & Exploited Children's 2024 survey reported more than 972,000 registrants nationwide. That figure measures registration. Arizona should separately measure how many people are incarcerated under these sentencing rules or supervised for life, and how restrictions affect housing, work, and families. In a survey of 584 family members, respondents reported financial strain, housing disruption, and harassment. These consequences belong alongside victim safety, supervision costs, and measured public-safety benefits when the state evaluates the laws. [28]

Where Arizona’s Rules Diverge

Possession-only cases and the cumulative sentence

Arizona classifies knowing possession, production, and distribution under A.R.S. § 13-3553 as Class 2 felonies. For the ordinary first-degree DCAC branch involving a child under 15, the schedule is 10, 17, or 24 calendar years per count, with probation and ordinary early release barred. Arizona decisions allow separate convictions for distinct depictions, and § 13-705(P) requires consecutive terms in the covered possession cases. [2, 3]

Benchmark	Arizona	Comparator
Possession only First-time adult, ten qualifying images of children under 12	Ten convictions yield **100 / 170 / 240** calendar years at the statutory minimum, presumptive, and maximum terms. [2, 3]	One qualifying federal possession count carries up to **20 years** with no statutory prison minimum for the first-offense scenario. Federal production ordinarily carries **15–30 years** per first-offense count. [12]
Contact offense One count, age-22 defendant, age-14 minor, intercourse, no force or qualifying priors	The applicable sexual-conduct branch ordinarily carries **13 / 20 / 27** calendar years. [2]	Virginia’s age-13-to-14 provision for the comparable nonforcible conduct is a Class 4 felony carrying **2–10 years**. [13]

The possession comparison shows how the number of counts and mandatory consecutive terms affect exposure. The federal number is for one count under its own elements. These examples illustrate statutory exposure and choices about how to aggregate punishment. Actual charges, pleas, and time served require Arizona case data. Louisiana illustrates a different choice. A qualifying first-offense possession count involving a child under 13 carries 10–40 years, and the court may order terms to run concurrently or consecutively under its general sentencing rule. The national audit also identifies severe penalties elsewhere for aggravated contact offenses. [12, 16, 17, 20]

Lifetime supervision and judicial review

Arizona authorizes up to life under § 13-902(E) for specified convictions when probation is legally available. That can matter for eligible attempts and other dispositions. The completed under-15 possession benchmark above ordinarily requires prison. Under SB 1092, a covered lifetime probation term has no ordinary judicial early-discharge route. Colorado provides review of specified indeterminate probation terms after 10 or 20 years, depending on felony class, and at least every three years after a denial. Federal courts can consider terminating supervised release after one year under statutory criteria. Probation, post-prison supervised release, and registration are distinct legal obligations. [2, 7, 12, 14]

What the Board Can Change Now

A.R.S. § 13-3828(D) directs the Board to use research, incorporate Risk–Need–Responsivity or another evidence-based correctional model in adult evaluation and treatment standards, and develop a case-by-case process for certain reliably lower-risk people. The Board must prioritize the physical and psychological safety of victims and potential victims in its recommended interventions. Its charge to evaluate policy gives it grounds to examine the contribution of containment practices and to make recommendations within its mandate. [15, 18]

Correct the criteria and the court-filing template

Item 2 should distinguish the default maximum terms in § 13-902(A) from the initial sentencing floors that subsections (E) and (F) establish for their specified cases. A sentencing floor is distinct from a mandatory waiting period for judicial review. Where discharge is legally available, the court evaluates whether the person's conduct warrants it and whether it would serve the ends of justice, with the statutory opportunity for the prosecutor and victim to be heard. State the SB 1092 trigger as the date of **conviction** on or after January 1, 2027, and account for fixed and lifetime terms. [7, 14, 15]

Require a reason for each testing benchmark

The draft gives a two-year history of passed or resolved polygraphs concrete weight. The Board should ask whether that benchmark adds reliable information about current risk beyond corroborated conduct, a suitable assessment, and treatment progress. A systematic review found increased disclosure associated with polygraph use, with no statistically significant effect on sexual reoffending in the studies reviewed. A report can document reliable conduct disclosed during testing and describe the relevance and limits of any test results. Provide room for alternative evidence when a test is medically unsuitable, unavailable, or uninformative. [15, 19]

Make the basis for continued supervision reviewable

Ask probation staff to identify the specific remaining risk, how supervision would address it, what a reduction in intensity could accomplish, and what progress would support a different recommendation. Include a reassessment date, victim safety and input, and a practical transition plan. The Board should compare containment with a Risk–Need–Responsivity approach and publish the evidence for each recommendation. The statutory provider majority on the adult subcommittee brings practical experience. Independent review by researchers, victim advocates, practitioners, and people who have completed supervision can test the assumptions behind familiar practice. [15, 18]

Proposed November 16 motion. Return Items 3(a)(ii) and (iii) to the Adult Guidelines and Standards Subcommittee for statutory correction, revision of the testing and discharge criteria, and a documented comparison of approaches before adoption.

What Lawmakers Should Reexamine

1. Review the penalty for possession-only conduct

Hold a hearing on whether § 13-3553 and the DCAC sentencing provisions should distinguish knowing possession from production, distribution, and contact conduct. Examine a distinct possession schedule and judicial discretion over aggregate terms. Consider the number of depictions and victims, the ages of the children, prior convictions, and any proven aggravating conduct. Ask what evidence supports mandatory consecutive terms in every qualifying case and what additional safety benefit the state expects from the resulting aggregate term. [2, 3, 12, 16, 17]

2. Restore a path to individualized judicial review

Consider amending SB 1092 to allow a petition in defined cases after a specified period, with notice and an opportunity for victims to be heard, a current assessment, a safety plan, and written judicial findings. The court could consider offense severity, age at the offense and at review, sustained safe conduct in the community, treatment progress, and victim safety. Written findings should explain the specific purpose any continued supervision serves. A bill should specify which cases qualify, when a denied petition can be reconsidered, and how any changes apply to existing and future convictions. [7, 14, 16, 17]

3. Review age thresholds and registration rules

Ask which conduct and age combinations warrant the full DCAC penalty and why. Review registration and public notification separately. For each, identify the safety outcome the law is meant to improve, the evidence of benefit by risk group, and whether the duration or public disclosure rules should allow reassessment. [2, 4, 5, 11, 16, 17]

4. Ask Arizona agencies for the data needed to judge the laws

Ask the courts, county probation departments, prosecutors, and the Department of Corrections, Rehabilitation and Reentry to develop a de-identified baseline. Identify possession-only conduct separately from production, distribution, and cases with contact conduct. Record charged and convicted counts, plea and trial outcomes, total prison exposure and time served, supervision terms, petitions, dispositions, and county costs. Where existing codes combine conduct types, validate the categories through a sample of case records.

Publish outcomes using comparable follow-up periods and separate new contact offenses, new CSAM offenses, other new offenses, and technical violations. Compare people with similar case characteristics and risk. Report outcomes by age at release and review, time in the community, and offense history. Examine access to treatment and testing, and use victim input to evaluate notice and safety procedures. A scheduled public review should require lawmakers and the Board to explain what they would retain or revise in light of the results.

The question to put on the record

If Arizona keeps someone under supervision after years of safe conduct, it owes that person, victims, and the public an explanation of what continued supervision accomplishes. Without that inquiry, retribution can stand in for a public-safety justification.

REFERENCES

Sources and Supporting Reports

[1] Adam Grant. *Think Again: The Power of Knowing What You Don't Know* (Viking, 2021), ch. 1. Publisher excerpt

[2] Arizona sentencing and offense statutes. A.R.S. § 13-705 · § 13-3553 · § 13-1405

[3] *State v. Williams*, 175 Ariz. 98, 100–03 (1993). *State v. Berger*, 212 Ariz. 473, ¶¶ 20–29 (2006). *State v. McPherson*, 228 Ariz. 557, ¶¶ 4–8 (App. 2012). Williams opinion · Berger opinion · Appellate discussion of McPherson

[4] *Fushek v. State*, 218 Ariz. 285 (2008). Arizona Attorney General Opinion I00-030 (2000). Fushek opinion · Attorney General opinion

[5] National Institute of Justice, federal registry legislative history and implementation. NIJ program profile

[6] *McKune v. Lile*, 536 U.S. 24, 34 (2002) (plurality). *Smith v. Doe*, 538 U.S. 84, 103–04 (2003). McKune · Smith

[7] 2026 Arizona Session Laws ch. 27 (SB 1092) and ch. 186 (SB 1662). SB 1092 · SB 1662

[8] Bureau of Justice Statistics. *Recidivism of Sex Offenders Released from State Prison: A 9-Year Follow-Up (2005–14)* (2019). BJS report

[9] Hanson, Harris, Helmus & Thornton. "High-Risk Sex Offenders May Not Be High Risk Forever" (2014). Study

[10] Baskurt, Babchishin, Hilkes & Seto. Meta-analysis of CSEM recidivism, *Aggression and Violent Behavior* 85, 102080 (2025). Study

[11] Zgoba & Mitchell. Meta-analysis of registration and notification (online 2021). Prescott & Rockoff. "Do Sex Offender Registration and Notification Laws Affect Criminal Behavior?" Meta-analysis · Prescott & Rockoff

[12] Federal statutes. 18 U.S.C. § 2252A · § 2251 · § 3583(e), (k)

[13] Virginia statutes. Va. Code § 18.2-63 · § 18.2-10

[14] Probation review and duration. A.R.S. § 13-901 · § 13-902 · Colo. Rev. Stat. § 18-1.3-1008

[15] CJI. *Early Termination of Probation in Arizona* (November 11, 2026), pp. 1–6, citing the supplied November 16 Board packet, Items 3(a)(ii)–(iv), packet pp. 4, 15–23, and the November 4 subcommittee transcript.

[16] CJI. *Arizona Sex Offense Laws* (November 2026), pp. 2–6.

Sources and Supporting Reports

[17] CJI. *FAIR Committee 50-State Sex Offense Comprehensive Report* (November 2026), Parts I–IV.

[18] Arizona Board duties and adopted principles. A.R.S. § 13-3828 · SOMB resource documents

[19] Elliott & Völlm. "The Utility of Post-Conviction Polygraph Testing Among Sexual Offenders" (online 2016). Systematic review

[20] Louisiana statutes. La. R.S. § 14:81.1(E) · La. Code Crim. Proc. art. 883

[21] Arizona SOMB, October 26, 2026 meeting, AI-generated transcript, pp. 12, 24–27. Christopher Lobanov-Rostovsky's remarks and Representative Powell's question are paraphrased. Board transcript · Colorado DCJ annual report

[22] Ira Mark Ellman & Tara Ellman, *"Frightening and High": The Supreme Court's Crucial Mistake About Sex Crime Statistics*, 30 *Constitutional Commentary* 495, 496–503 (2015). Ellman article · OJP record of the guide

[23] *State v. Mossman*, 294 Kan. 901, 281 P.3d 153 (2012). *People v. Betts*, 507 Mich. 527, 559 n.19 (2021). Mossman opinion · Betts opinion

[24] R. Karl Hanson, "Recidivism and Age," 17 *Journal of Interpersonal Violence* 1046 (2002). "Longitudinal Patterns of Sexual Recidivism by Age Over a 25-Year Follow-Up in California," literature review of Hanson's 2006 study. Hanson study · California study and literature review

[25] Helmus, Thornton, Hanson & Babchishin, "Improving the Predictive Accuracy of Static-99 and Static-2002 With Older Sex Offenders," 24 *Sexual Abuse* 64 (2012). Study

[26] Sandler & Freeman, "Does Being Over 60 Years Old at Index Offense Impact Sexual Recidivism Risk?" 36 *Sexual Abuse* 901 (2024). Study

[27] Hanson, Harris, Letourneau, Helmus & Thornton, "Reductions in Risk Based on Time Offense Free in the Community," 24 *Psychology, Public Policy, and Law* 48 (2018). Study

[28] National Center for Missing & Exploited Children, 2024 state and territory survey. Levenson & Tewksbury, "Collateral Damage: Family Members of Registered Sex Offenders" (2009). NCMEC survey summary · Family survey

[29] 34 U.S.C. § 20901, SORNA declaration of purpose. U.S. Code

Ashlesha Naik

From: Gary [redacted]
Sent: Thursday, November 12, 2026 8:52 AM
To: Arizona Sex Offender Management Board
Subject: Please include for Nov 16 SOMB
Attachments: Hardy 3 - Arizona_Sex_Offense_Laws_History_and_National_Context.pdf; Hardy - 4 FAIR Committee 50-State Sex Offense Comprehensive Report (1).pdf; Hardy 2 - AZSOMB_Early_Termination_Report_Gary_Hardy.pdf

Categories: Call to the Public Written Comments

Documents 2-4

Gary W. Hardy, PhD
Co-Founder and Executive Director



Early Termination of Probation in Arizona

To • Representative Khyl Powell, Member, Arizona Sex Offender Management Board

From • Gary W. Hardy, Ph.D., Collaborative Justice Institute

November 11, 2026 • Prepared for the November 16, 2026 Board meeting

Representative Powell,

I ask you to move that the Board return the proposed early-termination considerations and court-filing template to the Adult Guidelines and Standards Subcommittee for revision before adoption. The draft misstates the source and effect of Arizona's probation terms and misidentifies the trigger and scope of the new restriction on early termination for dangerous crimes against children. It also gives polygraph history and completion of team-selected testing more concrete weight than current risk, treatment progress, and the ability to live safely in the community. [1–6]

Decisions before the Board

Agenda Items 3(a)(ii) and (iii) concern the early-termination criteria and filing template, both dated November 4, 2026. The criteria address adult men at the time of the offense and include lifetime supervision. This report also considers the accompanying psychosexual evaluation draft under Item 3(a)(iv) because its approach to individualized assessment is directly relevant to discharge. [1]

Three revisions before adoption

1. Correct Item 2. Describe § 13-902(A) as setting default maximum terms. Explain separately how subsections (E) and (F) use those figures at sentencing, and state the new DCAC restriction using the date of conviction.

2. Clarify the role of testing. Make clear that a polygraph score, a prescribed history of completed exams, or the absence of a named test does not operate as a prerequisite to a favorable staff recommendation. Give staff a way to weigh corroborated behavior, current risk, progress and protective factors.

3. Require a path to review. When continued supervision is recommended, identify the specific risk it addresses, the evidence that would support a reduction or discharge, and the date for reassessment. Keep victim notice, input and safety central to the recommendation and preserve the court's decision under § 13-901.

The question for the Board is whether the draft helps a court decide if supervision still serves a public-safety and rehabilitative purpose in the individual case. The proposed language should make that question easier to answer.

Probation Terms and Early Termination

1. Subsection A sets default maximum terms

A.R.S. § 13-902(A) says probation may continue for the listed periods unless terminated sooner. It provides seven years for a Class 2 felony, five for Class 3, four for Class 4, and three for Classes 5 and 6. Other provisions create exceptions. Item 2 misdescribes these numbers when it refers to a minimum term under subsection (A). [1, 3]

2. An initial sentencing minimum and time served answer different questions

For specified offenses, § 13-902(E) authorizes probation, when available, from the term listed in subsection (A) up to life. Section 13-902(F) does likewise for certain failure-to-register convictions. For a qualifying Class 2 felony, seven years is therefore the floor for the term imposed under the applicable exception. Section 13-901(G) separately addresses early termination. It allows the court to act on its own initiative or on the probationer's application if the person's conduct warrants discharge and the ends of justice would be served, with the required notice and opportunity to be heard. It states no general waiting period tied to § 13-902(A). [3–4]

As written, Item 2 can turn the subsection (A) figure into a staff screening rule for non-DCAC cases. If a seven-year fixed term applies, waiting seven years would ordinarily use up the entire term. If the person is on lifetime probation, the same benchmark would postpone staff consideration even when the record supports an earlier individualized review. Staff can consider time served and the person's performance during that time. Any proposed benchmark should be identified as a policy choice, supported by evidence, and expressly subject to individualized review. [1, 3–4]

3. SB 1092 uses conviction date and covers fixed terms

The new restriction applies when the person was **convicted of a dangerous crime against children, as defined in § 13-705, on or after January 1, 2027**. It prohibits the court from ending probation or intensive probation earlier than originally imposed, including a fixed term. Item 2 uses sentencing date and describes only lifetime probation. A December 2026 conviction followed by sentencing in January 2027 illustrates how the draft could misclassify someone. The signed bill shows this provision in § 13-901(E). The Legislature's blended statute, which incorporates SB 1662, locates it in § 13-901(G). [1, 4–5]

4. Individualized conditions and judicial discharge

SB 1662 requires probation conditions, unless otherwise required by law, to be reasonably necessary, individually determined, narrowly tailored, and informed by validated assessment of criminogenic risk and needs. Those requirements concern conditions of supervision. They reinforce the case for individualized recommendations. Early discharge remains a separate judicial decision under § 13-901(G), subject to the applicable statutory restrictions. [4, 6]

How the Criteria Would Work

5. Polygraph provisions can become practical prerequisites

Items 10 and 11 call for passed or resolved sexual-history and maintenance or specific-issue polygraphs for people able to take them. Footnotes 3–5 recommend two years of passed or resolved exams, including one after successful treatment. They allow resolution through admissions or additional testing and explain that disclosures alone do not establish risk level. The filing template directs officers to report the two-year history. The preamble and November 4 discussion recognize individual judgment and the ability to petition despite missing items. The written criteria should say expressly that staff may recommend termination without meeting the testing benchmark when other evidence supports it. [1–2]

6. Separate test scores from independently assessable conduct

ATSA's 2025 guidance, § 22.06, cautions against using polygraph scores in isolation for clinical decisions such as program discharge. Section 19 calls for multiple measures of treatment progress. These are clinical guidelines. The relevant implication for probation is that a score, inconclusive result, or missing exam should carry no automatic adverse inference. A specific disclosure may matter if the underlying conduct is reliable, relevant to present risk, and considered in context. A systematic review found greater disclosure associated with testing but no statistically significant effect on sexual reoffending in the studies reviewed, which had methodological limitations. The review does not establish the proposed two-year benchmark. [9–10]

7. Treat Abel and MSI-II as optional sources of information

The filing template requests summaries of Abel Assessment and Multiphasic Sex Inventory II (MSI-II) results without setting passing scores. Item 12 separately calls for completion of all testing the team requires. Together, those provisions can make a team-selected battery a practical barrier without stating why each test is needed, how it applies to the person or what evidence can substitute. ATSA § 6.05 cautions about viewing-time validity and supports using such findings alongside other information. Section 19 allows research-supported instruments as part of a broader clinical assessment. It supplies no requirement to use either named instrument at discharge. [1, 9]

8. Account for suitability, access and the evidence actually available

The draft recognizes inability to take a polygraph, yet supplies no consistent way to document medical unsuitability, disability-related accommodations, unavailable services or alternative evidence. The court template should permit an explicit finding that a measure was unsuitable, unavailable or uninformative. Specify the instrument's purpose, validated population, date and limitations. Treat pending allegations and dismissed counts according to their status and evidentiary support, and distinguish a filed revocation petition from a sustained violation. [1, 7, 9]

Items 3–7 also deserve clearer instructions. Document restitution balances and applicable legal obligations, and explain the relevance of each unmet condition to current risk or the court's decision. Item 7 already allows an exception when an evaluation finds that further treatment would not reduce sexual reoffense risk. Specify who can make that finding and how staff should document it. Item 9's undefined period of demonstrated control should be tied to observable, case-specific behavior and the person's assessed needs. [1, 4, 7–9]

Containment and the Board’s Mandate

9. The draft gives established practices more weight than progress

The containment model combines internal controls, external supervision and polygraph testing within multidisciplinary management. Coordination among probation, treatment and examiners can serve a legitimate purpose. The draft’s structure, however, gives the triad concrete reporting requirements, testing milestones and a role in resolving exams. Items 14 and 15 recognize dynamic risk and protective factors, and the template asks for future goals after an unfavorable recommendation. It gives no equivalent direction on when those gains should lead to discharge, what continued supervision is expected to achieve, or when to revisit the decision. [1, 13]

10. Board composition makes independent review especially important

The full Board includes judicial, defense, prosecution, victim, clinical, probation and other perspectives. The statute also reserves a full Board seat for a clinical polygraph examiner and requires that at least 80 percent of the adult standards subcommittee be approved treatment providers, including one examiner. That structure brings relevant expertise and can also make familiar practices feel like defaults. The risk is institutional. A group can give sincere consideration to a proposal and still give greater weight to methods its members already use. Publish the evidence, alternatives and rationale, and invite independent review by people outside the service arrangements the standards would affect. [2, 7]

11. The Board’s own work shows room for a different approach

Arizona directs the Board to incorporate Risk–Need–Responsivity (RNR) or another evidence-based correctional model in adult evaluation and treatment standards, provide for case-by-case review of reliably lower-risk people who may gain little from treatment, and examine the effectiveness of containment and polygraph use. The Board’s adopted Adult Guiding Principles say that treatment and supervision should respond to changes in risk. The November psychosexual evaluation draft also recognizes responsivity, strengths and protective factors and calls for multiple sources of evidence. These commitments should carry through to discharge decisions. [1, 7–8]

The November 4 discussion of a Colorado-derived teams model shows interest in changing how participants work together. Members also discussed its similarities to containment. The proposed early-termination criteria show where continuity still prevails. A meaningful comparison would ask whether each approach changes what evidence can support discharge, the intensity of intervention, or the ability to reduce supervision when risk declines. The current record supports that critique of the draft and leaves the full Board’s willingness to revise it open. [1–2]

12. Apply Adam Grant’s approach to rethinking

In *Think Again*, Adam Grant urges readers to question familiar assumptions and update judgments when the evidence changes. Before voting, the Board should ask what evidence would lead it to abandon the two-year testing benchmark, give different weight to a sustained reduction in risk, or choose a different model. The Board can record its answers alongside the supporting evidence and reconsider the standard if the outcomes fail to support it. [14]

A Path to Reduced Supervision or Discharge

Replace Item 2 with accurate statutory language

“Apply A.R.S. § 13-901(G) and any other applicable legal restrictions. Early termination is barred if the defendant was convicted of a dangerous crime against children as defined in § 13-705 on or after January 1, 2027. In other cases, where early termination is legally available, assess time served and performance during supervision as part of the individual record. The periods listed in § 13-902(A) are default maximum terms and do not themselves establish a minimum time served before a probationer may apply for early termination.” [3–5]

Revise Items 10–12 and the court-filing template

State that testing is considered only when appropriate to the person and relevant to a defined clinical or supervision question. Allow a favorable recommendation based on other reliable evidence when testing is absent, unsuitable or unresolved. Document the evidence of actual conduct separately from scores or examiner conclusions. Explain any accommodation and the alternative evidence used. Identify all advisory criteria as such in both documents and state that the probationer may apply directly to the court where legally permitted. [1–2, 4, 9]

Make current risk and the transition plan central

Require the report to address changeable risk factors, treatment gains, conduct over time in the community, and protective supports. If the officer recommends continuing supervision, identify the remaining risk, the specific purpose served by supervision, whether reduced conditions or intensity could serve that purpose, the measurable progress that would support a different recommendation, and the next review date. Give the probationer those expectations in writing. Include victim input and safety concerns and follow statutory notice and hearing requirements. [4, 7–9, 12]

Use RNR to match the intensity and focus of intervention to assessed risk, needs and responsivity. Use Good Lives Model principles to develop practical supports for safe behavior, such as stable housing, meaningful activity and prosocial relationships. RNR has stronger recidivism evidence. Research on the Good Lives Model as a standalone way to reduce recidivism remains limited. Arizona can evaluate the contribution of both approaches while monitoring safety outcomes. [11–12]

Request a public comparison and measure the results

Direct the subcommittee to publish a comparison of the current containment approach, an RNR-led approach and a strengths-based transition plan. For each, identify evidence quality, relevant populations, limitations, costs and the proposed role of testing. Seek review from independent researchers, victim advocates, defense and probation practitioners, and people with experience completing treatment and supervision. Track petition and recommendation rates, reasons for deferral, time to review and discharge, safety outcomes, and differences by risk level, county and access to testing. These measures can show whether the guidelines create a realistic route to discharge for eligible people.

Motion for November 16

I move to return Items 3(a)(ii) and (iii) to the Adult Guidelines and Standards Subcommittee for statutory correction, revision of the testing and discharge criteria, and a documented comparison of approaches before the Board considers adoption.

Source Notes

[1] Arizona Sex Offender Management Board. November 16, 2026 agenda and background material. Agenda Items 3(a)(ii)–(iv), packet pp. 4, 15–23. The report uses the November 4 draft language reproduced in the supplied packet.

[2] Arizona SOMB Adult Guidelines and Standards Subcommittee. November 4, 2026 meeting transcript, pp. 3, 12–13 and 36–38. The Board site identifies this as an AI-generated transcript. Source

[3] A.R.S. § 13-902(A), (E) and (F), periods of probation. Source

[4] A.R.S. § 13-901(B), (E) and (G), probation, including the court's discharge authority and DCAC restriction. Source

[5] 2026 Arizona Session Laws, ch. 27 (SB 1092), §§ 1–3. Read the subsection designation with the Legislature's blend of chapters 27 and 186. Source

[6] 2026 Arizona Session Laws, ch. 186 (SB 1662), § 1, individualized probation conditions. Source

[7] A.R.S. § 13-3828(A)(5)(g) and (D)(1)–(5), (8), Board composition, standards and research duties. Source

[8] Arizona SOMB. *Adult Guiding Principles*, adopted June 22, 2026, especially principles 6, 7, 10 and 11. Source

[9] Association for the Treatment and Prevention of Sexual Abuse. *Best Practice Guidelines for Men*, 6th ed. (2025), §§ 6.05, 19.02–19.04 and 22.01–22.06. Source

[10] Elliott, E., and Völlm, B. *The Utility of Post-Conviction Polygraph Testing Among Sexual Offenders*. Sexual Abuse. Online publication, 2016. DOI 10.1177/1079063216667922. Source

[11] Hanson, R. K., Bourgon, G., Helmus, L., and Hodgson, S. (2009). *The Principles of Effective Correctional Treatment Also Apply to Sexual Offenders*. Criminal Justice and Behavior 36(9), 865–891. Source

[12] Research on the Good Lives Model and desistance. *Does the Good Lives Model Work? A Systematic Review of the Recidivism Evidence* (2021). See also Hanson et al., Reductions in Risk Based on Time Offense Free in the Community (2018). Source

[13] English, K., Pullen, S., Jones, L., and Krauth, B. (1996). *Model Process: A Containment Approach*. Office of Justice Programs. Source

[14] Grant, A. (2021). *Think Again: The Power of Knowing What You Don't Know*. Viking. Cited for its approach to institutional decision-making. Source

Arizona Sex Offense Laws

How Arizona built its sentencing and supervision laws, and where they stand out today

Gary W. Hardy, PhD · Executive Director, Collaborative Justice Institute

Arizona has an unusually severe combination of laws across several major categories of sex offenses. Its clearest outlier is the mandatory aggregate sentence for possession-only cases involving child sexual abuse material (CSAM). The Dangerous Crimes Against Children (DCAC) framework also triggers steep prison terms for specified offenses involving 13- and 14-year-olds. A separate law eliminates early probation discharge for a defined group beginning in 2027. [1]

Area of law	What distinguishes Arizona
Possession-only CSAM	**100 years minimum** for ten qualifying convictions. Separate counts, ten-year minimums, mandatory consecutive terms, and the absence of ordinary early release operate together.
Contact offenses involving children	The under-15 DCAC framework reaches several offenses involving 13- and 14-year-olds. For the nonforcible age-14 benchmark, Arizona's 13-year floor exceeds Virginia's 10-year ceiling. At the youngest ages, other states also mandate life or impose severe age-based enhancements.
Adult sexual assault and repeat offenses	Arizona requires prison and consecutive sexual-assault sentences. Its ordinary adult-offense range and its life provisions show different levels of severity depending on the facts and priors.
Probation and post-release supervision	Arizona authorizes probation up to life for a broad set of eligible convictions. The 2027 bar on early discharge stands out among the jurisdictions reviewed.

Scope. The comparisons use specified adult-defendant scenarios and statutory exposure. They draw on selected state and federal laws, including stringent peers, and use the two earlier CJI reports to identify issues for verification. Plea practices, actual time served, and local supervision conditions require separate data. No overall 50-state rank is assigned. [2]

Sources and authorities

[1] A.R.S. § 13-705 · A.R.S. § 13-902 · S.B. 1092, 2026 Ariz. Sess. Laws ch. 27

[2] CJI background reports (November 2026) · Arizona CSAM Comprehensive Legislative Report, v5 · FAIR Committee 50-State Sex Offense Comprehensive Report.

How Arizona got here

The possession prohibition, sentencing enhancements, and probation rules accumulated over decades.

Year	What changed
1978	Arizona targeted the exploitation industry, including production and distribution. The law recognized the continuing harm to depicted children and sought to prevent people from benefiting from exploitation.
1983	H.B. 2127 added possession itself. A prosecutor told lawmakers it would aid in prosecuting child molesters. The Arizona Supreme Court also discussed consumer demand for the material.
1985	The DCAC law, former § 13-604.01, applied enhanced sentences to listed offenses against children under 15, including sexual exploitation. The early framework required consecutive terms in covered cases and provided for discretionary lifetime probation for preparatory DCAC offenses.
1993–1997	Lifetime-probation authority moved to § 13-902(E), effective in 1994. In 1997 lawmakers expressly added Chapter 14 attempts. Peek held that attempted child molestation did not qualify during the gap.
2006–2012	Berger upheld twenty consecutive ten-year possession terms. The 2008 recodification moved former § 13-604.01 to § 13-705, effective in 2009. McPherson later upheld separate possession convictions based on distinct depictions, including images acquired together.
2026–2027	S.B. 1662 requires individualized probation conditions. S.B. 1092 bars early discharge for covered convictions beginning January 1, 2027.

The historical record and the policy inference. Williams identified lawmakers' concern about the "perceived recidivist nature" of those who commit these crimes and described punishment, deterrence, and incapacitation as purposes of the law. The claim that everyone convicted will remain dangerous indefinitely goes beyond that record. Today the rules can fix a long prison term or bar discharge without an individualized finding that risk will persist. [3–6]

Sources and authorities

[3] State v. Berger, 212 Ariz. 473 (2006), ¶¶ 20–22 (1978 ch. 200, 1983 ch. 93, and 1985 ch. 364) · State v. Williams, 175 Ariz. 98 (1993), at 99–103.

[4] State v. Farnsworth, 241 Ariz. 486 (App. 2017), ¶¶ 39–41 (Eckerstrom, J., concurring in part) · State v. Peek, 219 Ariz. 182 (2008), ¶¶ 7–15.

[5] H.B. 2207, 2008 recodification · State v. McPherson, 228 Ariz. 557 (App. 2012), ¶¶ 4–7.

[6] S.B. 1662, 2026 Ariz. Sess. Laws ch. 186 · S.B. 1092, 2026 Ariz. Sess. Laws ch. 27.

Contact offenses and the under-15 threshold

Age triggers different penalties by offense. Age 14 is especially revealing.

Arizona's DCAC statute generally covers listed offenses against a child under 15. The table assumes one count, a defendant age 22, and no qualifying priors or added aggravators. Three-number ranges show minimum, presumptive, and maximum. [7–10]

Conduct benchmark	Arizona	Selected comparison
Intercourse with an 11-year-old	Life with a 35-year restriction on ordinary release for a qualifying adult conviction. A 12-year-old also falls within this Arizona provision.	Virginia mandates life for qualifying adult rape of a child under 13. Florida classifies qualifying adult sexual battery of a child under 12 as a capital felony.
Intercourse with a 14-year-old, no force alleged	13 / 20 / 27 years for qualifying sexual conduct with a minor. Probation and ordinary early release are barred.	Virginia: 2–10 years for the Class 4 offense. California: up to four years on the felony branch for a defendant age 21 or older.
Qualifying sexual touching of a 13-year-old, no force alleged	Child molestation ordinarily carries 10 / 17 / 24 years. Sexual abuse under § 13-705(H) carries 2.5 / 5 / 7.5 years if prison is imposed.	California's ordinary lewd-act provision for a child under 14 carries 3 / 6 / 8 years. Virginia reaches ages 13–14 under specified circumstances.
Forcible rape of an adult, ordinary first offense	5.25 / 7 / 14 years. Probation and ordinary early release barred. Multiple sexual-assault terms must run consecutively.	California's ordinary rape provision carries 3 / 6 / 8 years. Virginia's general range is 5 years to life.

At ages 15–17, Arizona generally treats sexual conduct with a minor as a Class 6 felony, with higher classifications for specified age gaps or positions of trust. Texas uses an under-14 aggravated-sexual-assault trigger and a 25-year minimum in specified cases. Arizona's under-15 rule is most distinctive where it combines with mandatory flat-time and consecutive sentences. In Davis, the Arizona Supreme Court set aside a 52-year sentence for nonforcible conduct on its specific facts. [7, 10]

Sources and authorities

[7] A.R.S. § 13-705 · § 13-1404 · § 13-1405 · § 13-1406 · § 13-1410.

[8] Va. Code §§ 18.2-61, 18.2-63, 18.2-67.3 · Va. Code § 18.2-10 · Fla. Stat. § 794.011(2).

[9] Cal. Penal Code § 261.5(d) · Cal. Penal Code § 264 · Cal. Penal Code § 288(a).

[10] Tex. Penal Code § 22.021(a), (f) · State v. Davis, 206 Ariz. 377 (2003), ¶¶ 34–48.

Possession, production, and cumulative sentences

The sharpest difference appears when the law fixes the total prison term.

Creating, distributing, and knowingly possessing qualifying depictions share a Class 2 classification under § 13-3553. The ordinary DCAC schedule is 10 / 17 / 24 years per count if the child is under 15. The separate commercial exploitation statute can carry different penalties. [11]

Jurisdiction	First-time adult, possession only, ten distinct qualifying images of children under 12
Arizona	**100 / 170 / 240 calendar years** if convicted on ten counts. Each count may be charged separately and the judge must run the terms consecutively.
Louisiana	A qualifying count involving a child under 13 carries **10–40 years** without probation or parole. Separate counts are possible. Courts retain discretion to run terms concurrently or consecutively.
Florida	The 2026 law permits a separate offense per image and, where applicable, per depicted child. The baseline possession offense is a second-degree felony. The general rule permits concurrency for counts in the same charging document unless the court directs otherwise.
Federal	One qualifying possession count carries up to **20 years** with no statutory prison minimum. Chilaca grouped simultaneous possession at one time and place under § 2252(a)(4)(B), a related provision.

If Louisiana ran all ten terms concurrently, Arizona’s 100-year floor would exceed Louisiana’s 40-year maximum for that disposition by 60 years. Louisiana can also stack terms. The Berger dissent reported that Arizona’s one-count minimum exceeded 36 states’ maxima and equaled nine in its 2006 survey. [12–14]

Other noncontact conduct. Arizona’s under-15 luring offense has a 5 / 10 / 15-year schedule and a statutory probation bar. Florida’s online solicitation provision generally uses a third-degree felony, with a higher degree if the person misrepresents their age and a separate traveling offense. The statutes have different elements. [15]

Sources and authorities

[11] A.R.S. § 13-3553 · A.R.S. § 13-705, (E), (F), (K), (P) · A.R.S. § 13-3552.

[12] La. R.S. § 14:81.1(E) · State v. Fussell, 974 So. 2d 1223 (La. 2008) · La. Code Crim. Proc. art. 883.

[13] Fla. Stat. § 827.071(5) · § 921.16 · 18 U.S.C. § 2252A(b)(2) · United States v. Chilaca, 909 F.3d 289 (9th Cir. 2018).

[14] State v. Berger, 212 Ariz. 473 (2006), ¶¶ 25–29 (majority) and ¶¶ 65–66 (dissent). [15] A.R.S. § 13-3554(C) · A.R.S. § 13-705, (G) · Fla. Stat. § 847.0135(3)–(4).

Life sentences and lifetime supervision

A life sentence, lifetime probation, and lifetime post-release supervision have different legal consequences.

Life in prison. Arizona imposes life with a 35-year release restriction for qualifying completed sexual assault or sexual conduct with children 12 or younger and for certain DCAC convictions with two predicate felonies. Specified repeat commercial exploitation or child sex trafficking can require natural life. Section 13-706 also mandates life in certain repeat serious or violent cases, including sexual assault. Other states also provide life or years-to-life sentences for specified child sex offenses. [16]

Probation up to life. Section 13-902(E) allows terms up to life where probation is available, including covered sexual offenses, exploitation offenses, and attempts. S.B. 1092 bars early termination for DCAC convictions entered on or after January 1, 2027. A finite term runs to its scheduled end. A lifetime term has no ordinary judicial early-discharge route. [17]

Jurisdiction and form of supervision	Statutory review or discharge
Colorado · qualifying indeterminate probation	Court review after 10 years for Class 4 or 20 years for Class 2 or 3. If discharge is denied, review at least every three years.
Nevada · special lifetime supervision	Begins after probation or custody and parole, as applicable. A petition is available after a qualifying 10-year interval and subject to other criteria.
New Jersey · parole supervision for life	A judicial petition is available after 15 qualifying crime-free years, with a public-safety showing.
Federal · supervised release after prison	Certain offenses authorize five years to life. The court may consider termination after one year under the statutory standards.

S.B. 1662 requires individualized, narrowly tailored probation conditions. Section 13-902(G) requires electronic monitoring throughout probation for the statutory group with a qualifying DCAC conviction, registration duty, and Level 3 classification. Registration is a separate legal obligation. [18]

Sources and authorities

[16] A.R.S. § 13-705, (A)–(C), (L) · § 13-706 · Cal. Penal Code § 288.7.

[17] A.R.S. § 13-902(E) · § 13-901(G) · S.B. 1092, 2026 Ariz. Sess. Laws ch. 27. [18] S.B. 1662, 2026 Ariz. Sess. Laws ch. 186 · § 13-902(G) · § 13-3821.

Peer laws · Colo. Rev. Stat. § 18-1.3-1008 · Nev. Rev. Stat. § 176.0931 · N.J. Stat. § 2C:43-6.4(c) · 18 U.S.C. § 3583(e), (k).

What changes when risk can change

The history explains how Arizona arrived here. Desistance research gives lawmakers a reason to revisit the rules.

The 1978 concern about enduring harm to children remains central. A separate question is whether someone's future risk remains constant. In a study of 7,740 people with sexual-offense histories, Hanson and colleagues found that the observed five-year sexual recidivism rate in the high-risk group was 22% at release and 4.2% among those in that group who had remained offense-free in the community for ten years. The study describes groups over time. It cannot predict a particular person's outcome. [19]

A 2025 meta-analysis of 30 samples also found meaningful differences by offense history. In official records, the estimate of subsequent contact sexual offending was 0.6% among people with a CSAM-exclusive sexual-offense history and 8.8% among those with both material and contact offense histories. These figures reflect detected events, and estimates vary by how reoffending is measured and how long people are followed. They support distinguishing groups and reassessing risk over time. [20]

Questions for the Legislature

Sentencing. Should possession without production, distribution, or contact conduct have a distinct penalty schedule? When should judges be able to run terms concurrently or consider the total term, while recognizing separate harms to victims? What should change at age 15, and which conduct should trigger the full DCAC framework?

Probation. Should a court be able to review a qualifying lifetime term after a meaningful period of compliance and treatment progress, with notice and an opportunity for victims to be heard? What findings about current risk and public safety should be required before a reduction or discharge?

Questions for the Sex Offender Management Board

Under § 13-3828, the Board can review research and recommend standards and legislation. It can evaluate how the containment model, polygraph use, treatment, and supervision relate to measured outcomes. It can recommend standards for periodic reassessment and individualized conditions within existing law, and identify where a statutory change is needed. Arizona data should distinguish possession-only cases, production or distribution, and contact conduct, and track actual sentences, supervision terms, violations, and new offenses. [21]

Sources and authorities

[19] Hanson, Harris, Helmus & Thornton (2014), Journal of Interpersonal Violence.

[20] Baskurt, Babchishin, Hilkes & Seto (2025), Aggression and Violent Behavior 85, 102080.

[21] A.R.S. § 13-3828 · S.B. 1662, 2026 Ariz. Sess. Laws ch. 186 · S.B. 1092, 2026 Ariz. Sess. Laws ch. 27.

LEGISLATIVE POLICY BRIEF & COMPREHENSIVE 50-STATE REPORT

House FAIR Committee | Arizona House of Representatives

TO:	Representative Powell, Chair, House FAIR Committee
FROM:	Gary W. Hardy, PhD, Executive Director, Collaborative Justice Institute (CJI)
DATE:	November 2026
SUBJECT:	Comprehensive Statutory Audit: Sex Offense Sentencing Frameworks, Child Age Thresholds, Dangerous Crimes Against Children (DCAC) Provisions, and Lifetime Supervision Paradigms (Benchmarking A.R.S. §§ 13-705, 13-1404, 13-1405, 13-1406, 13-1410, and 13-902)

EXECUTIVE SUMMARY & JURISPRUDENTIAL FINDINGS

This comparative statutory audit benchmarks the sentencing ranges, age thresholds, charging mechanics, and post-conviction supervision frameworks governing felony sex offenses across all fifty states and the federal judiciary. The audit specifically evaluates Arizona's Dangerous Crimes Against Children (DCAC) sentencing structure against national statutory models.

Core Statutory & Comparative Findings:

1. **Arizona DCAC Architecture & Age-12 Distinctions:** A.R.S. § 13-705(T)(1) defines DCAC by listed offenses involving a victim under 15 years of age. However, rather than imposing a single penalty schedule, Title 13 enforces distinct internal age and conduct tiers:
   - *Age 12 or Younger:* Under A.R.S. § 13-705(B), an adult convicted of completed sexual assault or sexual conduct with a child age 12 or younger (excluding masturbatory contact) faces a mandatory life sentence with a 35-calendar-year release restriction before parole or commutation eligibility. Qualifying under-12 offenses where subsection (B) does not apply fall under subsection (C) (discretionary life or 13/20/27 years). If the child suffers serious physical injury, § 13-1405(B) elevates the offense to a Class 1 felony punishable by natural life.
   - *Ages 12, 13, and 14:* Under A.R.S. § 13-705(E), completed offenses carry a determinate range of 13 minimum, 20 presumptive, and 27 maximum calendar years per count. Completed child molestation carries 10 minimum, 17 presumptive, and 24 maximum years under § 13-705(F).
   - *Ages 15, 16, and 17 (The § 13-1405 Escalator):* In A.R.S. § 13-1405(B), consensual conduct with a minor aged 15–17 is a Class 6 felony (presumptive 1 year under § 13-702(D) or straight probation). However, the offense elevates to a Class 4 felony (requiring 1 year in county jail if probation is granted) if the defendant was over 21 and more than 60 months older, and elevates to a Class 2 felony (barring probation) if committed by a person in a position of trust. A conviction on the Class 6 branch does not meet the DCAC age definition, but remains eligible for discretionary lifetime probation under § 13-902(E).
2. **Consecutive Stacking vs. Concurrency Rules:** A.R.S. § 13-705(P) enforces a rigorous mandatory consecutive sentencing rule for separate DCAC counts, while providing an express exception permitting concurrent sentencing for the sexual abuse branch under subsection (H) when only one victim is involved. In contrast, federal law (18 U.S.C. § 3584 / U.S.S.G. § 5G1.2) and peer states employ structured guideline aggregation, judicial concurrency discretion, or specific transaction limits (e.g., California Penal Code § 667.6(d), Virginia § 18.2-61(B)).
3. **Post-Conviction Supervision & Early Discharge Off-Ramps:** Peer jurisdictions structure long-term supervision across three distinct models: (1) *Front-End Lifetime Probation* (AZ under A.R.S. § 13-902(E), CO under SOLSA, ID); (2) *Mandatory Post-Incarceration Lifetime Supervision* (Federal 18 U.S.C. § 3583(k), NJ Parole Supervision for Life, NV, MO, TN, WI); and (3) *Statutory Supervision Caps* where probation duration is capped by statute and post-custody tracking is maintained via sex offender registries. Crucially, jurisdictions authorizing lifetime supervision provide structured off-ramps: federal courts may terminate supervised release after 1 year under 18 U.S.C. § 3583(e)(1); Colorado provides statutory judicial review after 10 or 20 years under C.R.S. § 18-1.3-1008; Nevada permits review after 10 years (NRS § 176.0931); and New Jersey permits Superior Court petitions after 15 continuous crime-free years (N.J.S.A. § 2C:43-6.4(c)). In Arizona, early discharge under A.R.S. § 13-901(G) will be strictly foreclosed for any DCAC conviction entered on or after January 1, 2027 pursuant to S.B. 1092 (2026 Ch. 27).

SECTION I: 50-STATE & FEDERAL STATUTORY SENTENCING AUDIT

The comparative matrix benchmarks statutory exposure for an adult defendant with no prior felony record across three standardized conduct categories: Category A (Child Penetration / Sexual Assault at Peak Aggravation); Category B (Adult Forcible Rape / Sexual Assault); and Category C (Child Sexual Contact / Abuse). Ranges reflect statutory exposure, mandatory minimum floors, and governing age cutoffs.

JURISDICTION	CAT. A: CHILD PENETRATION (PEAK AGE)	CAT. B: ADULT FORCIBLE RAPE	CAT. C: CHILD SEXUAL CONTACT	AGE CUTOFF
Federal	18 U.S.C. § 2241(c): 30 yrs to Life mandatory min. (<12, or 12–15 w/ force/impairment & 4-yr gap).	18 U.S.C. § 2241(a): Any term of yrs or Life (USSG scoring controls).	18 U.S.C. § 2244(a)(1): 0 to 10 yrs (Doubled if <12 under (c); § 2244(a)(5) Life).	<12 mandatory 30-to-Life; <16 statutory baseline.
Alabama	Ala. Code §§ 13A-6-61, 13A-5-6(a)(4): Class A: 30 yrs to Life if victim <12.	Ala. Code §§ 13A-6-61, 13A-5-6: Class A Felony: 10 to 99 yrs or Life.	Ala. Code § 13A-6-66: Class C (1–10 yrs); § 13A-6-69.1: Class B (2–20 yrs if <12).	<12 triggers 30-yr mandatory minimum; <16 statutory baseline.
Alaska	AS §§ 11.41.434, 12.55.125(i): Unclassified: 20 to 99 yrs (Presumptive 25–40 yrs).	AS §§ 11.41.410, 12.55.125(i): Unclassified: 20 to 99 yrs (Presumptive 20–30 yrs).	AS §§ 11.41.438, 12.55.125: Class C Felony: 0 to 5 yrs (Presumptive 0–2 yrs).	<13 Unclassified abuse; <16 Class B/C tiers.
Arizona	**A.R.S. § 13-705(B): Life w/ 35-yr release restriction (<12); § 13-705(E): 13/20/27 yrs flat (12–14); § 13-1405(B): Natural Life if serious injury.**	**A.R.S. § 13-1406: Class 2 Felony: 5.25 to 14 yrs (Presumptive 7 yrs). Probation & early release barred by statute.**	**A.R.S. § 13-705(F): Molestation: 10/17/24 yrs flat; § 13-705(H): Sexual Abuse: 5.25/7/14 yrs; § 13-1405(B): Class 6/4/2.**	**<15 DCAC umbrella (§ 13-705(T)); <12 triggers 35-yr life rule; 15–17 Class 6/4/2 (§ 13-1405(B)).**
Arkansas	Ark. Code § 5-14-103: Class Y Felony: 25 to 40 yrs or Life (Victim <14).	Ark. Code § 5-14-103: Class Y Felony: 10 to 40 yrs or Life.	Ark. Code § 5-14-108: Sexual Assault 2nd: Class C Felony (3 to 10 yrs).	<14 triggers 25-yr minimum; <18 statutory age of consent.
California	Cal. Penal Code § 667.61: One Strike: 25 to Life (Victim <14 w/ spec); § 269: 15 to Life.	Cal. Penal Code §§ 261, 264: Determinate triad: 3, 6, or 8 yrs state prison.	Cal. Penal Code § 288(a): 3, 6, or 8 yrs (<14); § 288(c): 16 mos, 2, or 3 yrs.	<14 One Strike / § 288 triad; <10 limits plea bargains.
Colorado	C.R.S. §§ 18-3-402, 18-1.3-1004: Class 2/3 Felony: Indeterminate 8 to 24 yrs to Life DOC.	C.R.S. §§ 18-3-402, 18-1.3-1004: Class 3: Indeterminate 4 to 12 yrs to Life DOC.	C.R.S. §§ 18-3-404, 18-3-405: Class 4 Felony: 2 to 6 yrs (or indeterminate SOISP).	<12 triggers SOLSA indeterminate floor; <15 position of trust.
Connecticut	C.G.S. § 53a-70(a)(2), (b): Class A: 10 to 25 yrs nonsuspendable (Victim <10).	C.G.S. § 53a-70: Class B Felony: 5 to 20 yrs (5-yr mandatory minimum).	C.G.S. § 53a-71: Sexual Assault 2nd: Class C Felony (9 mos to 10 yrs).	<10 triggers 10-yr nonsuspendable term; <13 § 53a-70(a)(2).
Delaware	11 Del. C. §§ 773, 4205: Rape 1st: Class A: 15 yrs mandatory minimum up to Life.	11 Del. C. §§ 772, 4205: Rape 2nd: Class B Felony: 10 to 25 yrs DOC.	11 Del. C. § 768: Sexual Contact 2nd: Class F Felony (0 to 3 yrs).	<12 triggers Class A Rape 1st (15-yr min); <16 baseline.
Florida	F.S. §§ 794.011(2), 775.082: Life Felony: Mandatory Life or 25-yr min (<12).	F.S. § 794.011: 1st Degree (Up to 30 yrs) or 2nd Degree (0 to 15 yrs DOC).	F.S. § 800.04(5): Lewd Molestation: 2nd Deg (0–15y) or 1st Deg (Up to 30y if <12).	<12 triggers Jessica Lunsford mandatory minimums; <16.
Georgia	O.C.G.A. §§ 16-6-1, 17-10-6.1: 25 yrs mandatory min followed by life probation or LWOP.	O.C.G.A. § 16-6-1: 25 yrs mandatory minimum up to Life without parole.	O.C.G.A. § 16-6-4: Child Molestation: 5 to 20 yrs (25-yr min if aggravated).	<10 Aggravated child molestation (25-yr min); <16 consent.

JURISDICTION	CAT. A: CHILD PENETRATION (PEAK AGE)	CAT. B: ADULT FORCIBLE RAPE	CAT. C: CHILD SEXUAL CONTACT	AGE CUTOFF
Hawaii	HRS §§ 707-730, 706-659: Sexual Assault 1st: Class A Felony (Indeterminate 20 yrs).	HRS §§ 707-730, 706-659: Class A Felony: Indeterminate 20 yrs prison.	HRS § 707-732: Sexual Assault 3rd: Class C Felony (0 to 5 yrs).	<14 Sexual Assault 1st without force; <16 statutory baseline.
Idaho	Idaho Code §§ 18-6101, 18-6104: Rape: 1 yr to Life (Indeterminate sentence).	Idaho Code § 18-6104: Rape: 1 yr to Life imprisonment.	Idaho Code § 18-1508: Lewd Conduct with Child <16: Up to Life.	<16 Lewd conduct umbrella; <18 statutory rape tiers.
Illinois	720 ILCS 5/11-1.40: Predatory CSAC: Class X Felony (Special range: 6 to 60 yrs).	720 ILCS 5/11-1.20: Criminal Sexual Assault: Class 1: 4 to 15 yrs DOC.	720 ILCS 5/11-1.50, .60: Criminal Sexual Abuse: Class 2/4 (3–7 yrs / 1–3 yrs).	<13 Predatory CSAC (6–60 yr Class X); <17 age of consent.
Indiana	Ind. Code § 35-42-4-3: Child Molesting: Level 1: 20 to 40 yrs (Advisory 30 yrs).	Ind. Code § 35-42-4-1: Rape: Level 3 Felony (3 to 16 yrs; Level 1 if armed).	Ind. Code § 35-42-4-3(b): Molesting (Fondling): Level 4 Felony (2 to 12 yrs).	<14 triggers Level 1 Molesting; <16 baseline child abuse.
Iowa	Iowa Code §§ 709.3, 902.9, 902.12: Sexual Abuse 2nd: Class B (Indeterminate 25 yrs, 70% min).	Iowa Code § 709.4: Sexual Abuse 3rd: Class C Felony (Indeterminate 10 yrs).	Iowa Code § 709.8: Lascivious Acts: Class C or D Felony (5 to 10 yrs).	<12 triggers Class B 25-yr maximum / 70% floor; <14 tier.
Kansas	K.S.A. §§ 21-5503, 21-6627: Off-grid felony: 25 yrs mandatory min to Life (<14).	K.S.A. § 21-5503: Severity Level 1: 147 to 653 mos (Grid scored).	K.S.A. § 21-5506: Aggravated Indecent Liberties: Level 3 (55 to 61 mos).	<14 Off-grid 25-to-Life parole floor; <16 statutory baseline.
Kentucky	KRS §§ 510.040, 532.060: Rape 1st: Class A: 20 to 50 yrs or Life (Victim <12).	KRS § 510.040: Class B Felony: 10 to 20 yrs state prison.	KRS § 510.070: Sexual Abuse 1st: Class D: 1 to 5 yrs (Class C if <12).	<12 triggers Class A Rape (20–50 yrs or Life); <16 baseline.
Louisiana	La. R.S. § 14:42: 1st Degree Rape: Mandatory Life hard labor w/o parole (<13).	La. R.S. § 14:42.1: 2nd Degree Rape: 5 to 40 yrs hard labor (2 yrs min w/o parole).	La. R.S. § 14:81: Indecent Behavior: 0 to 7 yrs (2 to 25 yrs if <13).	<13 triggers 1st Degree Rape / mandatory Life without parole.
Maine	17-A M.R.S. §§ 253, 253-A, 1604: Gross Sexual Assault: Class A: Up to 30 yrs (Life if <12).	17-A M.R.S. § 253: Class A Crime: 0 to 30 yrs imprisonment.	17-A M.R.S. § 255-A: Unlawful Sexual Contact: Class B, C, or D (0 to 10 yrs).	<12 triggers statutory Life authorization; <14 Class A baseline.
Maryland	Md. Code, Crim. Law § 3-303: Rape 1st: Felony: Up to Life (Mandatory Life if <13).	Md. Code, Crim. Law § 3-304: Rape 2nd: Felony: Up to 20 yrs DOC.	Md. Code, Crim. Law § 3-307: Sexual Offense 3rd: Felony: Up to 10 yrs.	<13 triggers mandatory Life for child rape; <16 consent age.
Massachusetts	M.G.L. c. 265, §§ 22A, 23: Rape of Child / Force: State Prison up to Life.	M.G.L. c. 265, § 22: Forcible Rape: State Prison up to 20 yrs.	M.G.L. c. 265, § 13B: Indecent A&B on Child <14: Up to 10 yrs.	<14 Indecent A&B threshold; <16 statutory rape baseline.
Michigan	MCL § 750.520b: CSC 1st Degree: Up to Life (Mandatory 25-yr min if <13 & actor ≥17).	MCL § 750.520b: CSC 1st Degree: Any term of yrs up to Life.	MCL § 750.520c: CSC 2nd Degree: Felony: Up to 15 yrs prison.	<13 triggers mandatory 25-yr minimum sentence; <16 CSC 3rd.

JURISDICTION	CAT. A: CHILD PENETRATION (PEAK AGE)	CAT. B: ADULT FORCIBLE RAPE	CAT. C: CHILD SEXUAL CONTACT	AGE CUTOFF
Minnesota	Minn. Stat. §§ 609.342, 244: CSC 1st Degree: Up to 30 yrs (144 mos presumptive).	Minn. Stat. § 609.342: CSC 1st Degree: 144 mos presumptive grid prison.	Minn. Stat. § 609.343: CSC 2nd Degree: Up to 25 yrs (90 mos presumptive).	<13 CSC 1st Degree aggravating factor; <16 statutory threshold.
Mississippi	Miss. Code § 97-3-65: Statutory / Child Rape: 20 to 40 yrs or Life (Victim <14).	Miss. Code § 97-3-65: Forcible Rape: 20 yrs to Life imprisonment.	Miss. Code § 97-5-23: Touching Child for Lustful Purposes: 0 to 15 yrs.	<14 triggers statutory rape up to Life; <16 statutory baseline.
Missouri	Mo. Rev. Stat. § 566.030: Class A: Life w/ 30-yr parole floor (<12; probation barred).	Mo. Rev. Stat. § 566.030: Rape 1st: Class A: 10 to 30 yrs or Life.	Mo. Rev. Stat. § 566.062: Statutory Sodomy / Abuse: Class B: 5 to 15 yrs.	<12 triggers mandatory life / 30-yr parole floor; <14 Statutory 1st.
Montana	MCA § 45-5-503: Sexual Intercourse w/o Consent: 100 yrs / Life (25-yr min if <12).	MCA § 45-5-503: 0 to 20 yrs (Up to 100 yrs if serious bodily injury).	MCA § 45-5-502: Sexual Assault: 0 to 5 yrs (Graduated if victim <16).	<12 triggers mandatory 25-yr minimum sentence; <16 threshold.
Nebraska	Neb. Rev. Stat. § 28-319.01: Sexual Assault of Child 1st: Class IB (20 yrs to Life).	Neb. Rev. Stat. § 28-319: Sexual Assault 1st: Class II: 1 to 50 yrs DOC.	Neb. Rev. Stat. § 28-320: Sexual Assault 2nd: Class IIA Felony (0 to 20 yrs).	<12 triggers Class IB enhancement (20-to-Life); <16 consent.
Nevada	NRS § 200.366: Category A Felony: Life w/ parole eligibility after 35 yrs (<14).	NRS § 200.366: Category A Felony: Life w/ parole eligibility after 10 yrs.	NRS § 201.230: Lewdness with Child <14: Category A (Life w/ parole after 10y).	<14 triggers Category A Life sentence (35-yr parole floor); <16.
New Hampshire	NH RSA §§ 632-A:2, 632-A:10-a: Agg. Felonious: Up to 20 yrs (Min ≤ half max).	NH RSA § 632-A:2: Class A Felony: 7.5 to 15 yrs or 10 to 20 yrs state prison.	NH RSA § 632-A:3: Felonious Sexual Assault: Class B Felony (3.5 to 7 yrs).	<13 Aggravated Felonious Sexual Assault; <16 consent age.
New Jersey	N.J.S.A. § 2C:14-2(a)(1): Aggravated Sexual Assault: 25 yrs to Life (<13).	N.J.S.A. § 2C:14-2(c): Sexual Assault: 2nd Degree Crime (5 to 10 yrs prison).	N.J.S.A. § 2C:14-2(b), -3: Sexual Contact: 3rd (3–5y) or 4th Degree (0–18m).	<13 triggers 25-to-Life statutory range under NERA; <16 base.
New Mexico	NMSA §§ 30-9-11, 31-18-15: CSC Child <13: 1st Degree: 18 yrs basic sentence.	NMSA § 30-9-11: CSC 2nd Degree: 2nd Degree Felony (9 yrs basic sentence).	NMSA § 30-9-13: Criminal Sexual Contact of Minor: 3rd Degree (3 yrs).	<13 1st Degree CSC (18-yr basic sentence); <16 statutory base.
New York	Penal Law §§ 130.35, 130.75, 70.02: Class B Violent Felony: 5 to 25 yrs determinate.	Penal Law § 130.35: Rape 1st Degree: Class B Violent Felony (5 to 25 yrs).	Penal Law § 130.65: Sexual Abuse 1st Degree: Class D Violent (2 to 7 yrs).	<11 Sexual Abuse 1st; <13 Predatory / Course of conduct; <17.
North Carolina	N.C.G.S. § 14-27.23: Statutory Rape Child <13: Class B1 (Min 300 mos to Life).	N.C.G.S. § 14-27.21, .22: Rape 1st (Class B1: 240+m) or Rape 2nd (Class C: 58–182m).	N.C.G.S. § 14-202.1: Indecent Liberties: Class F Felony (10 to 41 mos grid).	<13 triggers Class B1 mandatory minimum 300 mos; <16 baseline.

JURISDICTION	CAT. A: CHILD PENETRATION (PEAK AGE)	CAT. B: ADULT FORCIBLE RAPE	CAT. C: CHILD SEXUAL CONTACT	AGE CUTOFF
North Dakota	N.D.C.C. §§ 12.1-20-03, 12.1-32-01: Class AA: 20-yr mandatory min if <12 (Up to Life).	N.D.C.C. § 12.1-20-03: Gross Sexual Imposition: Class AA Felony (0 to Life).	N.D.C.C. § 12.1-20-07: Sexual Assault: Class B or C Felony (0 to 10 yrs).	<12 triggers 20-yr mandatory minimum; <15 statutory threshold.
Ohio	R.C. §§ 2907.02(B), 2971.03: Rape <13: Life w/o parole, or Life w/ parole after 15/25y.	R.C. §§ 2907.02, 2929.144: Rape: 1st Degree: 3 to 11 yrs indeterminate.	R.C. § 2907.05: Gross Sexual Imposition: 3rd Degree Felony (1 to 5 yrs).	<13 triggers mandatory Life sentences under § 2971.03; <16 base.
Oklahoma	21 O.S. §§ 1114, 1115: Rape 1st: 5 yrs to Life (85% truth-in-sentencing service).	21 O.S. §§ 1114, 1115: Rape 1st (Forcible): 5 yrs to Life state prison.	21 O.S. § 1123: Lewd Molestation: 1 to 20 yrs (or up to Life if repeat).	<12 triggers aggravated child rape enhancements; <16 baseline.
Oregon	ORS §§ 163.375, 137.700: Rape 1st: Measure 11 mandatory 100 mos (Up to 25 yrs).	ORS §§ 163.375, 137.700: Rape 1st: Measure 11 mandatory 100 mos DOC.	ORS §§ 163.427, 137.700: Sexual Abuse 1st: Measure 11 mandatory 75 mos.	<12 special child-victim procedures (§ 137.707); <16 Measure 11.
Pennsylvania	18 Pa.C.S. §§ 3121(c), 1102(c): Rape Child <13: 1st Degree: Up to 40 yrs state prison.	18 Pa.C.S. §§ 3121(a), 1103: Rape: 1st Degree Felony: Up to 20 yrs max.	18 Pa.C.S. § 3126: Indecent Assault: M1 (0 to 5 yrs) or F3 (0 to 7 yrs).	<13 triggers 40-yr maximum exposure under § 1102(c); <16 consent.
Rhode Island	R.I. Gen. Laws § 11-37-8.1: Child Molestation 1st: 20 yrs min to Life (<14).	R.I. Gen. Laws § 11-37-2: 1st Degree Sexual Assault: 10 yrs to Life.	R.I. Gen. Laws § 11-37-8.3: Child Molestation 2nd: 10 yrs min to 20 yrs.	<14 triggers 1st Degree Child Molestation (20-yr min); <16 base.
South Carolina	S.C. Code § 16-3-655(A): CSC Minor 1st: 25 yrs to Life mandatory min (<11).	S.C. Code § 16-3-652: CSC 1st Degree: 0 to 30 yrs state prison.	S.C. Code § 16-3-655(C): CSC Minor 3rd Degree: 0 to 10 yrs prison.	<11 triggers 25-yr to Life mandatory minimum; <14 2nd; <16 consent.
South Dakota	SDCL §§ 22-22-1(1), 22-22-1.2: Rape 1st: Class C: 15-yr min up to Life (<13).	SDCL § 22-22-1(2): Rape 2nd (Forcible): Class C Felony: 0 to Life.	SDCL §§ 22-22-7, 22-22-1.2: Sexual Contact: 10-yr min up to 15 yrs (<13).	<13 triggers 15-yr minimum for rape / 10-yr min for contact; <16.
Tennessee	Tenn. Code §§ 39-13-522, 40-35-112: Rape of Child: Class A: 15 to 25 yrs (100% time).	Tenn. Code § 39-13-502: Aggravated Rape: Class A: 15 to 25 yrs (Range I).	Tenn. Code § 39-13-504: Aggravated Sexual Battery: Class B: 8 to 12 yrs.	<13 Rape of a child / continuous abuse threshold; <18 consent.
Texas	Tex. Penal Code § 22.021(f): Super-Aggravated: 25 to 99 yrs or Life (<6 or <14 w/ injury).	Tex. Penal Code §§ 22.011, 12.33: Sexual Assault: 2nd Degree: 2 to 20 yrs.	Tex. Penal Code § 21.11: Indecency with Child: 2nd Degree: 2 to 20 yrs.	<6 Super-aggravated (25-yr min); <14 Aggravated; <17 consent age.
Utah	Utah Code § 76-5-402.1: Rape of Child: 1st Degree: 25 yrs to Life indeterminate.	Utah Code § 76-5-402: Rape: 1st Degree Felony: 5 yrs to Life indeterminate.	Utah Code § 76-5-404.1: Child Sexual Abuse: 2nd Degree: 1 to 15 yrs.	<14 triggers 25-to-Life indeterminate terms; <16 statutory baseline.

JURISDICTION	CAT. A: CHILD PENETRATION (PEAK AGE)	CAT. B: ADULT FORCIBLE RAPE	CAT. C: CHILD SEXUAL CONTACT	AGE CUTOFF
Vermont	13 V.S.A. § 3253a: Aggravated Sexual Assault of Child: 25 yrs to Life (<10).	13 V.S.A. § 3252: Sexual Assault: 3 yrs to Life imprisonment.	13 V.S.A. § 3255: Lewd or Lascivious Conduct: 0 to 5 yrs prison.	<10 triggers mandatory 25-to-Life under § 3253a; <16 consent age.
Virginia	Va. Code § 18.2-61(B)(2): Rape Child <13: Mandatory Life imprisonment (Adult).	Va. Code § 18.2-61: Rape (Forcible): 5 yrs to Life imprisonment.	Va. Code § 18.2-67.3: Aggravated Sexual Battery: 1 to 20 yrs prison.	<13 triggers mandatory Life; mandatory terms run consecutively.
Washington	RCW §§ 9A.44.073, 9.94A.507: Rape Child 1st: Indeterminate Life (Grid min to Life).	RCW §§ 9A.44.040, 9.94A.507: Rape 1st: Indeterminate Life (Standard grid min).	RCW § 9A.44.083: Child Molestation 1st: Class A Felony (Grid scored).	<12 Rape of a Child 1st; <14 2nd degree; <16 3rd degree.
West Virginia	W. Va. Code § 61-8B-3(c): Sexual Assault 1st: 25 to 100 yrs (<12 & adult actor).	W. Va. Code § 61-8B-3: Sexual Assault 1st: 15 to 35 yrs state penitentiary.	W. Va. Code § 61-8B-7: Sexual Abuse 1st: 1 to 5 yrs (Enhanced if <12).	<12 triggers 25-to-100 year adult penalty tier; <16 consent age.
Wisconsin	Wis. Stat. §§ 948.02(1), 939.616: 1st-Degree CSA <13: Class B (Up to 60y; min init. conf.).	Wis. Stat. § 940.225(1): 1st Degree Sexual Assault: Class B (Up to 60 yrs).	Wis. Stat. § 948.02(2): 2nd Degree CSA: Class C Felony (Up to 40 yrs).	<13 Class B CSA (60-yr ceiling & mandatory confinement); <16.
Wyoming	Wyo. Stat. §§ 6-2-302, 6-2-306(d): Sexual Assault 1st: 25 to Life (<12 & actor ≥18).	Wyo. Stat. §§ 6-2-302, 6-2-306: Sexual Assault 1st: 5 to 50 yrs penitentiary.	Wyo. Stat. §§ 6-2-304, 6-2-314: Child Abuse / Contact: Up to 15 yrs.	<12 triggers mandatory 25-yr minimum sentence; <16 statutory base.

SECTION II: 50-STATE & FEDERAL PROBATION & LIFETIME SUPERVISION AUDIT

The matrix below examines post-conviction supervision structures across all jurisdictions, evaluating whether community supervision is legally authorized for contact sex offenses, statutory duration limits, statutory lifetime supervision authority, and governing legal standards for early discharge or termination.

JURISDICTION	PROBATION AVAILABILITY (CONTACT OFFENSES)	FINITE TERM CAPS	LIFETIME SUPERVISION?	EARLY DISCHARGE & TERMINATION AUTHORITY
Federal	Barred for Class A/B felonies (18 U.S.C. § 3561(a)); split for minor.	1 to 5 yrs for eligible felonies	**Yes (Supervised Rel.):** 18 U.S.C. § 3583(k)	18 U.S.C. § 3583(e)(1): Court may terminate after 1 yr based on conduct, justice, and § 3553(a) factors.
Alabama	Limited (Split sentence eligible under Ala. Code § 15-18-8).	5 years ordinary (§ 15-22-54)	**No** (Electronic monitoring distinct)	Ala. Code § 15-22-54: Court discharge upon showing of good conduct.
Alaska	Discretionary for eligible felonies under AS 12.55.090.	Up to 25 yrs for sex crimes	**No** (25-yr maximum cap)	AS § 12.55.090(g): Discretionary termination under statutory limits.
Arizona	**BARRED AT TRIAL for DCAC (§ 13-705(K)). Plea to non-DCAC eligible.**	**3 to 7 yrs or Lifetime (§ 13-902)**	**YES (Probation): A.R.S. § 13-902(E)**	**A.R.S. § 13-901(G). S.B. 1092 bars early discharge for DCAC convictions on/after Jan 1, 2027; condition modification preserved.**
Arkansas	Barred for Class Y; eligible for Class C (§ 5-4-301).	5 years (§ 5-4-306)	**No** (§ 5-4-107 extended sup.)	Ark. Code § 16-93-314: Judicial discharge upon compliance.
California	Barred for § 288/One Strike (§ 1203.065); split for minor.	2 to 3 years max (PC § 1203.1)	**Yes (Parole):** PC § 3000.1	Cal. Penal Code § 1203.3: Court early termination in interests of justice; § 3000.1 parole review.

JURISDICTION	PROBATION AVAILABILITY (CONTACT OFFENSES)	FINITE TERM CAPS	LIFETIME SUPERVISION?	EARLY DISCHARGE & TERMINATION AUTHORITY
Colorado	Yes, under Sex Offender Intensive Supervision (SOISP).	Indeterminate	**YES (SOISP):** C.R.S. § 18-1.3-1004	C.R.S. § 18-1.3-1008: Review after 10 or 20 yrs by class; requires SOMB criteria and undue threat finding.
Connecticut	Barred for Class A/B mandatory minimums; split for Class C.	10 to 35 yrs (§ 53a-29)	**No** (Special parole distinct)	C.G.S. § 53a-30(c): Court review on good cause shown.
Delaware	SENTAC Level III/IV eligible for Class F.	2 to 3 years max (§ 4333)	**No**	11 Del. C. § 4333: Judicial termination under statutory rules.
Florida	Yes (Sex Offender Probation under F.S. § 948.30).	Tied to offense ceiling	**Limited:** Lunsford post-prison	F.S. § 948.05: Court review; early exit heavily restricted under § 948.04.
Georgia	Post-custody split probation eligible under § 42-8-34.	Capped at statutory max	**YES (Probation):** § 16-6-1	O.C.G.A. § 42-8-37(c): Statutory petition for termination of lifetime probation after 10 years.
Hawaii	Intensive sex offender probation eligible under § 706-620.	5 years maximum (§ 706-623)	**No**	HRS § 706-625: Early discharge on motion of officer or defendant.
Idaho	Yes (Retained jurisdiction / fixed probation § 20-222).	Capped at maximum term	**No** (Fixed term required)	Idaho Code § 19-2604: Sentence discharge or reduction.
Illinois	Barred for Class X; limited for Class 2 (§ 5-5-3).	48 months max (§ 5-6-2)	**No** (MSR 3y to Life § 5-8-1(d))	730 ILCS 5/5-6-2(c): Discretionary judicial termination.
Indiana	Suspended sentence eligible for Level 4/5 (§ 35-50-2-2.2).	Capped at statutory term	**No** (§ 35-50-6-1 SVP parole)	Ind. Code § 35-38-2-1: Discharge on showing of rehabilitation.
Iowa	Special Sentence follows prison under § 903B.1.	5 years probation	**YES (Special Parole):** § 903B.1	Iowa Code § 903B.1 / § 907.9: Parole Board discharge rules.
Kansas	Presumptive prison on grid; departures restricted.	36 to 60 months	**YES (Postrelease):** § 22-3717	K.S.A. § 22-3717: Lifetime postrelease supervision for sexually violent crimes; exceptions apply.
Kentucky	Supervised probation for Class C/D (§ 533.020).	5 years maximum	**No** (§ 532.043 post-prison)	KRS § 533.020(4): Discretionary termination upon hearing.
Louisiana	Barred for violent sex crimes; eligible for minor (Art. 893).	5 years maximum	**No**	La. C.Cr.P. art. 897: Judicial early termination for eligible offenses.
Maine	Split-sentence probation eligible under § 1804.	Up to 18 yrs for child offenses	**No**	17-A M.R.S. § 1804: Discretionary early termination upon compliance.
Maryland	Suspended execution eligible for non-life offenses.	5 years maximum	**YES (Supervision):** CP § 11-723	Md. CP § 11-723: Lifetime sexual-offender supervision; CP § 6-222 governs probation.
Massachusetts	Supervised probation eligible for first offenses.	Discretionary (c. 276, § 87)	**No**	Mass. R. Crim. P. 29: Sentence revision; judicial discharge.
Michigan	Barred for CSC 1st; eligible for CSC 2nd (MCL § 771.2).	5 years maximum	**No (Prob.)** (LEM post-prison)	MCL § 771.2a: Early discharge subject to violent sex exclusions.
Minnesota	Stayed sentences governed by sentencing grid.	5 to 10 years	**YES (Cond. Rel.):** § 609.3455	Minn. Stat. § 609.3455: Mandatory lifetime conditional release for qualifying sex offenses.
Mississippi	Post-release supervision under Miss. Code § 47-7-37.	5 years maximum	**No**	Miss. Code § 47-7-37: Court petition for supervision discharge.
Missouri	Suspended execution eligible for Class B/C.	5 years standard probation	**YES (Probation):** § 559.106	Mo. Rev. Stat. § 559.106: Lifetime probation for predatory offenders; termination review at age 65.
Montana	Barred for mandatory minimums; eligible for minor.	Capped at statutory term	**No**	Mont. Code § 46-18-208: Motion on eligible suspended sentences.
Nebraska	Intensive Supervision Probation (ISP) eligible for Class IIA.	5 years maximum	**YES (Community):** § 83-174.03	Neb. Rev. Stat. § 83-174.03: Lifetime community supervision; § 29-2263 governs ordinary probation.

JURISDICTION	PROBATION AVAILABILITY (CONTACT OFFENSES)	FINITE TERM CAPS	LIFETIME SUPERVISION?	EARLY DISCHARGE & TERMINATION AUTHORITY
Nevada	Eligible for Category B; barred for Category A.	3 to 5 years regular	**YES (Special):** NRS § 176.0931	NRS § 176.0931: Special lifetime supervision follows probation or parole; petition to court or board after 10 yrs.
New Hampshire	Suspended terms eligible for Class B.	5 years maximum (§ 651:2)	**YES:** § 632-A:10-a(V)	NH RSA § 632-A:10-a(V): Lifetime supervision authorized; petition for termination after 15 years.
New Jersey	Barred for 1st/2nd Degree (NERA mandatory prison).	5 years if presumption overcome	**YES (PSL):** § 2C:43-6.4	N.J.S.A. § 2C:43-6.4(c): Parole Supervision for Life; petition to Superior Court after 15 continuous yrs crime-free.
New Mexico	Indeterminate probation under NMSA § 31-20-5.2.	5 to 20 years	**YES (Parole):** § 31-21-10.1	NMSA § 31-20-5.2: Duration review for probation; § 31-21-10.1 authorizes up-to-life parole.
New York	Straight probation eligible for non-violent felonies.	10 years max (§ 65.00(3))	**No** (PRS up to 25y § 70.45)	CPL § 410.90: Early termination of probation in interests of justice.
North Carolina	Intermediate punishment eligible for Class F/G.	36 to 60 months	**No** (Satellite monitoring)	N.C.G.S. § 15A-1342(b): Judicial motion for early termination.
North Dakota	Specialized probation eligible under § 12.1-32-07.	Up to statutory term (§ 12.1-32-06.1)	**No**	N.D.C.C. § 12.1-32-07.1: Judicial discharge upon condition fulfillment.
Ohio	Community control sanctions for F3–F5.	5 years maximum (R.C. § 2929.15)	**No** (5-yr PRC post-prison)	R.C. § 2929.15(C): Court termination on officer recommendation.
Oklahoma	Barred for violent 85% crimes; deferred eligible.	Up to statutory max term	**No**	22 O.S. §§ 991a, 991c: Application for judicial discharge or dismissal.
Oregon	Probation eligible via sentencing grid departure.	5 years maximum	**YES (Post-Prison):** § 144.103	ORS § 144.103: Mandatory active post-prison supervision up to life for designated sex offenses.
Pennsylvania	County probation eligible for F3/M1.	Capped at statutory max	**No** (§ 9718.5 post-release)	42 Pa.C.S. § 9771(a): Judicial termination of probation.
Rhode Island	Suspended terms eligible for 2nd Degree CSA.	Capped at max term (§ 12-19-8)	**No** (Special parole distinct)	Super. Ct. Crim. R. 35(c): Motion for early discharge.
South Carolina	Split sentences eligible for Class C/D.	5 years maximum	**No** (§ 23-3-540 monitoring)	S.C. Code § 24-21-440: Department & court discharge.
South Dakota	Suspended execution eligible under SDCL § 23A-27-18.	Capped at statutory term	**No**	SDCL § 23A-27-14: Discretionary discharge by sentencing judge.
Tennessee	Barred for Class A violent sexual crimes.	2 to 8 yrs (minor)	**YES (CSL):** § 39-13-524	Tenn. Code § 39-13-525: Community Supervision for Life; petition permitted after 15 yrs crime-free.
Texas	Regular barred for 3g; deferred adjudication eligible.	10 years max (CCP art. 42A.053)	**No**	Tex. CCP art. 42A.701: Early exit from deferred adjudication (subject to offense exclusions).
Utah	AP&P probation for 2nd/3rd Degree.	36 months standard cap	**No**	Utah Code § 77-18-105: Early termination on clinical goals.
Vermont	Discretionary probation under 13 V.S.A. § 7041.	Capped at statutory max (28 V.S.A. § 205)	**No** (§ 3271 life indeterminate)	28 V.S.A. § 251(a): Motion for early discharge in interests of justice.
Virginia	Suspended sentence eligible under Va. Code § 19.2-303.	Capped at statutory term	**No**	Va. Code § 19.2-304: Judicial motion for discharge from supervision.
Washington	SSOSA alternative eligible under RCW 9.94A.670.	36 months max for SSOSA	**YES (Custody):** RCW 9.94A.507	RCW 9.94A.507: Community custody to statutory max (Life); ISRB review governs release.

JURISDICTION	PROBATION AVAILABILITY (CONTACT OFFENSES)	FINITE TERM CAPS	LIFETIME SUPERVISION?	EARLY DISCHARGE & TERMINATION AUTHORITY
West Virginia	Suspended terms eligible for non-violent tiers.	7 years maximum	**YES (Extended):** § 62-12-26	W. Va. Code § 62-12-26: Extended supervision up to 50 yrs / Life; judicial modification on petition.
Wisconsin	Bifurcated supervision follows prison.	3 to 5 yrs standard	**YES:** Wis. Stat. § 939.615	Wis. Stat. § 939.615(6): Special lifetime supervision (post-probation or custody); court petition after 15 yrs.
Wyoming	Intensive supervised probation under Wyo. Stat. § 7-13-302.	Capped at maximum term	**No**	Wyo. Stat. § 7-13-305: Discretionary judicial discharge / reduction.

SECTION III: COMPARATIVE STATUTORY ANALYSIS

1. Victim Age Thresholds: The Under-12 Baseline & The A.R.S. § 13-1405 Architecture

In Arizona, A.R.S. § 13-705(T)(1) establishes an ungraduated *under 15* threshold for DCAC coverage, but the substantive criminal code contains distinct internal severity tiers. The operation of **A.R.S. § 13-1405 (Sexual Conduct with a Minor)** illustrates these interactions:

- **The Age 12 or Younger Tier (§ 13-705(B)):** For an adult offender, completed sexual conduct with a child age 12 or younger (excluding masturbatory contact) mandates a life sentence with a 35-calendar-year release restriction before parole or commutation eligibility. If the victim suffers serious physical injury, § 13-1405(B) elevates the offense to a Class 1 felony punishable by natural life. Discretionary life or 13/20/27 years applies under § 13-705(C) where subsection (B) does not govern.
- **The Ages 12, 13, and 14 Tier (§ 13-705(E)):** Completed offenses carry a determinate schedule of 13 minimum, 20 presumptive, and 27 maximum calendar years per count. Mandatory consecutive sentencing applies under § 13-705(P), and probation is barred under § 13-705(K).
- **The Ages 15, 16, and 17 Escalator (§ 13-1405(B)):** The baseline offense is a Class 6 felony (presumptive 1 year under § 13-702(D) or straight probation). However, the statute incorporates two specific escalators: (1) if the defendant was over 21 and more than 60 months older, the offense becomes a Class 4 felony (presumptive 2.5 years, requiring 1 year in county jail if probation is granted); and (2) if the defendant is or was in a position of trust, the offense becomes a Class 2 felony (3 to 12.5 years, presumptive 5 years), with probation and ordinary early release barred. While a Class 6 conviction does not meet the DCAC definition, discretionary lifetime probation remains authorized under A.R.S. § 13-902(E).

Nationally, peer jurisdictions structure child sexual assault around distinct developmental baselines. Statutory maximums (such as mandatory terms of 25 to 50 years or Life without parole) are predominantly reserved for conduct involving children *under 12* (e.g., Federal § 2241(c), Alabama, Florida, Kentucky, Montana, North Dakota, Virginia, West Virginia, and Wyoming) or *under 13* (e.g., Illinois, Louisiana, Michigan, New Jersey, New York, North Carolina, and Wisconsin). Mid-adolescent offenses (ages 12 to 14) are commonly classified into intermediate felony tiers where probation remains legally available and judges retain concurrent sentencing authority.

2. Lifetime Community Supervision Frameworks & Statutory Off-Ramps

The 50-state audit identifies two primary legal mechanisms for lifetime supervision: (1) *Post-Incarceration Lifetime Supervision* (New Jersey PSL under N.J.S.A. § 2C:43-6.4, Nevada NRS § 176.0931, federal supervised release under 18 U.S.C. § 3583(k), and Wisconsin § 939.615), which commences following custody; and (2) (Arizona A.R.S. § 13-902(E) and Colorado SOLSA), which serves as a community sentencing disposition. Crucially, jurisdictions authorizing lifetime supervision provide statutory termination off-ramps: federal courts may terminate supervised release after 1 year under 18 U.S.C. § 3583(e)(1); Colorado provides statutory judicial review after 10 or 20 years under C.R.S. § 18-1.3-1008; Nevada permits review after 10 years (NRS § 176.0931); and New Jersey permits Superior Court petitions after 15 continuous crime-free years (N.J.S.A. § 2C:43-6.4(c)). In Arizona, early discharge under A.R.S. § 13-901(G) will be strictly foreclosed for any DCAC conviction entered on or after January 1, 2027 pursuant to S.B. 1092 (2026 Ch. 27).*Front-End Lifetime Probation*

SECTION IV: LEGISLATIVE POLICY CONSIDERATIONS FOR ARIZONA

1. **Clarify and Refine Age Tiers Across §§ 13-705 and 13-1405:** Examine the interaction between § 13-705(B) (life with a 35-year release restriction for victims age 12 or younger) and § 13-705(E) (determinate terms for ages 12–14), calibrating mandatory consecutive stacking to account for non-forcible circumstances and developmental distinctions.
2. **Statutory Structure for Non-Contact Digital Contraband:** Separate possessory and receipt conduct under A.R.S. § 13-3553(A)(2) from production and commercial distribution, ensuring that non-contact offenses do not automatically inherit identical sentencing exposure and mandatory consecutive stacking to completed hands-on child molestation under § 13-705(F).
3. **Codify Structured Off-Ramps for Lifetime Probation (A.R.S. §§ 13-901 & 13-902):** Establish clear, objective judicial review pathways for individuals on lifetime probation who maintain long-term compliance and demonstrate low recidivism risk on validated assessment tools, providing individualized supervision standards consistent with S.B. 1662 (2026 Ch. 186).

Respectfully submitted,

Gary W. Hardy, PhD
Executive Director, Collaborative Justice Institute (CJI)
East Mesa, Arizona | November 2026

Ashlesha Naik

From: Matthew Burnash [redacted]
Sent: Friday, November 13, 2026 8:08 AM
To: Arizona Sex Offender Management Board
Subject: Policy Reform Proposal for AZSOMB Consideration – Matthew Burnash II
Attachments: SOMB REQUEST.pdf

Categories: Call to the Public Written Comments

Dear Chairwoman Goulden and Members of the Arizona Sex Offender Management Board,

My name is Matthew Burnash II, and I am writing to respectfully submit my attached policy reform proposal for the Board's consideration at its upcoming November 16, 2026, meeting.

Over the past several years, I have experienced firsthand some of the challenges created by Arizona's mandatory GPS monitoring requirements and community-notification classification system. Despite completing extensive treatment, maintaining stable employment, becoming a homeowner and business owner, and serving as a probation-approved mentor and therapy mentor, I have continued to encounter laws that leave very little room for individual circumstances, rehabilitation, or reassessment.

Through my own experiences and my work helping others navigate probation and treatment, I have come to believe that these issues deserve a closer look.

My attached proposal focuses on two areas:

1. **Mandatory GPS Monitoring:** Exploring whether Arizona law can provide a meaningful process for courts to reconsider the continued necessity of GPS monitoring based on current circumstances, treatment progress, risk assessments, and public safety.
2. **Community-Notification Classifications:** Exploring whether individuals should have a clearer and more accessible opportunity to request reassessment of their classification when substantial changes in their circumstances and rehabilitation have occurred.

I understand the importance of accountability and protecting our communities. My intention is not to eliminate those protections, but to advocate for a system that recognizes rehabilitation, considers individual circumstances, and ensures that restrictions remain fair, reasonable, and consistent with constitutional protections.

While my personal experiences have motivated me to pursue these issues, **my goal is much broader than my own situation.** I hope these proposals can help open a discussion about meaningful changes that could benefit others throughout Arizona who have worked hard to rebuild their lives.

I have also included information regarding the Board's recent November 2026 subcommittee discussions on individualized probation review, which I believe may be relevant to these proposed reforms.

I respectfully ask that my submission be shared with Board members for their review and consideration. I would also appreciate confirmation that my materials have been received and whether they can be included in the materials for the upcoming meeting.

Thank you for your time, consideration, and the work you do. I appreciate the opportunity to bring these concerns forward and look forward to participating in the discussion.

Respectfully,

Matthew Burnash II

Attachment: AZSOMB Policy Reform Proposal – November 2026

SECTION A | PERSONAL COVER LETTER

A Request for Meaningful Change

A personal appeal concerning community-notification reassessment and mandatory GPS monitoring
From: Matthew Burnash II
To: Chairwoman Beth Goulden and Members of the Arizona Sex Offender Management Board

Dear Chairwoman Goulden and Members of the Board,

I ask you to look beyond a classification and consider whether Arizona's system has a meaningful way to recognize who a person has become.

I was nineteen when my offense occurred. I am now thirty-six. I have spent the intervening years working through treatment, accepting responsibility, developing a career, becoming a homeowner, and building my own food business. One of the accomplishments that means the most to me is being invited to mentor other men in professional sex-offense treatment. Through Family Transitions and State 48, I help people work through assignments and setbacks, encourage accountability, and demonstrate that a productive, stable life is possible. My treatment history also includes The Resolution Group. This responsibility took sustained effort and the trust of professionals to earn.

Adult Probation's June 2026 memorandum describes my treatment progress as **"tremendous"** and records my mentoring role. It also reports a **medium FROST assessment**. Yet Phoenix Police's separate community-notification determination remains **Level Three**, and that classification continues to trigger mandatory GPS monitoring during my lifetime probation. I understand that these assessments serve different purposes; one result does not automatically cancel out the other. But the contrast raises a serious question about how current professional evidence is considered. [5]

The notification screening form itself recognizes that mitigating circumstances outside its numerical score may justify an override. Historical scoring factors cannot change, but treatment progress, stability, supervision history, and current circumstances can. I have not received my completed individual scoring sheet or written findings showing whether that separate mitigating-override process was meaningfully considered in my case. **If a classification carries potentially lifelong consequences, there should be a clear process for asking whether it still accurately reflects the risk the public is being told about.** [4]

GPS also affects my work, family life, and medical appointments. I have experienced device malfunctions, inaccurate reports, repeated replacements, and charging demands. For medical procedures requiring temporary removal, I have had to disclose private health information to probation officials; at times, probation's preferred timing has differed from what a clinician considered necessary. These concerns involve privacy, timely care, and the cumulative burden of constant tracking.

I am requesting two connected reforms: a transparent, periodic process for reconsidering community-notification classifications, including documented mitigation decisions; and a separate judicial process for reassessing the continued necessity of GPS using current evidence and public-safety protections, even if Level Three status remains unchanged.

I do not ask the Board to disregard the past or diminish victim safety. I ask it to consider whether accountability and public protection can coexist with a system that gives rehabilitation, professional judgment, and changing circumstances a meaningful role in decisions that may last a lifetime.

A person's history matters. So should the person they have become.

Respectfully,
Matthew Burnash II

NOVEMBER 2026 UPDATE: Subcommittee referral and source analysis inserted before Exhibit Index.

SECTION B | FORMAL POLICY-REVIEW AND LEGISLATIVE-RECOMMENDATION REQUEST

Two Connected Reforms for Arizona

Meaningful community-notification reassessment and individualized judicial review of mandatory GPS monitoring
A.R.S. §§ 13-3825, 13-3828, 13-901(B), and 13-902(G)
Submitted by: Matthew Burnash II
Submitted to: Arizona Sex Offender Management Board

Executive request

Arizona should examine two related but distinct questions: **Does the community-notification level continue to accurately convey risk when substantial current evidence becomes available?** And **does continuous GPS monitoring remain necessary for the particular person and supervision circumstances today?**

These questions are connected because a Level Three notification classification is one of the statutory triggers for mandatory GPS during probation under A.R.S. § 13-902(G). But they are not identical. A classification was created for public notification; a GPS condition continuously tracks a person's physical movements. A meaningful review of one should not automatically substitute for a meaningful review of the other. [1, 6]

This request asks the Board to study and recommend **Track One: classification reassessment and accountable mitigating overrides**, and **Track Two: GPS-specific judicial review**. Track One addresses whether a public notification category continues to reflect appropriately assessed risk; Track Two addresses whether the individual tracking requirement remains justified even when the category does not change. It seeks statewide rules, not an individualized ruling from the Board. The proposed reforms would preserve serious consideration of historical conduct, all relevant adverse information, victims' rights, and public safety.

1. Why the classification decision deserves independent examination

A.R.S. § 13-3825 assigns community-notification categorization to the local law-enforcement agency after it reviews information received and any other available information. The Arizona screening profile publicly available from 2002 uses 19 scored items addressing sex-offense and general-recidivism factors. A number of those items concern fixed historical facts, such as age at first conviction. [4, 6]

The problem is not that historical information is irrelevant. It is that **historical information can remain true even while present risk, protective factors, supervision needs, and life circumstances change**. A notification system should have an intelligible way to assess what later information means for the category conveyed to the public.

The 2002 profile submitted in my case assigns **0/0 points for successful treatment completion** instead of subtracting historical points. It separately states that specified mitigating and aggravating factors **may override** the score-indicated level. Its examples include long-term community stability without further criminal activity and completion of appropriate treatment with a qualifying written professional opinion. Those dynamic factors are not assigned a fixed point value. [4, PDF pp. 9-11]

This creates an important distinction: **receiving all available numerical credit is not the same as receiving a reasoned decision on a discretionary mitigating override**. If the public process does not distinguish the two, someone may be told no additional points are available without ever learning what happened to the separate mitigation question.

A 2022 Library of Congress research report prepared for the U.S. Department of Justice SMART Office observed that the latest publicly available version its researchers could locate was from 2002. The report also described the existing override language but could not confirm whether newer assessment procedures were in use at the time of its research. This is **not proof that Arizona has failed to update or validate its instrument**. It is a reason for the Board to identify which version is actually used across jurisdictions, what current validation supports it, and how current evidence affects a recommendation when historical points remain unchanged. [13]

2. The missing transparency around mitigation and reconsideration

The statutory text of § 13-3825 does not spell out a general schedule for periodic adult notification-level reassessment, statewide criteria for requesting reconsideration, or a uniformly documented process for granting or denying a dynamic mitigating override. Local agencies may have practices not apparent in the statute; the Board should identify them before recommending changes. [6]

A useful classification-review system would provide a person with access to the completed screening instrument and the score-calculation basis, subject to appropriate confidentiality protections; an opportunity to correct documented factual errors; a defined way to submit current clinical and supervision evidence; and a **written determination** distinguishing numerical scoring, discretionary override, and the final notification-level decision.

The system should also permit periodic review after a reasonable interval and review following material developments. Current law addresses community notification when a person relocates, and discretionary law-enforcement reassessment may occur in practice; the policy question is whether a person who remains in the same community has a **defined, accessible, timely way to request a documented reassessment**. A denial should explain the reason and provide a fair, independent method for reviewing compliance with statutory standards. [6, 11]

There is a narrow existing model of judicial reconsideration: A.R.S. § 13-923 authorizes annual hearings for certain probationers who are **under twenty-two** and whose qualifying offenses occurred **before age eighteen**. Section 13-3825(N) permits action on notification in that limited setting. It does not provide a generally available adult classification-review path for my circumstances. [6, 12]

In an unpublished 2022 memorandum decision, *State v. Ross*, the Arizona Court of Appeals explained that notification categorization was committed to local law enforcement and could not be challenged through the particular criminal post-conviction process attempted there. The decision is **nonprecedential**, and it does not resolve all possible administrative or judicial challenges. It nonetheless illustrates why an express, accessible review process deserves legislative attention. [11]

3. A concrete example: current probation evidence and mentoring

My experience illustrates why a review system needs to consider more than a static score. My offense occurred when I was nineteen; I am now thirty-six. I have completed substantial treatment, pursued HVAC training and employment, become a homeowner, and built a food-trailer business. These are responsibilities documented in my court submissions and probation records. [3, 5]

Most importantly to me, the June 22, 2026 Adult Probation memorandum describes **"tremendous progress"** in additional treatment and records that I was asked to return as a **mentor** to other participants. I help with assignments, accountability, setbacks, and encouragement through structured treatment settings. My experience includes Family Transitions, State 48, and The Resolution Group. The opportunity to assist others was earned through sustained work and professional trust; it is not an honorary label. [3, 5]

The same probation memorandum reports a **medium FROST assessment**. Phoenix Police has separately classified me **Level Three** for community notification. The people responsible for day-to-day supervision record changes, document progress and concern, and entrust me with mentoring, while a classification determined for community notification remains a statutory GPS trigger. FROST and the notification profile are different tools with different purposes, populations, and scales. **A medium FROST result neither mathematically disproves Level Three nor establishes that GPS is unnecessary.** It does mean the current supervision record raises questions that a properly designed reassessment should be able to answer. [2, 5]

An evidence-based process must consider the entire supervision history, including adverse information, accountability following setbacks, treatment completion, and the genuine supervisory value of GPS. The point is not that one favorable fact guarantees a reduction. It is that documented evidence should have a defined opportunity to affect the conclusion.

4. Why current probation information cannot simply substitute for notification scoring

Adult Probation and treatment clinicians observe current conduct, compliance, and rehabilitation; law enforcement administers the notification categorization. In my case, the Adult Probation memorandum summarized positive progress and current risk information but concluded that GPS remained mandatory because my Phoenix Police notification classification was Level Three. [5]

That does not mean the notification process is automatically mistaken. **It means different agencies are answering different questions, while one answer can control a separate, far-reaching statutory consequence.** Arizona would benefit from statewide standards describing how relevant probation and treatment evidence is transmitted to law enforcement, what independent clinical information is appropriate, and how it is weighed against fixed offense history and current public-safety concerns.

The Board should also determine whether the published assessment's mitigation example requiring a written opinion from a board-certified psychologist or psychiatrist remains the operative standard, whether other professional evidence may be considered, and how applicants are told what is required. That should be clarified before anyone is expected to purchase an additional evaluation. [4]

5. The second, distinct problem: a mandatory GPS condition without express periodic review

A.R.S. § 13-902(G) requires GPS or electronic monitoring for the duration of probation when the listed statutory conditions are satisfied: a qualifying dangerous-crime-against-children conviction on or after November 1, 2006, probation, registration, and Level Three classification. For a person serving lifetime probation, that condition can effectively last a lifetime. [1]

Arizona's 2026 probation legislation, now reflected in § 13-901(B), emphasizes reasonably necessary, individually determined, narrowly tailored conditions informed by validated assessments. But it expressly states **"unless otherwise required by law."** Accordingly, § 13-901(B) does **not** itself override the specific GPS mandate in § 13-902(G). Courts retain general modification authority under § 13-901(E), but the GPS provision does not spell out an exception allowing current evidence alone to change monitoring while the qualifying triggers persist. [1, 8]

My Superior Court order denied GPS modification, explaining that treatment completion, employment, and community contributions could not supersede the statutory requirement while the notification classification remained unchanged. The court considered constitutional arguments, but the order illustrates why a **clear statutory GPS-review pathway** would be more accessible and predictable than repeated litigation over a mandatory provision. [2]

The public-safety question for GPS should include what threats the device is designed to address, the contribution of tracking to managing those threats, the present circumstances, less intrusive measures, and whether continuous monitoring remains justified. A community-notification assessment was not designed to answer all of those questions. [4]

6. The practical and medical consequences of ongoing monitoring

Continuous monitoring has ordinary and extraordinary costs. In my experience, it affects travel and work at customer sites, food-trailer operations, time with family, and medical appointments. My court filings describe equipment failures, inaccurate location reports, repeated replacements, charging requirements, stigma, and problems obtaining an MRI. These burdens can interrupt a small business and accumulate over years of supervision. [3]

Medical procedures can require coordination for temporary device removal. I have had to explain sensitive medical details to probation officials, and on some occasions probation's preferred timing has differed from what a medical professional considered necessary. This raises important questions about timely medical accommodation and confidentiality; it is **not** an assertion that a specific HIPAA violation has been established.

Section 13-901(M) requires consideration of medical care in setting probation **reporting times and locations**, but it does not itself create a GPS-removal entitlement for medical procedures. Targeted protocols should specify the necessary documentation, appropriate access to information, timely clinician coordination, and a rapid way to resolve removal and reattachment disputes. [8]

7. What the Board is empowered to recommend

The Board's duties under § 13-3828(D) directly support review of these issues. Paragraph (7) calls for consultation and proposed revisions, when necessary, to the community-notification risk assessment. Paragraph (1) addresses evidence-based evaluation and monitoring procedures. Paragraph (2) calls for case-by-case methods concerning reliably lower-risk individuals. Paragraph (9) addresses measuring treatment progress and whether supervision may appropriately be reduced. [10]

The Board's *Adult Guiding Principles*, adopted June 22, 2026, emphasize the capacity for change, individualized treatment and supervision, ongoing assessment, and adjustments to changing risk while putting victims and community safety first. These principles give the Board a coherent basis to study both classification accuracy and GPS necessity. [9]

In *Grady v. North Carolina*, the United States Supreme Court recognized attachment and operation of bodily GPS tracking as a Fourth Amendment search. The reasonableness of a particular search remains a separate legal question; the decision does not, by itself, establish a universal right to remove GPS during probation. The legislative proposal here would create a defined review process without assuming that constitutional relief is automatic. [7]

8. Track One: recommended community-notification reform

I request that the Board consider developing a model statutory or administrative framework under § 13-3825 with these features:

1. **Access and accuracy.** Provide the completed classification profile, relevant scoring explanations, and a way to correct factual errors, while protecting victim and confidential information.
2. **Periodic and material-change reassessment.** Permit reasonable recurring review and a new assessment following substantiated changes in treatment, risk, supervision, or other meaningful circumstances.
3. **Current professional evidence.** Establish a uniform method for receiving updated Adult Probation records and qualified clinical opinions, together with relevant historical and adverse information.
4. **Separate, documented override findings.** Clearly distinguish numerical treatment credit from the discretionary mitigating-factor review; explain whether an override was considered and the reasons for the outcome.
5. **Consistency and independent review.** Adopt statewide standards, written determinations, and an accessible process for reconsideration or appeal without suggesting that any requested reduction is guaranteed.
6. **Research and validation.** Identify the presently used instrument and evaluate its current validity, reliability, predictive purpose, and treatment of dynamic factors across jurisdictions.

These reforms would not automatically lower a classification. They would provide a reliable and reviewable basis for determining whether the notified level remains appropriate.

9. Track Two: recommended mandatory-GPS reform

I separately request a targeted legislative amendment to § 13-902(G), guided by the individualized principles in § 13-901(B), that would **retain the initial mandatory condition** but allow later GPS-specific review under defined safety safeguards:

1. **Defined access to review** at reasonable intervals or after substantial new information, without requiring complete termination of probation or prior reduction of Level Three status.
2. **A genuine GPS-necessity assessment**, identifying the purpose, documented supervisory benefits, current evidence, relevant risks, less intrusive options, and duration.
3. **Professional participation** by Adult Probation and qualified treatment providers, with relevant law-enforcement information and meaningful victim and prosecutor participation as required by law.
4. **Written judicial findings** authorizing the court to retain, adjust, temporarily suspend, or remove GPS when the evidence supports the decision and public safety is protected.
5. **Safeguards for changed circumstances**, including the ability to reinstate monitoring when justified by new information or violations.
6. **Clear medical-accommodation procedures** and protection of sensitive health details.
7. **Applicability to people already serving probation** so the review mechanism can consider current circumstances rather than only future sentences.

The goal is not automatic removal. It is to ensure that a legally significant decision can respond to sufficiently reliable evidence—whether that evidence supports continued monitoring or a more tailored approach.

10. Formal requests for Board action

I respectfully ask the Board to **(a)** refer community-notification reassessment and mitigating-override practices for formal study under § 13-3828(D)(7); **(b)** request available information from agencies regarding current scoring versions, review practices, and written override decisions; **(c)** convene law-enforcement, probation, treatment, victim-advocacy, and judicial representatives to develop transparent classification-review recommendations; **(d)** examine a separate amendment to § 13-902(G) authorizing GPS-specific judicial review; and **(e)** identify a subcommittee, staff contact, and future agenda pathway for this proposal.

The underlying principle is straightforward: **classification should have a meaningful process for determining whether it continues to communicate risk accurately, and GPS should have a meaningful process for determining whether it continues to serve a justified supervision need.** Neither review should predetermine the outcome. Both should be informed by current evidence and grounded in public safety.

Please confirm receipt, advise whether these issues can be referred for committee consideration, and identify an appropriate opportunity for further discussion.

Respectfully,
Matthew Burnash II

Sources and references

The numbered items [1]-[10] correspond to the ten labeled exhibits in the complete packet. Items [11]-[13] are **additional public authorities linked here** and are not presented as individually attached exhibits.

[1] A.R.S. § 13-902(G), *Periods of probation; monitoring; fees.* Official statute. **Exhibit 01**.

[2] *Order Denying Motion to Modify Conditions of Sex Offender Probation*, Aug. 3, 2026; electronically filed Aug. 7, 2026, pp. 2-3. *State v. Burnash*, Maricopa County Superior Court, CR2009-128763-001-DT. **Exhibit 02**.

[3] *Reply to Probation's Memo to the Court and State's Response to Petition to Modify Conditions of Sex Offender Probation*, July 31, 2026, especially pp. 2, 8-10, 14, and 18. Counsel's presentation, not a judicial finding. **Exhibit 03**.

[4] *Arizona Sex Offender Assessment Screening Profile for Regulatory Community Notification*, effective Aug. 1, 2002, blank form in the 14-page case exhibit packet, especially PDF pp. 2, 4, 9, 11. **Not the individual's completed scoring sheet.** Publicly available blank profile. **Exhibit 04**.

[5] Maricopa County Adult Probation Department, *Memo to the Court*, June 22, 2026, especially pp. 2-3. **Exhibit 05**.

[6] A.R.S. § 13-3825, *Community notification; definitions*, subsections D and N. Official statute. **Exhibit 06**.

[7] *Grady v. North Carolina*, 575 U.S. 306 (2015). Supreme Court opinion. **Exhibit 07**.

[8] A.R.S. § 13-901(B), (E), (M), *Probation.* Official statute. **Exhibit 08**.

[9] Arizona Sex Offender Management Board, *Adult Guiding Principles*, adopted June 22, 2026, especially pp. 2-3, principles 4, 6, 7. Official PDF. **Exhibit 09**.

[10] A.R.S. § 13-3828(D), *Sex offender management board; duties; report.* Official statute. **Exhibit 10**.

[11] *State v. Ross*, No. 2 CA-CR 2021-0093-PR (Ariz. Ct. App. Feb. 8, 2022), unpublished memorandum decision, **nonprecedential** and subject to Arizona citation rules. Opinion text. **Linked supplemental authority; not attached as an exhibit.**

[12] A.R.S. § 13-923, *Persons convicted of sexual offenses; annual probation review hearing; report; notification.* Official statute. **Linked supplemental authority; not attached as an exhibit.**

[13] Flattery, Zaman and Zakia, *Sex Offender Risk Assessment: State-Level Policies for Determining Registration and Notification Requirements*, Federal Research Division, Library of Congress, prepared for U.S. Department of Justice SMART Office (July 2022), Arizona profile pp. 58-66. Research information cutoff August 2021. Federal research report (PDF). **Linked supplemental authority; not attached as an exhibit.**

SECTION B-S | NOVEMBER 2026 POLICY DEVELOPMENT

New evidence supporting individualized review

Supplement to the formal AZSOMB policy-change request | November 10, 2026

What changed. The Adult Guidelines and Standards Subcommittee circulated a November 2, 2026 draft addressing early termination of probation with sex-offender conditions, including lifetime probation. The November 4 agenda listed the protocol for discussion and review. According to the published **AI-generated** meeting transcript, the subcommittee voted at approximately **20:22-20:40** to send the protocol and court-filing template to the full Board for consideration. The transcript attributes the motion to Sheridyn Miller, the second to Jim Hanratty, and the announcement that it carried to Chairwoman Brecken Blades. **This was a referral vote, not final Board adoption.** [N1-N3]

What the proposed criteria actually address

Draft pinpoint	How it informs the proposed reform
Draft PDF p. 2	Probation officers would consider early termination case by case, assess risk, and account for victims, offending history, supervision needs, and medical circumstances. A low-risk finding may support minimum supervision but does not compel termination.
Draft PDF p. 3	The criteria separately recognize stable dynamic-risk factors and protective factors, including supervision cooperation, stable housing, and pro-social support.
Draft PDF p. 5	The proposed court template calls for current assessments, static/dynamic/protective factors, treatment status, probation performance, and existing registration/notification status.
Draft PDF p. 6	The proposed court template calls for victim input and a supported recommendation with reasons, including remaining goals where termination is not recommended.

Why this matters for mandatory GPS

The draft concerns **whether probation itself should terminate**; it does not establish a right to remove GPS while probation continues. But it illustrates an individualized, record-based review model. Arizona could use comparable procedural safeguards for the distinct question of **whether continuous location monitoring remains necessary** under A.R.S. § 13-902(G), even if probation and Level Three notification remain in effect. The continued GPS requirement remains governed by current statute until amended. [N1; A.R.S. §§ 13-901(B), 13-902(G)]

SECTION B-S | PROPOSED BOARD RESPONSE

Extend the review framework to GPS necessity

Supplemental request; original Exhibits 01-10 and the two independent reform tracks remain unchanged.

Requested action for the full Board

- **Recommend a defined judicial process under § 13-902(G)** allowing a court to review continued device-specific necessity after a reasonable interval or material change; preserve initial monitoring unless judicially modified.
- **Specify an updated evidence record:** current, appropriate risk/needs information; static, dynamic and protective factors; all relevant adverse history; documented treatment response; supervision records; the proven contribution of GPS; less restrictive lawful alternatives; and public/victim safety.
- **Require a reasoned recommendation and written judicial findings** on continuation, modification, suspension or removal of GPS, with notice, confidentiality protection, and reinstatement following significant new risk information.
- **Keep notification reclassification a separate track:** the draft court template asks that notification level be recorded; it does **not** endorse notification-level reassessment or a mitigating override. The separate § 13-3825 proposal therefore remains necessary.

Proposed statement for the Board to consider

"The Board should consider whether the individualized assessment principles reflected in its adult probation early-termination work may also inform a separate statutory procedure for reviewing the continuing necessity of mandatory GPS or electronic monitoring. Any such procedure should preserve victim and public safety, distinguish device-specific necessity from notification classification, and require written, evidence-based findings rather than automatic relief."

Critical source-status and accuracy limitations

Referral, not final approval. The November 4 subcommittee transcript reports a successful motion to send the draft documents to the full Board for review; it does not establish full-Board adoption or GPS-specific endorsement. The transcript is automatically generated, may misidentify speakers or wording, and should be checked against the published audio before quoting as verbatim. [N3, PDF pp. 12-13]

Eligibility is not automatic. The draft describes criteria for a defined adult-male population and distinguishes low-risk minimum supervision. An individual medium FROST result is not a low-risk finding; neither treatment nor protective factors guarantee GPS modification. The GPS proposal requires its own statutory standards and judicial findings.

Date correction pending. The posted draft includes a January 1, **2026** reference on PDF page 2. At approximately **3:01-3:41** in the meeting transcript, staff and members discussed correcting both instances to January 1, **2027** before Board referral. The posted draft should not be treated as the corrected statutory text. [N1, N3]

New public-source references (click titles for the original posted documents)

[N1] November 2 draft; Nov. 4 background material (PDF pp. 2-6: criteria and proposed court template).

[N2] November 4 Adult Subcommittee meeting agenda (PDF p. 2: protocol listed for discussion/review).

[N3] November 4 AI-generated meeting transcript (PDF pp. 3-4: date correction; pp. 12-13 at 20:22-20:40: motion and vote).

Meeting repository: AZDPS Adult Subcommittee meeting materials. No GPS-specific vote or full-Board final adoption is established by these cited materials.

Supporting Exhibits 01–10

Click an exhibit title to jump to its labeled supporting material.

EXHIBIT	DOCUMENT / SOURCE	PAGE
01	A.R.S. § 13-902(G) — Mandatory monitoring	10
02	Superior Court order — GPS modification denied	11
03	Defense reply — treatment and constitutional issues	15
04	Arizona community-notification assessment — blank profile	36
05	Adult Probation memorandum — FROST and mentoring	51
06	A.R.S. § 13-3825 — Community notification	55
07	Grady v. North Carolina — GPS and Fourth Amendment	56
08	A.R.S. § 13-901 — Individualized probation	57
09	AZSOMB Adult Guiding Principles	58
10	A.R.S. § 13-3828 — Board duties	59

Exhibits retain their existing document labels and original source-page markers.

EXHIBIT 01 | PUBLIC LEGAL AUTHORITY

A.R.S. § 13-902(G)

Periods of probation; monitoring; fees

OFFICIAL SOURCE

https://www.azleg.gov/ars/13/00902.htm

Relevant statutory provision

Subsection G requires GPS or electronic monitoring for the duration of probation when the specified conditions are met: a qualifying dangerous crime against children conviction on or after November 1, 2006; probation; sex-offender registration; and Level Three classification under A.R.S. § 13-3825.

Relevance to the proposal

This is the mandatory monitoring provision proposed for amendment to permit a documented, individualized review of continued GPS necessity.

For the complete and authoritative current source, use the clickable official link above. The text on this page summarizes the relevant provisions.

EXHIBIT 02 | SUPPORTING CASE DOCUMENT

Superior Court Order, Aug. 3, 2026

Court record • 3 original pages

Document included in full

The original document follows this exhibit identification page. Its original page numbering and contents have been preserved.

Referenced as

[2] in the Formal Policy Review and in the Sources and References section.

Use the PDF bookmarks or the Exhibit Index to navigate between exhibits.

Clerk of the Superior Court
*** Electronically Filed ***
08/07/2026 8:00 AM

SUPERIOR COURT OF ARIZONA
MARICOPA COUNTY

CR2009-128763-001 DT 08/03/2026

HONORABLE STASY AVELAR

CLERK OF THE COURT
A. Stratton
Deputy

STATE OF ARIZONA

v.

MATTHEW BURNASH II (001)

RACHEL LOUISE KULTALA

LISE R WITT

APO - SPECIFIC ACTION
JUDGE AVELAR

ORDER DENYING MOTION TO MODIFY CONDITIONS OF SEX OFFENDER PROBATION

Having considered the Defendant's Petition to Modify Conditions of Sex Offender Probation, the supporting memorandum, character letters, and all evidence and arguments presented, the Court finds as follows:

I. Procedural and Factual Background

Defendant pled guilty to Sexual Exploitation of a Minor and Attempted Sexual Exploitation of a Minor, both dangerous crimes against children. The plea agreement and subsequent sentencing order imposed lifetime probation with mandatory GPS monitoring as a condition, pursuant to A.R.S. § 13-902(G). Defendant is required to register as a sex offender and has been classified as a Level Three offender for community notification purposes.

II. Statutory Authority and Case Law

Arizona law expressly mandates GPS or electronic monitoring for sex offenders on probation who are convicted of dangerous crimes against children, required to register, and classified as Level Three offenders. The statute provides:

The reproduced document above retains the original content and its printed page numbering.

> If a person is convicted on or after November 1, 2006, of a dangerous crime against children as defined in § 13-705, a term of probation is imposed, the person is required to register pursuant to § 13-3821, and the person is classified as a level three offender pursuant to § 13-3825, the court shall require global positioning system or electronic monitoring for the duration of the term of probation.
> — A.R.S. § 13-902(G)

Arizona courts have consistently upheld the constitutionality of this statutory scheme. In *State v. Kendrick*, the Court of Appeals recognized the mandatory nature of GPS monitoring under § 13-902(G) and treated the monitoring order as a lawful condition of probation (*State v. Kendrick*, 232 Ariz. 428 (2013)). Similarly, *State v. Henry* upheld Arizona's sex offender registration and monitoring statutes against ex post facto challenges, finding them regulatory and constitutionally permissible (*State v. Henry*, 224 Ariz. 164 (2010)).

The Court is mindful of the privacy and liberty interests implicated by GPS monitoring. However, the United States Supreme Court has held that probationers do not enjoy the absolute liberty to which every citizen is entitled, and reasonable conditions may be imposed to ensure rehabilitation and protect the community (*United States v. Knights*, 534 U.S. 112 (2001); *State v. Lietzau*, 248 Ariz. 576 (2020)).

III. Individualized Assessment and Community Notification

The Defendant's risk level was assessed by the Phoenix Police Department using the Arizona Sex Offender Assessment Screening Profile for Regulatory Community Notification, resulting in a Level Three classification. Under current law, this classification triggers mandatory GPS monitoring for the duration of probation. The Court notes that mitigating factors, such as successful completion of treatment, stable employment, and positive community contributions, may be considered by law enforcement for notification purposes, but do not override the statutory mandate for GPS monitoring.

IV. Constitutional Arguments

The Defendant argues that continued GPS monitoring constitutes an unreasonable search under the Fourth Amendment and violates due process. The Court finds these arguments unpersuasive in light of controlling Arizona precedent and statutory authority. While *Grady v. North Carolina*, 575 U.S. 306 (2015), recognizes GPS monitoring as a search, it does not prohibit reasonable searches imposed as a condition of probation. Arizona's scheme is narrowly tailored, applies only to the highest-risk offenders, and is limited to the duration of probation.

The reproduced document above retains the original content and its printed page numbering.

SUPERIOR COURT OF ARIZONA
MARICOPA COUNTY

CR2009-128763-001 DT 08/03/2026

The Court is not persuaded by out-of-state cases such as *Commonwealth v. Feliz* (Massachusetts) or *State v. Dykes* (South Carolina), which address broader or lifetime monitoring schemes without individualized review. Arizona's statute provides for individualized risk assessment and does not impose lifetime monitoring without opportunity for review.

V. Judicial Discretion and Fifth Amendment Concerns

The Court retains discretion to impose and modify probation conditions but is bound by statutory mandates unless a compelling constitutional basis exists. The Court notes that conditions compelling self-incriminating disclosures may violate the Fifth Amendment (*Jacobsen v. Lindberg*, 225 Ariz. 318 (2010)), but GPS monitoring itself does not compel such disclosures.

VI. Conclusion

Based on the record, statutory authority, and controlling case law, the Court finds no legal basis to remove the GPS monitoring condition from Defendant's probation at this time. Defendant remains subject to GPS monitoring for the duration of probation, unless and until his risk level is reassessed and reduced by the appropriate law enforcement agency.

IT IS ORDERED that the Motion to Modify Conditions of Sex Offender Probation is **DENIED** in all respects.

The reproduced document above retains the original content and its printed page numbering.

EXHIBIT 03 | SUPPORTING CASE DOCUMENT

Defense Reply, July 31, 2026

Court filing • 20 original pages

Document included in full

The original document follows this exhibit identification page. Its original page numbering and contents have been preserved.

Referenced as

[3] in the Formal Policy Review and in the Sources and References section.

Use the PDF bookmarks or the Exhibit Index to navigate between exhibits.

Lise Witt
Arizona State Bar No. 013118
LisaLaw, LLC
1350 E. McKellips Road, Suite 1
Mesa, AZ 85203
Tel: (480) 840-1775
Fax: (480) 656-0812
e-mail: lisarwitt@gmail.com

IN THE SUPERIOR COURT OF THE STATE OF ARIZONA

IN AND FOR THE COUNTY OF MARICOPA

STATE OF ARIZONA, Plaintiff, vs. MATTHEW BURNASH, II, Defendant.	Case No. CR2009-128763-001 REPLY TO PROBATION'S MEMO TO THE COURT AND STATE'S RESPONSE TO PETITION TO MODIFY CONDITIONS OF SEX OFFENDER PROBATION (hearing requested) (Honorable Stasy Avelar)

Defendant Matthew Burnash, II, by and through undersigned counsel, hereby files his Reply to Probation's Memo to the Court and State's Response to Petition to Modify Conditions of Sex Offender Probation based on the attached Memorandum of Points and Authorities.

RESPECTFULLY SUBMITTED this 31st day of July, 2026

By _/s/ Lise Witt_____
Lise Witt
Attorney for Defendant

The reproduced document above retains the original content and its printed page numbering.

MEMORANDUM OF POINTS AND AUTHORITIES

I. FACTS

Probation's Memo to the Court discusses an incident from August 2024. *See* Memo to the Court, p. 3. Matthew accepts responsibility for what happened, understands why it concerned Probation, and does not seek to minimize it. He wants to clarify the nature of the incident. The proposed relationship was with a nineteen-year-old adult when Matthew was thirty-four. No minor, new sexual offense, or criminal charge was involved. The woman was not with Matthew in the church parking lot; he was there with his cousin.

Matthew complied with Probation's verbal directive to discontinue contact, accepted the referral back to treatment, updated his relapse prevention work, and successfully completed the additional treatment through State 48, a treatment provider operating as a subcontractor with Family Transitions. As the Memo to the Court recognizes, Matthew appears to have taken advantage of the skills and tools he received. He subsequently demonstrated sufficient progress to return as a mentor to other group participants through State 48.

Probation notes that Matthew has passed 12 polygraphs. *See* Memo to the Court, p. 2. His MSI-2 Assessment done on September 29, 2022, produced valid, normal results. *See Id.*

Matthew is a level 3 for community notification on the Sex Offender Registry. *See* Memo to the Court, p. 2. A.R.S. § 13-902(G) does not require an individualized assessment to determine whether GPS monitoring is appropriate for a probationer; therefore, Matthew has never received an individualized assessment to determine whether

The reproduced document above retains the original content and its printed page numbering.

GPS monitoring is appropriate for him.

II. LAW & ARGUMENT

A. The State is incorrect about A.R.S. § 12-1841, Matthew's character letters, and GPS monitoring mentioned in Matthew's case documents.

The State implies that A.R.S. § 12-1841 applies to Matthew's Petition in footnote 2 on page 3 of the State's Response. A.R.S. § 12-1841 is found in A.R.S. Title 12, Article 2 entitled "Uniform Declaratory Judgments Act." A.R.S. § 12-1832 provides:

> "Any person interested under a deed, will, written contract or other writings constituting a contract, or whose rights, status or other legal relations are affected by a statute, municipal ordinance, contract or franchise, may have determined any question of construction or validity arising under the instrument, statute, ordinance, contract, or franchise and obtain a declaration of rights, status or other legal relations thereunder."

A.R.S. § 12-1832 does not refer to criminal cases or proceedings. There are no Arizona cases holding that the Uniform Declaratory Judgments Act or A.R.S. § 12-1841 applies to criminal cases or proceedings. Matthew did not follow A.R.S. § 12-1841 because it does not apply to criminal cases or proceedings like his.

Matthew submitted his letter and his friends' and family's character letters to provide the Court with evidence of his substantial rehabilitation, stability, accountability, positive adjustment in the community, and present circumstances that are inconsistent with treating him as currently presenting a high risk of reoffending. These are mitigating factors that should be required to be considered by the Phoenix Police Detective to override his level 3 and reduce him to a level 2. They also help to reassure the Court that a truly individualized assessment as to whether Matthew requires continued GPS monitoring would show that his documented rehabilitation and present circumstances do

not support treating him as currently presenting a high risk and support the conclusion that continued GPS monitoring is unnecessary, intrusive, and violates Matthew's Fourth Amendment and Due Process rights.

The State emphasizes that GPS monitoring was in Matthew's plea agreement, sentencing order, and subsequent stipulation. *See* State's Response, p.p. 2-3. These documents establish that GPS monitoring was authorized and imposed at the beginning of supervision. They do not establish that Matthew knowingly waived any future challenge to the continued constitutional reasonableness of GPS monitoring regardless of changed circumstances. Matthew does not seek to undo his plea or dispute that GPS monitoring was originally imposed. He asks the Court to exercise its continuing authority over probation conditions and determine whether the continued application of GPS monitoring pursuant to A.R.S. § 13-902(G) as applied to him is constitutional under the U.S. and Arizona constitutions.

Neither Probation nor the State identifies a current GPS-specific need requiring Matthew's continuous GPS monitoring such as absconding, GPS tampering, prohibited minor contact, a new sexual offense, failed polygraphs, victim-related travel, a current exclusion zone, or any instance in which GPS monitoring detected or prevented prohibited conduct. The August 2024 incident involved an acknowledged honesty and judgment concern that Probation addressed through supervision, a verbal directive, and a referral for additional treatment. Matthew complied and successfully completed the required treatment. The record does not indicate that the incident involved a minor, new sexual misconduct, or a location-based concern demonstrating a present need for continuous GPS

The reproduced document above retains the original content and its printed page numbering.

monitoring. *See* Memo to the Court, p. 3.

B. A.R.S. § 13-902(G) applies to a broad range of crimes and relies on a problematic individualized assessment.

A.R.S. § 13-902(G) mandates that a person who is convicted of a dangerous crime against children as defined in A.R.S. § 13-705 who is classified as a level 3 pursuant to A.R.S. § 13-3825 must wear a GPS ankle monitor for the duration of probation.

In an unreported disposition cited in accordance with Arizona Supreme Court Rule 111, the Supreme Court of Arizona held that the superior court has jurisdiction to strike a defendant's GPS monitoring term from his probation. *See State v. Rocco,* 2021 WL1573827 (Ariz. S.Ct.). This Honorable Court has jurisdiction to rule that continuous GPS monitoring of Matthew under A.R.S. § 13-902(G) may be stricken because it is unconstitutional as applied to him. Matthew is not asking that the Court rule that A.R.S. § 13-902(G) is generally unconstitutional, only that it is unconstitutional as applied to him.

The State claims that A.R.S. § 13-902(G) applies to a narrow range of offenses. A.R.S. § 13-705 is a long list of crimes that essentially makes any sex crime committed against a real or fictitious minor a dangerous crime against children. Matt's offense of Attempted Child Sexual Exploitation (possession of child porn) is one of the listed crimes. The State is incorrect when she claims that the statute only applies to a narrow range of offenses.

The State asserts that "Arizona law provides for individualized assessments to determine a registrant's notification level. A.R.S. § 13-3825." *See* State's Response, p. 4. The "individualized assessment" is the Arizona Sex Offender Assessment Screening

Profile for Regulatory Community Notification which has been used for over 20 years and is found at Exhibit 1. Matt was assessed by a Phoenix Police Detective who was not required to consult Matt's primary treatment therapist or review any of his primary treatment progress notes, Abel Assessments, MSI-2 assessments, or any mitigating evidence. Questions 1 through 11 and 16-17 ask about static factors in his criminal history that he can never change. Question 2 wants to know the number of felony convictions that are not sex related; this question is irrelevant and shouldn't be asked. Question 11 asks about the length of sexual offense history which is the length of time that the subject has been offending without defining "length of sexual offense history" and "length of time". That means the Phoenix Police Detective can claim that Matthew has been offending for five years or more when he committed uncharged conduct as a juvenile and then was convicted of Attempted Sexual Exploitation years later. The remaining questions are about Matt's alcohol/drug usage, mental/cognitive impairment, employment history, presence of documented behavior which indicates multiple sexually deviant interests, substance abuse treatment, and sex offender treatment. The presence of documented behavior questions provides only brief descriptions of the behaviors and an admonition to "Avoid an overly broad interpretation." Oddly, Matt's positive answers about maintaining stable employment and successfully completing primary treatment are scored as zeros instead of negative points to subtract from the total scores. Therefore, they don't help at all in reducing his total scores so that he might become a level 2 someday. The "Other Factors Affecting Community Notification Level" lists mitigating factors such as Matt's completion of formal residential or primary sex offender treatment in the community and

The reproduced document above retains the original content and its printed page numbering.

his long term stable presence in the community absent further criminal activity "may be utilized to override the notification level otherwise indicated by the risk assessment score. Since these factors are dynamic, they are not included in the scoring of other static factors or given a specific weight." In other words, all Matt's bad static factors are used against him and the Phoenix Police Detective does not have to consider his good dynamic mitigating factors to override the level 3 scores. In conclusion, it is a very arbitrary individualized assessment with virtually no standards for the Phoenix Police Detective to follow and apply.

The Phoenix Police Detective explained to Matthew that there is nothing further he can do that would materially change the scores keeping him at level 3. Permanent historical facts keep him at a level 3 which combined with his A.R.S. § 13-705 Attempted Sexual Exploitation of a Minor triggers potentially lifetime GPS monitoring pursuant to A.R.S. § 13-902(G). Matthew's successful completion of treatment, stability, successful supervision and continued progress are considered mitigating factors that the Phoenix Police Detective was not required to consider to reduce his level 3 to a level 2. His level 3 classification and Attempted Sexual Exploitation of a Minor are static, historical facts that can never be undone or modified. Matthew is permanently consigned to lifetime GPS monitoring according to A.R.S. § 13-902(G) no matter how unnecessary, intrusive, and arbitrary it is.

The Arizona Sex Offender Assessment Screening Profile for Regulatory Community Notification was created solely to classify an Arizona sex offender for purposes of community notification. It does not determine whether GPS monitoring addresses an identified present risk,

The reproduced document above retains the original content and its printed page numbering.

whether ordinary sex offender probation is inadequate, whether a less intrusive condition would be sufficient, whether GPS monitoring provides a measurable benefit in Matthew's case or whether continued GPS monitoring is proportionate for the potential duration of lifetime probation.

Matthew is now thirty-six years old. The juvenile conduct occurred when he was thirteen and his current offense occurred when he was nineteen. These historical facts remain permanently embedded in his level 3 score. In contrast, Matthew's present age, maturity, over seven years in the community under supervision, and objectively documented rehabilitation do not ever reduce his historical score. His classification therefore remains fixed even though Matthew's present circumstances – and the actual need for GPS monitoring – have materially changed.

The State acknowledges that Probation previously identified Matthew as level 2 and requested removal of GPS monitoring. *See* State's Response, p. 3. It then infers that Matthew must later have been level 3 because the State Hospital stipulation referenced A.R.S. § 13-902(G). *See Id.* This history shows that GPS monitoring for Matthew was not always regarded as individually necessary and leaves unresolved what changed between Probation's removal recommendation and the later level 3 designation.

Matthew's current level of trust and responsibility was not given to him automatically or simply because he requested it. He earned it through years of treatment, compliance, accountability, stability, and demonstrated progress. Matthew's rehabilitation began long before his release. While incarcerated, he participated in approximately eight years of offense-specific treatment and education. His progress was not immediate or without difficulty. It required sustained effort, accountability, and time for him to understand the treatment principles, develop the necessary tools, and learn to apply them consistently in his decisions and conduct. He

continued that work through community-based treatment following his release. That lengthy process of treatment, personal growth, and practical application helped him become the stable, accountable, and productive member of the community he is today. Probation and State 48, a subcontractor under Family Transitions, have trusted Matthew to mentor and assist other individuals on probation. That role was not granted casually; Matthew had to demonstrate maturity, insight, consistency, and a commitment to applying the treatment principles he worked hard to learn before he was entrusted to help others succeed on probation. Beginning in August 2026, he will expand his volunteer mentoring to include group participants at a Family Transitions facility and through other treatment providers operating as subcontractors under Family Transitions. He voluntarily devotes several hours of his personal time to this work one to two times every week. This service is not a condition of probation, a treatment requirement, or an obligation placed upon him; he receives no compensation for it. Matthew chooses to serve in this role because he wants to use what he has learned to help other individuals succeed in treatment and on probation. His continued commitment further reflects the accountability, stability, and earned trust he has demonstrated.

Probation has also approved Matthew to own, run, and operate a food truck business open to the public. That responsibility requires him to manage the business's daily operations and interact regularly with customers, employees, vendors, and families in the community. This approval likewise was not granted casually, but reflects the confidence Matthew earned through his conduct, treatment progress, stability, and performance under supervision.

These facts do not erase Matthew's past or independently determine whether GPS monitoring should be removed. They do, however, provide objective evidence that the agencies most familiar with his supervision and treatment have trusted him with meaningful

The reproduced document above retains the original content and its printed page numbering.

responsibilities and with helping others succeed on probation. Matthew's present circumstances appear inconsistent with treating him as someone who is a level 3, the highest level of risk, according to the Arizona assessment. The issue is not necessarily that his level 3 score was calculated using the Arizona assessment. The concern is that the Arizona assessment's permanent historical factors continue to control the result while his substantial present progress never reduces the score. His classification therefore always remains level 3 even though the objective evidence discussed above no longer accurately reflects his present risk of his current need for continuous GPS monitoring.

In contrast, the individualized risk assessment utilized by Massachusetts is a guided or structured clinical judgment risk assessment methodology as discussed in "Sex Offender Risk Assessment: State-Level Policies for Determining Registration and Notification Requirements" published in July 2022 by NCJRS Office of Justice Programs found at Exhibit 2:

> "Massachusetts does not use risk assessment instruments to assess offenders' risk of re-offense. Instead, the Massachusetts' Sex Offender Registry Board (SORB) uses a guided, or structured, clinical judgment risk assessment methodology to classify offenders into one of three tiers, which determine offenders' notification requirements.302 Level 1 offenders' registration information is accessible only to law enforcement and registry personnel while Level 2 and Level 3 offenders' information is publicly available."

"Structured clinical judgment" is defined in a footnote on the same page:

> "A structured professional judgment methodology, what Massachusetts calls "structured clinical judgment," is defined as such: "Evaluators were given a structured list of risk factors determined in advance. The method of combining the factors into a total score was not specified in advance, and the overall evaluation of risk was left to the professional judgment of the evaluator" (Hanson and Morton-Bourgon, "The Accuracy of Recidivism Risk Assessments," 4)." *See* Exhibit 2, p. 2.

This is the type of individualized risk assessment that Arizona should implement.

The reproduced document above retains the original content and its printed page numbering.

C. **The State has waived any arguments she may have had about why A.R.S. § 13-902(G) is constitutional as applied to Matthew.**

Matthew's Petition argued that A.R.S. § 13-902(G) was unconstitutional as applied to him according to the analytical frameworks of *Feliz* (4th Amendment) and *Dykes* (due process). *See* Petition, p.p. 21-26.

The State argues that Arizona's statutory scheme is different from Massachusetts and South Carolina. *See* State's Response, p.p. 8-10. She never argues that A.R.S. § 13-902(G) is constitutional as applied to Matthew. Arguments not raised in a response are waived. Therefore, the State has waived these arguments by not arguing them in her Response.

D. The State's comments about sex offender probationers having a higher rate of recidivism should be disregarded because they don't apply to Matthew.

The State quotes from *Knights* that "probationers have a higher rate of recidivism than the general crime rate" and compares an Arizona Adult Probation Report on Recidivism with an Arizona DPS Crime Overview in footnote 3. *See* State's Response, p. 5. The Arizona Adult Probation Report presumably covers all probationers, not just sex offenders. The approximately 12% recidivism rates are still relatively low even if they just included sex offender probationers. The DPS Crime Overview gives the Crime Rate of 3442.01 per 100,000 which is a 5.33% decrease from 2019. The Crime Rate means new crimes that are committed within Arizona. It does not break down how many crimes were committed by repeat offenders. The studies do not show that sex offenders are more likely to reoffend.

The reproduced document above retains the original content and its printed page numbering.

Matthew's most recent FROST scored him as a medium risk to reoffend. *See* Memo to the Court, p. 2. His level 3 assessment supposedly puts him at a high risk to reoffend. He has been a productive member of society since he was released in 2019 over 7 years ago. His FROST score is more accurate than his level 3 assessment in terms of his risk of reoffending. Neither Probation nor the explains how his FROST score establishes that continuous GPS monitoring is necessary to address a present sexual or geographic risk.

E. *State v. Hilton* does not apply to this case.

The State argues that the North Carolina Supreme Court case of *State v. Hilton* holding that a state statute mandating lifetime GPS monitoring for defendants convicted of aggravated offense did not constitute an unreasonable search in violation of the Fourth Amendment. *See* State's Response, p.p. 6-7. The State never applies the *Hilton* analysis to Matthew's case or *Feliz* which greatly diminishes the power and persuasiveness of her arguments. Mr. Hilton sexually assaulted his minor niece only months after being released from prison on similar charges. *See State v. Hilton*, 378 N.C. 692, ¶ 5. The trial court conducted a hearing to determine whether he should be enrolled in GPS monitoring based upon his 2007 convictions. *See Id.*, ¶ 6. The trial court made 16 findings of fact and then concluded that the GPS monitoring was constitutionally reasonable as applied to Hilton. *See Id.* The Supreme Court of North Carolina remarked that "Unlike the recidivist category, the aggravated offender category applies only to a small subset of individuals who have committed the most heinous sex crimes." *See Id.*, ¶ 21. These crimes were listed in N.C.G.S. § 14-208.6 (1a) as either a sexual act involving vaginal, anal, or oral

The reproduced document above retains the original content and its printed page numbering.

penetration with a victim of any age through the use of force or the threat of physical violence or a sexual act involving vaginal, anal, or oral penetration with a victim who is less than twelve years old. *See Id.* The Court noted that the same statute allowed Hilton to petition the Post-Release Supervision and Parole commission for termination of enrollment. *See Id.*, ¶ 24. The Court found that the GPS monitoring served a legitimate government interest. *See Id.*, ¶ 29, The Court then considered the scope of the privacy interests involved. *See Id.*, ¶ ¶ 29-31. Lastly, the Court considered the level of intrusion effected by the imposition of lifetime GPS monitoring. *See Id.*, ¶ ¶ 32-35. The Court never discussed the level of intrusion from Hilton's perspective or as applied to Hilton.

Here, A.R.S. § 13-902(G) and Matthew are completely different from *Hilton.* Matthew never engaged in sexual conduct involving penetration with minor victims. *See* Memo to the Court, p. 1. His present offense for Attempted Sexual Exploitation of a Minor is his first and only felony conviction. It did not have a minor victim. *See Id.*, p. 3. There is no Arizona statute that allows him to request a court hearing to determine whether A.R.S. § 3-902(G) should apply to him. There is also no Arizona statute that allows him to request termination of the GPS monitoring requirement under A.R.S. § 13-902(G). As discussed *supra*, A.R.S. § 13-902(G) applies to a broad range of sex crimes.

The record concerning the intrusion is also materially different. *Hilton* evaluated a specific monitoring program and relied on findings concerning the physical device, the degree of interference, and available termination procedures. *See* State's Response, p.p. 6-7. The balancing here must be based on Matthew's actual experience rather than assumptions drawn from a different device and monitoring system.

The reproduced document above retains the original content and its printed page numbering.

Matthew's record includes repeated device and strap replacements, inaccurate location reports, interruptions to employment, daily charging requirements, visible stigma, and interference with medical care, including difficulty obtaining an MRI. These are recurring practical intrusions relevant to the nature, scope, and duration of the search.

In conclusion, *Hilton* does not apply factually or legally to Matthew's case.

F. The State relies on cases that do not apply and does not meaningfully distinguish between this case, *Feliz,* and *Dykes.*

The State relies on *United States v. Knights* and *State v. Lietzau* to assert that probationers do not enjoy absolute liberty and a warrantless search of a probationer's home and a warrantless search of a probationer's cell phone were both reasonable. *See* State's Response, p.p. 4-5. This case involves applying 4th Amendment and Due Process analyses to Matthew's GPS ankle monitoring. *Knights* and *Lietzau* do not address this particular situation. Therefore, they don't apply factually or legally to the present case.

The State relies on *State v. Lietzau* to emphasize that probationers have diminished expectations of privacy. *See* State's Response, p.p. 4-5. But *Lietzau* did not hold that the existence of a probation search condition automatically makes every search reasonable. Instead, the Arizona Supreme Court examined the particular circumstances and scope of the search before deciding whether it was reasonable. *See State v. Lietzau,* 248 Ariz. 576, ¶ ¶ 10-20 (2020).

The State briefly mentions the two unpublished Arizona opinions of *State v. Johnson* and *State v. Kirbie* and provides copies for review. *See* State's Response, p.p. 7-8. Both were also decided before the landmark U.S. Supreme Court decision *Grady v.*

The reproduced document above retains the original content and its printed page numbering.

North Carolina. In *Grady v. North Carolina,* the United States Supreme Court held that attaching a monitoring device to a person's body and continuously tracking that person's movements constitutes a Fourth Amendment search. *See Grady v. North Carolina,* 575 U.S. 306, 309-310 (2015). The constitutionality of that search depends on its reasonableness under the totality of the circumstances, including the nature and purpose of the search and the extent of the intrusion. *See Grady* at 310.

Neither case was denied based on Fourth Amendment or Due Process analysis. They add nothing to the analysis that is required here and should be completely disregarded by this Honorable Court.

The State mentions some factual and legal differences between *Commonwealth v. Feliz* and the present case. *See* State's Response, p.p. 8-9. Unfortunately, she fails to apply them to Matthew or otherwise develop her argument.

The State correctly notes that *Feliz* was decided under the Massachusetts Constitution. *See* State's Response, p.p. 8-9. Matthew does not argue that *Feliz* is controlling federal or Arizona precedent. Its individualized assessment and balancing analysis is nevertheless persuasive because it addresses the same continuous GPS monitoring intrusion recognized as a Fourth Amendment search in *Grady.*

The State argues that *Feliz* involved a level 1 registrant. *See* State's Response, p.p. 8-9. The Supreme Judicial Court of Massachusetts held that a sex offender probationer's level 3 for registration was sufficient evidence to establish risk of reoffending in *Commonwealth v. Arnold,* 271 N.E.3d 645, 652 (Mass. 2025). Arnold's level 3 classification did not prevent the Court from vacating the trial judge's decision to impose

GPS monitoring for the ten year duration of his sex offender probation because it did not consider whether Arnold's GPS monitoring should be imposed for the entire duration of his probation. *See Id.* at 655.

The State contrasts the Massachusetts statutory scheme with the Arizona statutory scheme. *See Id.*, p. 9. Although there was no individualized risk assessment before or during Feliz's sentencing, he did have a different superior court judge hold a three day evidentiary hearing to assess the reasonableness of his statutorily imposed GPS monitoring. *See Commonwealth v. Feliz*, 119 N.E.3d 700, 705 (Mass. 2019). The *Feliz* court wanted an individualized risk assessment hearing concerning whether or not Feliz should be subjected to GPS monitoring under the Massachusetts statute. The individualized risk assessment that the State mentions is the one used to determine Matthew's level of community notification for the Registry. These are two separate individualized risk assessments designed for completely different purposes; they are not interchangeable. The State quotes the Massachusetts Court as stating that the law at issue in *Feliz* was "overinclusive in that GPS monitoring will not necessarily constitute a reasonable search for all individuals convicted of a qualifying sex offense." *See* State's Response, p. 9. A.R.S. § 13-902(G) **is** overinclusive because the mandated GPS monitoring does not necessarily constitute a reasonable search for Matthew who was convicted of attempted sexual exploitation of a minor. Matthew's extensive and objectively documented rehabilitation, successful performance under supervision, treatment, polygraph history, stability, and earned positions of trust combined with the absence of any identified current sexual, geographic, or supervisory risk that GPS

The reproduced document above retains the original content and its printed page numbering.

monitoring is needed to address demonstrate that his historical classification alone does not justify the continued, potentially lifelong monitoring of his movements.

The State cites *Commonwealth v. Johnson* as authority for the Massachusetts Court holding that GPS monitoring as a condition of probation is reasonable. *See Id.*, p. 9. Johnson appealed the trial court's imposition of GPS monitoring for a period of six months. *See Commonwealth v. Johnson*, 481 Mass. 710, 719 (2019). The Supreme Judicial Court of Massachusetts held that the imposition of six months of GPS monitoring was reasonable under the Fourth Amendment in light of criminal convictions and past probation violations. *See Id.* In this case, Matthew does not have past criminal convictions and has never had a Petition to Revoke filed against him. His GPS monitoring will last as long as he remains on sex offender probation which could end up being for the rest of his life. Clearly, *Commonwealth v. Johnson* does not apply to his case factually or legally.

The State argues that *State v. Dykes* is irrelevant because A.R.S. § 13-902(G) does not require lifetime monitoring and does not sweep all offenders regardless of individualized risk assessments. *See* State's Response, p.p. 9-10. The State indulges in sheer speculation when she implies that Matthew can petition for early termination of his **lifetime** sex offender probation which may never be granted. His probationary period must be considered as lifetime for all intents and purposes. The State is incorrect in assuming that Matthew can somehow easily change his level three status to level two. The reality is that he can ask for a new individualized assessment which will most likely result in the same level three status because the Phoenix Police Detective is not required to

The reproduced document above retains the original content and its printed page numbering.

consider any of his mitigating factors to override the level three score. There is no legal avenue in Arizona for Matthew to appeal his level three status. Therefore, the State is incorrect in assuming that Matthew can easily change his level three status to a level two status. A.R.S. § 13-902(G) is not fundamentally different from the challenged South Carolina statute; the *Dykes* analysis applies to his case.

III. CONCLUSION

Neither Probation nor the State has established that Matthew's continuous GPS monitoring under A.R.S. § 13-902(G) is constitutional under the Fourth Amendment or Due Process and equivalent Arizona constitutional provisions. His level 3 assessment for community notification purposes may remain fixed but the constitutional reasonableness of continuously tracking his movements via GPS monitoring does not.

Matthew is not asking the Court to disregard his past or excuse the conduct that brought him before the Court. He respectfully asks the Court to consider the complete record of the person he has shown himself to be during more than seven years in the community, his successful completion of treatment and additional treatment, twelve polygraphs with no significant responses, graduation from intensive probation, stable housing and employment, homeownership, business ownership, compliance with supervision, family support, and the trust he has earned to mentor other individuals in treatment and on probation. His accomplishments do not erase his history; they are substantial and objective evidence of his rehabilitation, accountability, stability, and successful performance under supervision.

Based on the authorities cited, the absence of an identified present GPS-specific

The reproduced document above retains the original content and its printed page numbering.

need, and Matthew's documented record under supervision, Matthew respectfully asks this Honorable Court to grant the Petition and modify his probation conditions to remove GPS monitoring. He further asks the Court to determine that his permanent historical classification should not, by itself, require the potentially lifelong tracking of his movements when his present conduct and circumstances show that continued GPS monitoring is no longer necessary or reasonable.

Alternatively, he respectfully requests an evidentiary hearing if this Honorable Court concludes that the existing record is insufficient to determine the present necessity and reasonableness of continued GPS monitoring.

RESPECTFULLY SUBMITTED this 31st day of July, 2026

By _/s/ Lise Witt_____
Lise Witt
Attorney for Defendant

Original of the Foregoing efiled/delivered
this 31st day of July, 2026, with/to:

Maricopa County Clerk of Court
Maricopa County Superior Court
South Court Tower
175 W. Madison
Phoenix, AZ 85003

The Honorable Stasy Avelar
Maricopa County Superior Court
Central Court Building
201 W. Jefferson St.
Phoenix, AZ 85003

Copy emailed and mailed this 31st day of
July, 2026, to:

The reproduced document above retains the original content and its printed page numbering.

Maricopa County Attorney's Office
ATTN: Rachel Kultala
225 W. Madison Street
Phoenix, AZ 85003

By: /s/ Lise Witt

The reproduced document above retains the original content and its printed page numbering.

EXHIBIT 04 | SUPPORTING CASE DOCUMENT

Arizona Community-Notification Assessment Profile

Case exhibit • 14 original PDF pages

Document included in full

The original document follows this exhibit identification page. Its original page numbering and contents have been preserved.

Referenced as

[4] in the Formal Policy Review and in the Sources and References section.

Use the PDF bookmarks or the Exhibit Index to navigate between exhibits.

EXHIBIT
1

ARIZONA SEX OFFENDER ASSESSMENT SCREENING PROFILE
FOR REGULATORY COMMUNITY NOTIFICATION

Final - Effective August 1. 2002

This instrument is to be used by criminal justice agencies as a guideline for regulatory community notification purposes.

Completed by: Offender Name: Number: P#

DOB:

Agency: Pinal County Sheriff's Office Date:

GENERAL INSTRUCTIONS: Two risk scales will be calculated, including Sex Offense Risk (S), and General Recidivism Risk (G). The combination of the two scales will be used to determine a suggested ratification level for the offender. Two risk scores, designated S/G. will be assigned for each of 19 items as indicated below. These scores will be added at the end of the form to arrive at the total assessment score. Unless otherwise noted use only officially documented data sources (PSI, DR, NCIC, FBI, prison records); where indicated, self-reported data may be included if considered reliable. Leave items blank that have no information documented only if a reasonable approximation is not possible. In many instances if data is not available, an item may logically be judged as absent. For example, if alcohol/drug problems are not noted in the case file, item #12 would be scored as A, indicating "no interference with functioning."

DEFINITION OF SEX OFFENSE: STATUTORY CRIMES IDENTIFIED AS SEX OFFENSES

Generally, any prior offense may be defined as a "sex/sex related offense, if the offense appears to have been sexually motivated. Arizona Revised Statutes §13-118 describes a sexually motivated offense as one in which "...one of the purposes for which the defendant committed the crime was for the purpose of the defendant's sexual gratification."

The following predicate offenses appear in Arizona Revised Statutes relating to sex offender registration (§13-3821) community notification (§13-3825) and sexually violent persons (§ 36-3701) and may also be utilized as a guide for the purpose of defining "sex/sex related offenses."

STATUTE	OFFENSE DESCRIPTION
ARS 13-1405	Sexual Conduct with a Minor
ARS 13-1406	Sexual Assault
ARS 13-1406.01	Sexual Assault of a Spouse
ARS 13-1410	Molestation of a Child
ARS 13-1417	Continuous Sexual Abuse of a Child
ARS 13-1104	Murder, 2nd Degree*
ARS 13-1105	Murder, 1st Degree*
ARS 13-1203	Assault*
ARS 13-1204	Aggravated Assault*
ARS 13-1303	Unlawful Imprisonment*
ARS 13-1304	Kidnapping*
ARS 13-1508	Burglary, 1st Degree*
ARS13-1402	Indecent Exposure - If second or subsequent conviction to a person under 15 years, or third or subsequent conviction involving a victim of any age.
ARS 13-1403	Public Sexual Indecency - If second of subsequent conviction to a person under 15 years or a third or subsequent conviction involving a victim of any age.
ARS 13-1404	Sexual Abuse - If Victim Under 18 Years
ARS 13-3206	Taking a Child for the Purpose of Prostitution
ARS 13-3212	Child Prostitution
ARS 13-3552	Commercial Sexual Exploitation of a Minor

The reproduced document above retains the original content and its printed page numbering.

ARS 13-3554	Luring a Minor for Sexual Exploitation
ARS 13-3822	Failure to Register as a Sex Offender
ARS 13-3824	Violation of Sex Offender Registration Statutes

NOTE: These offenses are current as of June 2002. Consult Criminal Code for future additions or deletions.
*if sexually motivated per ARS 13-118.

1. Number of convictions (or adjudications if offender is/was a juvenile) for sex/sex related offenses (including, current offenses).

Score the total number of formal legal convictions for sex/sex related offenses, including the current offense. Score both felony and misdemeanor convictions, as well as any juvenile convictions/adjudications. If several counts occurred in one trial, count those as one conviction. Separate trials indicate separate convictions. If it is documented that a sex offense was pled to a lesser offense or non-sex offense, it can be counted as a sex conviction. EXAMPLE: IF ONE OF THE PURPOSES THE OFFENDER COMMITTED OR ATTEMPTED TO COMMIT THE CRIME WAS FOR THE OFFENDER'S SEXUAL GRATIFICATION THE OFFENSE CAN BE COUNTED AS A SEX CONVICTION (I.E. CRIMINAL TRESPASSING, BURGLARY).

		S/G
A.	One	0/0
B.	Two	3/7
C.	Three or more	10/8

SCORES:

2. Number of CONVICTIONS for felony offenses (or adjudications if offender is/was a juvenile) excluding sex/sex related offenses. Total number of formal legal convictions for non-sex related felony offenses.

		S/G
A.	None	0/0
B.	One or Two	4/8
C.	Three or more	8/10

SCORES:

3. Other sex/sex related ARRESTS not resulting in conviction (or adjudications if offender is/was a juvenile). Score the actual number of sex related arrests not resulting in conviction. Exclude the arrest for the current offense.

		S/G
A.	None	0/0
B.	One or more	5/6

SCORES:

4. Age at first CONVICTION (or adjudications if offender is/was a juvenile) for sex/sex related offense. Subject's age when first convicted for a sex/sex related offense.

	S/G
A. 24 or older	0/0
B. 23 or younger	3/8

SCORES:

The reproduced document above retains the original content and its printed page numbering.

5. Use of weapon in sex/sex related CONVICTION(S) (or adjudications if offender is/was a juvenile).

Weapon used or displayed during the commission of any sex/sex related offense, past or present. A weapon is defined as an object or implement with the potential for inflicting lethal injury. The term includes a firearm. The implied presence of a weapon may also be scored B. (i.e. "I have a gun in my pocket").

	S/G
A. None present	0/0
B. Displayed during offense/implied threat, or used to inflict injury	4/8

SCORES:

6. Total number of victims in all sex OFFENSES (or adjudications if offender is/was a juvenile).

Total number of different victims in all sex offenses from legal documentation and/or self-report by offender of sex offense history. This includes victims of counts which were dismissed in plea agreements. It does not include victims of arrests only, where the case was dismissed before it went to court.

	S/G
A. One	0/0
B. Two or three	3/0
C. Four or more	9/6

SCORES:

7. Gender of victims in all sex offense CONVICTIONS (or adjudications if offender is/was a juvenile).

Score 0 for exclusively female victims; 3 for exclusively male victims; 5 if victims of both genders. This includes victims of counts dismissed in plea agreements. If offender is female, do not reverse genders.

	S/G
A. Females	0/0
B. Males	3/0
C. Both Genders	5/0

SCORES:

8. Relationship of offender to victim

Score A if victim is immediate family member (natural or step) living in the home; B if victim is acquaintance or relative not living with the offender; C if victim is a stranger. If the offender has had more than one victim; score C. IF OFFENDER MET THE VICTIM ON THE INTERNET (WITH INTENT TO DEVELOP A RELATIONSHIP FOR THE PURPOSE OF COMMITTING A CRIME); SCORE AS A STRANGER. THE INTENT OF THE QUESTION IS TO MEASURE WHETHER THE OFFENDER DEVELOPED A RELATIONSHIP WITH THE VICTIM OR VICTIM'S FAMILY, FOR THE PRIMARY PURPOSE OF GROOMING THE VICTIM FOR A SEX OFFENSE.

	S/G
A. Family	0/0
B. Acquaintance	0/6
C. Stranger	5/7

SCORES:

The reproduced document above retains the original content and its printed page numbering.

9. Use of force (most severe).

Score only one choice, the most severe activity undertaken, the greatest degree of force used during any sex/sex-related offense conviction past or present. AVOID AN OVERLY BROAD INTERPRETATION. AN ARGUMENT CAN EASILY BE MADE THAT ANY AND ALL SEX OFFENSES INCLUDE USE OF FORCE. HOWEVER, THE INTENT OF THIS QUESTION IS AIMED AT MEASURING ADDITIONAL FORCE USED BEYOND THAT WHICH WAS NECESSARY TO COMPLETE THE SEX OFFENSE. (EXAMPLE: THREATENING TO SLIT THE VICTIM'S THROAT IF SHE/HE SCREAMS, SLAPPING THE VICTIM TO INFLICT PAIN).

	S/G
A. None	0/0
B. Threats *of* violence, physical force or violence, substantial/great bodily harm	*3/7*

SCORES:

10. Other characteristics of sex/sex related CONVICTION(s) (or adjudications if offender is/was a juvenile).

Refers to other patterns of behavior during commission of any sex/sex-related offense conviction, past or present. C refers to any single incident, not multiple incidents of on-going incest or child molestation. D refers to forcibly moving the victim away from one location to another, not merely moving the victim from room to room in one location. (OR FROM THE HOUSE TO THE YARD). Avoid an overly broad interpretation THE TOTAL SCORE AN OFFENDER CAN RECEIVE CANNOT EXCEED 3/7 REGARDLESS OF THE NUMBER OF BEHAVIORS THAT APPLY. THE INTENT OF THIS QUESTION IS TO MEASURE EXCEPTIONAL CHARACTERISTICS OF THE CRIME(S) WHICH DISTINGUISH THE OFFENDER'S BEHAVIOR FROM OTHER SEX RELATED OFFENSE BEHAVIORS (I.E. OFFENDER RAPED AND ABUSED VICTIM REPEATEDLY FOR A SIX HOUR PERIOD DURING THE *COMMISSION* OF THE *CRIME*, OR THE VICTIM IS DRIVEN TO AN ISOLATED AREA FOR THE PURPOSE OF RAPING).

	S/G
A. None	0/0
B. Victim tied up, hand-cuffed or bound	3/7
C. Actual or estimated duration *of* crime is more than 3 hours	3/7
D. Victim transported forcefully to another location	3/7
E. Victim tortured/mutilated	3/7

SCORES:

11. Length of sexual offense history.

THE LENGTH OF TIME THE SUBJECT HAS BEEN OFFENDING, from any source.

	S/G
A. 0 to five years	0/0
B. Five years or more	5/0

SCORES:

The reproduced document above retains the original content and its printed page numbering.

12. Alcohol/drug usage.

The degree of interference with the offender's functioning, PRIOR TO OR AT THE TIME OF THE OFFENSE, 'RELATED TO family, work, social, interpersonal, physical, and mental; from any source, including self-report. THE INTENT OF THIS QUESTION IS TO MEASURE THE AMOUNT OF CONTINUING INTERFERENCE DRUGS AND ALCOHOL CAUSE IN AN OFFENDER'S LIFE.

	S/G
A. No interference with functioning	0/0
B. Occasional or frequent abuse	3/7

SCORES:

13. Mental/cognitive impairment of offender.

Score if records show diagnosed low IQ level, organic brain disorder, or record of SSI disability for such; or if subject has been diagnosed with major mental illness or mood disorder (bi-polar, etc.). Hyperactivity, attention deficit disorder, and depression are not scored. Do not credit self-report as a valid diagnosis (TOTAL SCORE CANNOT EXCEED 6/7).

	S/G
A. No known mental health abnormality	0/0
B. IQ under 70	6/7
C. Diagnosed mental illness or mood disorder	6/7

SCORES:

14. Employment history.

Score A if offender is a homemaker, retired, or disabled/unable to work (THIS INCLUDES THOSE COLLECTING SOCIAL SECURITY [SSI] Score B if offender has a stable work history which may include part-time, seasonal, or full-time employment, OR SCHOOL. Score C if offender has had an unsteady or sporadic employment history DURING THE PERIOD PRIOR TO INCARCERATION OR BEING SENTENCED TO PROBATION (WHICHEVER IS APPLICABLE). Full or part-time school attendance may be substituted for employment, if applicable (I.E. A JUVENILE). THE INTENT IS TO MEASURE THE GOOD FAITH EFFORT OF THE OFFENDER HAS MADE TO USE HIS/HER TIME PRODUCTIVELY/RESPONSIVELY.

	S/G
A. Homemaker, disabled, or retired	0/0
B. Stable employment	0/0
C. Unstable or in need of additional employment	4/8

SCORES:

15. Presence of DOCUMENTED BEHAVIOR WHICH INDICATES multiple sexually deviant interests (*check all that apply).

Any sexually deviant behavior from records or self-report. Fetishism typically requires an attraction to an inanimate object, but in practice is often lumped to-ether with partiality, which includes an attraction to body parts (i.e. breasts, buttocks, feet, etc.). Pedophilia is typically broken down into two categories, male and female, and refers to children generally 13 years or younger. All of these categories should be mutually exclusive and not be included under other categories. For example, if someone were to disrobe both himself and the child during a molest, that should not be counted as exhibitionism, voyeurism, and molests. It should be counted simply as a molest (pedophilia). Avoid an overly broad interpretation.

PARAPHILIC BEHAVIOR A sexual deviation characterized by recurrent.' intense sexual urges, fantasies, or behaviors that involve unusual objects, activities, or situations and cause Clinically significant distress or impairment in social, occupational, or other important areas of functioning.

The reproduced document above retains the original content and its printed page numbering.

☐ Voyeurism - The act of observing a person without their consent, who is either engaging in sexual activity, or is naked, or is in the process of disrobing (I.E. PEEPING TOM).

☐ Obscene Phone Calling - The act of making a phone call to an unsuspecting, non-consenting person for the purpose of sexual arousal or motive.

☐ Bestiality - Sexual contact with any animal for the expressed purpose of sexual arousal or motive. Often referred to as Zoophilia.

☐ Exhibitionism - The act of exposing one's self to an adult or child with a sexual motive and the victim his not consented to the exposure. In the case of a child, a person under the age of 18 cannot give consent.

☐ Frotteurism or Frottage - The rubbing of one's genitals against a non-consenting person for the express purpose of sexual arousal or motive

☐ Sexual Sadism - Sexual acting out in which the victim is being humiliated, beaten, bound, or otherwise made to suffer (do not code this unless it is mentioned specifically in the collateral data report).

☐ Sexual Masochism - Sexual pleasure or gratification, or sexual motive associated with being humiliated, beaten, bound, or otherwise made to suffer (do not code it unless it is mentioned specifically in the collateral data report).

☐ Rape/Sexual Assault - Sexual assault of an adult male or female which involves the forcing of the penis or finger, tongue, or other body part and/or object into any orifice of a male or an adult female without their consent. Also includes any aggressive or violent sexual conduct as described above with a minor child.

☐ Toucherism - Grabbing or groping with the hands, the genitals, including breasts and buttocks of a non consenting person.

☐ Hebophilia - Sexual contact with a male or female child fourteen (14) years of age or older with a sexual motive or interest. DOCUMENTED USE **OR VIEWING OF CHILD PORNOGRAPHY CAN BE INCLUDED (I.E. MAGAZINES OR THE INTERNET).**

☐ Necrophilia - The act of engaging in sexual contact with a corpse.

☐ Partialism - A sexual attraction to a specific body part that is usually expressed in toucherism, frottage, voyeurism, or masturbatory props, including pornography.

	S/G
A. None or one	0/0
B. Two or source not available	0/0
C. Three or more	3/0

SCORES:

19. Sex offender treatment while in prison or in the community (if on probation).

THE INTENT OF THIS QUESTION IS TO DETERMINE IF THE OFFENDER SUCCESSFULLY COMPLETED A FORMAL, THERAPEUTIC SEX OFFENDER TREATMENT PROGRAM (APPROVED BY THE AGENCY WHO HAS JURISDICTION OVER THE OFFENDER). VERIFICATION THAT THE OFFENDER FULFILLED ALL OF THE REQUIREMENTS OF THE PROGRAM, WITHOUT DEFICIENCIES, MUST BE PRESENT FROM A REVIEW OF THE AVAILABLE DOCUMENTATION. OTHER FACTORS SUCH AS LACK OF PROGRAM AVAILABILITY, INABILITY OF THE OFFENDER TO ACCESS THE PROGRAM DUE TO CUSTODY LEVEL, INSUFFICIENT TRANSPORTATION TO ATTEND THE PROGRAM, THE OFFENDER'S MOTIVATION (OR LACK THEREOF) TO ATTEND OR COMPLETE A PROGRAM, INELIGIBILITY DUE TO THE OFFENDER'S REFUSAL TO ACCEPT RESPONSIBILITY FOR THE OFFENSE, ETC, SHOULD NOT BE CONSIDERED BECAUSE THESE FACTORS ARE NOT PRECISELY MEASURABLE FROM AN ACTUARIAL STANDPOINT, AND CANNOT BE DISTINGUISHED RELATED TO THEIR PREDICTIVE VALUES. WHEN SCORING THIS FACTOR, THE INTENT IS TO MEASURE THE INCREASED RISK ASSOCIATED WITH BEING AN UNTREATED SEX OFFENDER.

	S/G
A. Successfully completed treatment	0/0
B. Failed to attend, failed to complete, denied admittance, program not available, etc	3/0

SCORES:

The reproduced document above retains the original content and its printed page numbering.

16. Felony committed upon previous release from prison, jail, juvenile facility, or treatment center.

Actual or estimated length of time from the date offender was released from an institution (prison, jail, secure juvenile facility, etc.) after serving any sentence (Date #I), to the date he committed a felony resulting in a conviction (Date #2). This can be any time period prior to the current incarceration. If the current incarceration is the offender's first, then score as A. The intent of this question is to gauge the shortest span of time between the offender's release from custody after serving any sentence, and the date of commission of any new felony offense.

	S/G
A. Not applicable (first incarceration)	0/0
B. More than 12 months following release	3/0
C. Up to and including 12 months following release	7/10

SCORES:

17. Discipline history while in prison or jail, or juvenile facility, or juvenile treatment center (most serious).

Inmate's officially documented disciplinary infractions during any period of imprisonment. This may include jail, prison, or confinement in any other secure detention or treatment facility. THE INTENT OF THIS QUESTION IS TO MEASURE THE DISRUPTIVE BEHAVIOR OF THE OFFENDER WHILE INCARCERATED IN A SECURE DETENTION OR TREATMENT FACILITY. MAJOR DISCIPLINE (REPORTS) ARE RULE VIOLATIONS OF SUCH MAGNITUDE THAT THEY RESULT IN PENALTIES SUCH AS LOSS OF TIME CREDITS (GOOD TIME), PLACEMENT IN DETENTION AND/OR ISOLATION, *LOSS OF* VISITATION, AND MAY REQUIRE RESTITUTION. THEY ALSO MAY RESULT IN THE FILING OF CRIMINAL CHARGES. EXAMPLE: TAKING A HOSTAGE OR KIDNAPPING, INCITING OR PARTICIPATING IN A RIOT, ATTEMPTED ESCAPE, ASSAULT OR BATTERY (ON OFFENDERS OR STAFF), AND POSSESSION OF OR MANUFACTURE OF DANGEROUS CONTRABAND TO INCLUDE WEAPONS, EXPLOSIVES, ETC.

	S/G
A. No major reports	0/0
B. Major reports with or without violence	4/8

SCORES:

18. **Substance abuse treatment.**

If #12 (Alcohol drug usage) is scored A. then score this question A. If #12 is scored B, then score this question as appropriate. This question relates to the offender's involvement or lack of involvement in chemical dependency programming during any term of incarceration or term of probation. TREATMENT IS DEFINED AS AN AUTHORIZED PROGRAM DEVELOPED AND/OR PRESENTED BY CORRECTIONS OR PROBATION STAFF, OR THEIR CONTRACTORS WHO HAVE BEEN TRAINED IN THE DELIVERY OF SUBSTANCE ABUSE PREVENTION/INTERDICTION PROGRAMMING. OFFENDER FACILITATED PROGRAMS AND/OR SUPPORT GROUPS SUCH AS AA OR NA, BY THEMSELVES, DO NOT QUALIFY AS TREATMENT FOR THIS QUESTION.

	S/G
A. No dependency; or completed program	0/0
B. Not involved in treatment; involved, but did not complete program (It may apply to treatment received in the community **AS PART OF OFFENDER SUPERVISION.)**	4/7

SCORES:

The reproduced document above retains the original content and its printed page numbering.

Other Factors Affecting Community Notification Level
(For Law Enforcement Use Only)

Certain factors, while not readily quantified, may in some cases serve to mitigate or aggravate the extent of community notification required for an offender. The local law enforcement agency responsible for completing community notification should note that these factors, if present, may be utilized to override the notification level otherwise indicated by the risk assessment score. Since these factors are dynamic, they are not included in the scoring of other static factors or given a specific weight:

Mitigating factors may **include, but not be** limited to:

The offender's housing within a secure in-patient treatment program, i.e. the Arizona State Hospital or other secure in-patient facility.

Permanent medical incapacitation of the offender.

The location of the offender's place of residence, including remoteness, lack of access to children, and transportation.

Completion of a formal residential or outpatient sex offender treatment program, with attendant written diagnosis by a board certified psychologist or psychiatrist that the offender's risk for re-offense is minimal.

The presence of any factors which indicate that the risk of harm to the offender or immediate family members outweighs the potential benefit to be derived from the distribution of community notification flyers.

The offender's long term, stable presence in the community absent further criminal activity.

The offender is under some form of intensive community supervision, and is residing in a community residential treatment placement.

Aggravating factors may include, but not be limited to:

The offender's use of a deadly weapon or dangerous instrument during commission of the offense.

The offender tortured or mutilated the victim or inflicted great bodily harm.

Under circumstances where a law enforcement agency receives new information that was not available when the previous assessment was completed.

The reproduced document above retains the original content and its printed page numbering.

EXHIBIT
2

NCJRS
NATIONAL CRIMINAL JUSTICE REFERENCE SERVICE

OFFICE OF JUSTICE PROGRAMS
BJA BJS NIJ OJJDP OVC SMART

Document Title: Sex Offender Risk Assessment: State-Level Policies for Determining Registration and Notification Requirements

Author(s): Meaghan Flattery ; Robert Zaman ; Helene Zakia

Document Number: 306898

Publication Date: July 2022

This report was prepared by the Federal Research Division, Library of Congress under an interagency agreement with the Office of Sex Offender Sentencing, Monitoring, Apprehending, Registering, and Tracking, U.S. Department of Justice.

The opinions, findings and conclusions or recommendations expressed in this publication are those of the authors and do not necessarily reflect the official position or policies of the Department of Justice.

  - Level 1 offenders pose a low risk of re-offense. Information on Level 1 offenders is not released to the public.
  - Level 2 offenders pose a moderate risk of re-offense. Information on Level 2 offenders is available to the public.
  - Level 3 offenders pose high risk of re-offense. Information on Level 3 offenders is actively disseminated to the public.

- Massachusetts' tier classification relies on a "guided," or "structured," clinical judgment risk assessment methodology, rather than risk assessment instrument scores.

- Massachusetts' Sex Offender Registry Board (SORB) assesses offenders' risk using the structured clinical judgment approach and determines offenders' tier classification.

10.3.2. Introduction

Massachusetts does not use risk assessment instruments to assess offenders' risk of re-offense. Instead, the Massachusetts' Sex Offender Registry Board (SORB) uses a guided, or structured, clinical judgment risk assessment methodology to classify offenders into one of three tiers, which determine offenders' notification requirements.[302] Level 1 offenders' registration information is accessible only to law enforcement and registry personnel while Level 2 and Level 3 offenders' information is publicly available.

10.3.3. Risk Assessment Uses

In Massachusetts, risk assessment-determined classification levels govern aspects of offenders' public notification requirements and whether an offender must register or can be removed from the registry.[303] The state uses a guided, or structured, clinical judgment risk assessment

[302] A structured professional judgment methodology, what Massachusetts calls "structured clinical judgment," is defined as such: "Evaluators were given a structured list of risk factors determined in advance. The method of combining the factors into a total score was not specified in advance, and the overall evaluation of risk was left to the professional judgment of the evaluator" (Hanson and Morton-Bourgon, "The Accuracy of Recidivism Risk Assessments," 4).

[303] Regarding duration requirements, sex offenders are required to register for twenty years unless they meet the requirements for lifetime registration. The requirements are based on factors such as recidivism for a sex offense or determination by a court that the offender is a "sexually violent offender." However, offenders who have not committed a subsequent offense for ten years and who can show that they are "not likely to pose a danger to the safety of others" are eligible to petition SORB for relief from the duty to register (Mass. Ann. Laws ch. 6, § 178G). Because SORB uses a structured clinical judgment risk assessment methodology, it is not clear whether its consideration of such petitions would constitute a reassessment of the offender. Conversely, frequency of reporting requirements are not determined by risk assessment or tier classification. However, the method of reporting is affected by an offender's tier: Level 1 offenders must verify their registration annually with SORB by mail, while Level 2 and 3 offenders must verify their registration annually in person with their local police department (SORB, "Sex Offender Registry Requirements," 2, accessed June 12, 2022, https://www.mass.gov/doc/sex-offender-registration-brochure-0/download).

The reproduced document above retains the original content and its printed page numbering.

EXHIBIT 05 | SUPPORTING CASE DOCUMENT

Adult Probation Memorandum, June 22, 2026

Probation record • 3 original pages

Document included in full

The original document follows this exhibit identification page. Its original page numbering and contents have been preserved.

Referenced as

[5] in the Formal Policy Review and in the Sources and References section.

Use the PDF bookmarks or the Exhibit Index to navigate between exhibits.

SUPERIOR COURT OF THE STATE OF ARIZONA
MARICOPA COUNTY

Division **CRJ03**
Pros Atty: **DCA**
Jesus Perez, SEJC

THE STATE OF ARIZONA Case Number: **CR2009-128763-001-DT**

vs.

MATTHEW BURNASH II **MEMO TO THE COURT**

DOB: 12/09/1989

CR2009-128763-001-DT Count 2

The defendant was formally judged guilty of the crime of **Count 2: Attempt to Commit 13-3553 SEXUAL EXPLOITATION OF MINOR, DANGEROUS CRIME AGAINST CHILDREN, A Class 3 Felony.**

Probation Start Date: 04/26/2019 Prob. Length: Lifetime Standard

CIRCUMSTANCES:

This memorandum is being submitted for the Court's review in response to the defendant's Petition to Modify Conditions of Sex Offender Probation.

Index Offense: In March of 2009, Phoenix Police were investigating internet crimes against children and on March 2, 2009, they were investigating file sharing networks when they discovered an internet user which had a folder available for browsing and sharing of its content with others online. The person using the IP address was known to Phoenix Police as a person previously identified that had videos available which depicted the sexual exploitation of children under the age of fifteen. Police identified on color video which showed a nude minor female laying on her back with a nude adult male on top of her inserting his erect penis into her vagina and anus. The minor female's age was estimated to be under the age of fifteen due to the lack of pubic hair, breast development and overall physical development.

Sexual History: The following is a list of sexual encounters the defendant reported on his sexual history packet. The defendant reported he engaged in sexual contact with seven females aging from six to sixteen years old. These encounters occurred after he turned eighteen years of age.

The defendant has also engaged in sexual contact with family members ranging from nine to sixteen years of age. He also engaged in forced sexual contact with a five-year-old male cousin and family friend age six when he was age twelve and nineteen years of age. On two occasions he engaged in sexual contact with a sleeping, incapacitated or helpless person. One was a female family friend at her age of three and male family friend at his age of six. The defendant was thirteen and eleven when these encounters occurred.

He reported that he was in a position of trust with some of his sexual encounters with minors. All nine victims were members of his family. He engaged in frottaging, exhibitionism or indecent exposures and voyeurism behaviors with both male and female minor victims.

In 2008 and 2009, on a daily basis for an hour, he viewed child sexual abuse material (CSAM) of both male and female minors from age three to age seventeen that he masturbated to while viewing. His target age was females age six to age twelve. He saw one video of a crying child who was being violently raped which he did not like. He did not have a membership to a pornographic website.

He has watched and objectified children in malls, parks, water parks, schools and stores. He had found ways to voyeur children in a state of undress. He has sought out ways to gain trust via family authority figure, bribery and manipulation to sexually exploit them via touching, wrestling or molestation.

ABEL: The defendant completed his ABEL assessment on September 30, 2019. Objective interests: Females age five or less, females age six-thirteen, males age five or less, school age males six-thirteen, males age fourteen-seventeen and adult males. Subjective (self-reported) sexual interests in order of rating: Males age fourteen-seventeen, females

The reproduced document above retains the original content and its printed page numbering.

age six-thirteen, females age five or less, and adult males.

MSI II: The defendant completed his Multiphasic Sexual Inventory assessment on September 29, 2022. He scored within acceptable limits of the test. He admitted to committing multiple sexual offenses. On the Child Molest Scale he was assessed in the very high disclosing range which indicates he was very honest and disclosing about his sexual interests, thoughts and used sexual fantasies involving children. He was highly disclosing in his manipulation strategies to engage in sexual contact with a child. The Scheming Scale indicated he fully recognized and acknowledged the planning involved in attempting not to get caught engaging in his offense behaviors. He recognized the anticipation and excitement involved in his offense and also admitted it was wrong to engage in sex activity with an underage person or to force someone to engage in sexual contact. He was generally found to be disclosing on testing which should carry over into treatment. He acknowledged committing a sex offense and engaging in deviant sexual behavior. The client reported having been charged with a sex offense more than once and has had treatment for sex offending behavior earlier in his life. He was disclosing of having had sex deviance problems involving child molest, committing a sex act on a vulnerable person, exposing to a child, peeping, and deviant pornography. He did not attempt to justify his behavior. On testing he showed no evidence of feeling guilty or ashamed of any of his sexual behaviors. The client does not believe he needs help to control his sexual impulses and behaviors. Motivation may need to be addressed in treatment.

Sex Offender Treatment: The defendant began his primary sex offender treatment process at The Resolution Group in July of 2019. The defendant was transferred to Family Transitions in September of 2023. He completed his primary treatment process and maintenance sessions on April 1, 2024. His quarterly reports indicated that he was engaging in his treatment process. His relapse prevention plan that he developed was thoroughly created and reported that he follows it daily. The report also indicates there are no issues with deviant or criminal attitudes. He has support from his family and has maintained stable living environments. Prior to his discharge from maintenance group, the defendant engaged in EMDR treatment to address some lingering trauma. He reports this treatment has served him well in addressing some mental health issues as well as the trauma he experienced in his youth and while incarcerated.

Although the defendant had successfully completed his treatment process, the learned concepts for him were a struggle to utilize once out of treatment. He was caught in some deceptive behaviors and was referred back to Family Transitions to address the behaviors. He began a stint of treatment in September of 2024, where he engaged in group sessions as well as one on one therapy. He was required to update his relapse prevention plan addressing his wanting to engage in a relationship with a female who was nineteen years old. The defendant was thirty-six at that time. The defendant has struggled with his sexuality throughout his probation grant. Some treatment sessions were centered around the need to identify his sexuality and how he would like to proceed with his sexual identity. The defendant completed his modified sexual therapy on October 23, 2025. The defendant had exhibited such tremendous progress in a short amount of time, he was asked to return as a mentor to other group members who are struggling. He has been engaged with this since October and attends approximately two sessions a week at various Family Transitions locations.

Polygraph History: Since the defendant began his probation grant in 2019, he has engaged in twelve maintenance polygraphs with all twelve rendering no significant responses. Various questions were asked in relation to unreported minor contact, unreported sexual contact, viewing sexually stimulating material for masturbation purposes and unauthorized internet use.

RISK ASSESSMENTS

FROST: His current FROST assessment shows him to be a medium risk to reoffend. The most concerning area for the defendant is criminal behavior and mental health.

STATIC 99R: Not eligible due to offense.

SOTIPS: Not eligible due to offense.

Chaperone Status: The defendant does have an assigned chaperone who is his mother, Sarai.

Sex Offender Registration: The defendant is required to register as a sex offender; he is a level three for community notification purposes.

Performance While on Probation: The defendant began his probation grant upon release from the Arizona State Mental Hospital in July of 2019. He was immediately placed in sex offender treatment. He was able to find

The reproduced document above retains the original content and its printed page numbering.

employment with an HVAC company as he was able to obtain his HVAC certificate while incarcerated. He has maintained his own residence that he purchased in March of 2023. He reports to the office as directed and is communicative with his probation team. The defendant has made strides in accomplishing his goals. The defendant was able to secure a large amount of funds from his HVAC work and was able to purchase a food truck that he has been operating since February of 2026.

In August of 2024, the defendant was being deceptive about his movements in the community. His GPS points showed him at the church he had approval to attend but the entire time there his points place him in the parking lot and not in the church building. It was later discovered the defendant was in the parking lot with an adult female that he previously presented to his probation team as someone he wanted to pursue a relationship with; she was nineteen years old at the time. The defendant was advised of the major issues his probation team had about this potential relationship. He was confronted with this and denied he was in the parking lot. He was directed to report to the office and fully admitted he had lied to his probation team about his movements. He was asked why he thought he could deceive his probation team when his GPS points showed his movements. At this time the defendant was referred back to treatment to address some lingering issues in regard to actions in pursuing a relationship with this nineteen-year-old female. He completed the treatment he was directed to engage in, and it appears that he has taken advantage of the skills and tools he received.

Discussion and Evaluation/Recommendation: §13902(G) provides that if a person is convicted on or after November 1, 2006 of a dangerous crime against children (as defined in §13705), and probation is imposed, and the person is required to register under §133821 and classified as a level three offender under §133825, the court must require the use of global position system (GPS) or electronic monitoring for the entire duration of the probation term. The Phoenix Police Department assessed his risk as level three, which makes GPS monitoring mandatory under the law. At this time, there is no legal basis to remove GPS monitoring, and therefore, the defendant must remain on GPS monitoring until his risk level changes after being assessed by the local jurisdiction where he resides.

This memorandum is being submitted by Adult Probation Officer Jesus Perez on June 22, 2026.

VICTIM STATUS:

- There is no victim involved in this case.

Date:

Jesus Perez
Probation Officer Phone: 602-619-3092

DIRECTION:

☐ **Prepare and Submit a Petition to Revoke Probation with:** ☐ **Summons** ☐ **Bench Warrant**

☐ **Take Whatever Action Deemed Appropriate**

☐ **Take the Following Action:**

Date:

Judge of the Superior Court

The reproduced document above retains the original content and its printed page numbering.

EXHIBIT 06 | PUBLIC LEGAL AUTHORITY

A.R.S. § 13-3825(D)

Community notification; level classification

OFFICIAL SOURCE

https://www.azleg.gov/ars/13/03825.htm

Relevant statutory provision

Subsection D directs the sheriff to forward information to local law enforcement, which reviews the available information, categorizes the person, and assigns a community-notification level.

Relevance to the proposal

The notification level operates as a statutory trigger for GPS under § 13-902(G), even though community notification and continuous monitoring are distinct supervisory questions.

For the complete and authoritative current source, use the clickable official link above. The text on this page summarizes the relevant provisions.

EXHIBIT 07 | PUBLIC LEGAL AUTHORITY

Grady v. North Carolina

575 U.S. 306 (2015) — United States Supreme Court

OFFICIAL SOURCE

https://www.law.cornell.edu/supremecourt/text/14-593

Fourth Amendment principle

The Court determined that attaching a device to a person’s body for location tracking constitutes a Fourth Amendment search. The Court did not decide that every such monitoring program is unconstitutional; reasonableness depends on the circumstances.

Relevance to the proposal

Supports a policy inquiry into the purposes, continuing benefit, and burdens of GPS monitoring. The legal opinion is available at the linked source.

For the complete and authoritative current source, use the clickable official link above. The text on this page summarizes the relevant provisions.

EXHIBIT 08 | PUBLIC LEGAL AUTHORITY

A.R.S. § 13-901(B), (E), (M)

Probation — individualized conditions, modifications, and accommodations

OFFICIAL SOURCE

https://www.azleg.gov/ars/13/00901.htm

Subsection B

Unless otherwise required by law, probation conditions must be reasonably necessary, individually determined, narrowly tailored, and informed by validated risk assessment. This exception is important: it does not automatically displace the mandatory GPS provision in § 13-902(G).

Subsection E

Provides the court with general authority to modify or add probation conditions, subject to applicable statutory requirements.

Subsection M

Addresses accommodations for work, caregiving, treatment, transportation and medical care when setting probation reporting times and locations.

Relevance to the proposal

An express amendment to § 13-902(G) could clarify how individualized review applies to a monitoring condition otherwise required by law.

For the complete and authoritative current source, use the clickable official link above. The text on this page summarizes the relevant provisions.

EXHIBIT 09 | PUBLIC LEGAL AUTHORITY

Arizona SOMB Adult Guiding Principles

Adopted June 22, 2026

OFFICIAL SOURCE

https://www.azdps.gov/sites/default/files/2026-06/Adult%20Guiding%20Principles%20Adopted%20June%2022%2C%202026.pdf

Principle 4

Recognizes the capacity for change and emphasizes coordination between treatment providers and supervising professionals.

Principle 6

Supports individualized, evidence-based and research-informed treatment and supervision.

Principle 7

Recognizes that future risk can increase or decrease and that assessment, treatment and supervision should respond to changes in risk.

Official document

The Board’s complete five-page adopted document is available by clicking the official PDF link above.

For the complete and authoritative current source, use the clickable official link above. The text on this page summarizes the relevant provisions.

EXHIBIT 10 | PUBLIC LEGAL AUTHORITY

A.R.S. § 13-3828(D)

Arizona Sex Offender Management Board — duties

OFFICIAL SOURCE

https://www.azleg.gov/ars/13/03828.htm

Subsections D(1) and D(2)

Direct the Board to develop research-informed evaluation, management, monitoring and treatment recommendations and to examine appropriate case-by-case evaluation approaches.

Subsection D(7)

Addresses Board review of and legislative recommendations concerning the community-notification risk assessment.

Subsection D(9)

Addresses criteria for measuring treatment progress and informing decisions about reduced levels of supervision.

Relevance to the proposal

These statutory responsibilities provide the Board with a mechanism for studying and recommending the proposed reforms.

For the complete and authoritative current source, use the clickable official link above. The text on this page summarizes the relevant provisions.

Ashlesha Naik

From: Rachel Bretz [redacted]
Sent: Friday, November 13, 2026 9:28 AM
To: Arizona Sex Offender Management Board
Subject: Response to AZSOMB Revised Juvenile Guiding Principles

Categories: Call to the Public Written Comments

Dear Chairwoman Goulden and Members of the Board,

I am submitting the following comments and recommendations regarding the Revised Juvenile Guiding Principles presented for consideration at the November 16, 2026 meeting.

I would like to acknowledge and express appreciation for several positive elements of the proposed principles, while also identifying areas where additional clarification and guidance are needed.

Strengths of the Proposed Guiding Principles

- **Principles 6 and 7:** Support ongoing, individualized risk assessments and recognize that risk should not be determined solely by the offense.
- **Principle 10:** Calls for treatment and supervision that reflect each juvenile's developmental stage, risks, and needs.
- **Principles 12 and 13:** Emphasize measurable treatment progress and consideration of the juvenile's overall well-being.
- **Principle 17:** Supports continuity of care, appropriate levels of supervision, and family or community placement whenever possible.
- **Principle 19:** Recognizes that juveniles should not be permanently defined by their harmful behavior.

These provisions establish important foundations for individualized treatment, rehabilitation, accountability, and public safety.

Recommended Clarifications and Additions

1. Greater Attention to Mental Health and Neurodevelopmental Conditions

Principles 6, 10, and 13 appropriately call for comprehensive, individualized evaluations and treatment. Additional guidance is needed to ensure these evaluations consistently consider conditions such as autism, ADHD, intellectual disabilities, depression, anxiety, compulsive sexual behaviors, and problematic pornography use.

Evaluations should look beyond the offense itself to understand what may have contributed to the behavior, including mental health struggles, compulsive behaviors, and difficulty controlling impulses. These factors should be evaluated individually rather than assumed to be present or to establish a particular level of risk.

Recommendation: Clarify that comprehensive evaluations should consider relevant mental health, developmental, cognitive, and behavioral conditions when determining treatment needs and appropriate supervision.

2. Recognition of Previously Completed Treatment and Programming

Principle 12 appropriately emphasizes measurable progress and successful treatment completion, while Principle 17 addresses continuity of care.

Juveniles may complete substantial counseling, education, or treatment while in detention, juvenile correctional facilities, residential placements, or other approved programs. All completed programming and documented progress should be recorded and included in the juvenile's records whenever they transition to another facility, treatment provider, or supervision program.

Recommendation: Establish a requirement that records of completed treatment, education, and programming follow juveniles throughout their involvement in the justice system. Juveniles should receive full recognition and credit for previously completed requirements, regardless of where they were completed, provided the programming meets applicable standards. This would prevent unnecessary repetition of treatment or education while allowing additional services when justified by an individualized assessment.

3. Essential Internet and Digital Access

Internet and digital access are essential parts of everyday life. Juveniles need these tools for education, employment preparation, banking, communication, and developing the skills necessary to become independent, responsible adults.

Protecting public safety does not require eliminating access altogether. Technology is available to monitor online activity, restrict access to certain websites or applications, and establish clear boundaries for appropriate use.

Recommendation: Establish guidelines that ensure juveniles have access to essential digital services, including:

- Educational programs, schoolwork, and research
- Employment applications, job training, and work-related activities
- Banking and other necessary financial services
- Approved communication with family, treatment providers, and support services
- Other essential activities needed for daily life and successful rehabilitation

The level of access, restrictions, and monitoring requirements should be determined through individualized risk assessments. Available monitoring software, content filters, and other safeguards should be used when appropriate to manage risks while preserving essential access.

The goal should be to establish how juveniles can safely use technology—not whether they should be allowed to use it at all.

4. Clearer Guidance on Diversion and Community-Based Treatment

Principle 17 appropriately supports the least restrictive environment and prioritizes family or community placement whenever possible.

This approach could be strengthened by explicitly encouraging consideration of diversion and community-based treatment before more restrictive placements when a juvenile can be safely treated and supervised in the community.

Recommendation: Add language encouraging evidence-based diversion and community treatment options when appropriate, based on individual circumstances, treatment needs, victim safety, and public-safety considerations.

5. Individualized Decisions Regarding Juvenile Registration

Arizona law permits courts to order registration following certain juvenile adjudications. The guiding principles should explain how registration decisions relate to a juvenile's development, treatment progress, and current risk.

Recommendation: Include guidance supporting individualized registration decisions that consider current risk, developmental maturity, rehabilitation, and public safety rather than relying solely on the offense. The principles should also recognize opportunities for review and termination of registration when permitted by law.

Closing

The proposed guiding principles contain important provisions supporting individualized assessments, appropriate treatment, and rehabilitation.

The recommended clarifications would help ensure these principles translate into practical, consistent decisions about treatment, supervision, and placement while maintaining accountability and protecting public safety.

Thank you for considering these recommendations.

Respectfully submitted,

Rachel S. Bretz
Criminal Justice Reform & Legislative Advocate

[redacted]
Scottsdale, Arizona

Ashlesha Naik

From: Rachel Bretz [redacted]
Sent: Friday, November 13, 2026 10:17 AM
To: Arizona Sex Offender Management Board
Subject: Response to AZSOMB proposed Early Termination Considerations for Probationers with Sex Offender Conditions

Categories: Call to the Public Written Comments

Dear Chairwoman Goulden and Members of the Board,

I am submitting the following comments and recommendations regarding the proposed Early Termination Considerations for Probationers with Sex Offender Conditions.

I would like to acknowledge and express appreciation for several positive elements of the proposal, while also identifying areas where additional clarification and guidance are needed.

Strengths of the Proposed Considerations

- **Individualized evaluations:** The proposal supports case-by-case consideration of risk, treatment progress, and individual circumstances.
- **Item 7:** Recognizes that additional treatment may not further reduce an individual's risk of sexual reoffending.
- **Items 14 and 15:** Consider dynamic risk factors and protective factors, including stable housing, support systems, and successful adjustment to supervision.
- **Items 10 and 11:** Allow polygraph concerns to be resolved rather than requiring every examination to be passed.
- **Footnote 5:** Recognizes that a rule violation alone does not establish increased sexual reoffense risk and that polygraph disclosures do not independently establish a risk level.
- **Judicial authority:** Confirms that the court makes the final determination regarding early termination, subject to applicable law.

These provisions provide a foundation for evaluating rehabilitation and current risk rather than relying exclusively on the original offense.

Recommended Clarifications and Additions

1. Consider Rehabilitation and Positive Conduct During Pre-Sentencing, Incarceration, and Probation

An individual's progress toward rehabilitation often begins well before probation. During the pre-sentencing period, individuals may voluntarily participate in counseling or therapy, maintain steady employment, comply with court-ordered conditions, and demonstrate responsible behavior while working with pretrial supervision officers.

Similarly, individuals may complete substantial educational, vocational, treatment, and rehabilitation programming while incarcerated.

These efforts can provide meaningful evidence of personal accountability, commitment to rehabilitation, and the ability to comply with supervision requirements.

Recommendation: Include documented rehabilitation efforts and positive conduct during pre-sentencing, incarceration, and probation as additional favorable considerations when evaluating early termination—not as prerequisites. Relevant examples include voluntary therapy, educational or treatment programming, employment stability, and compliance with pretrial supervision. Individuals should not be disadvantaged because such opportunities were unavailable to them.

2. Clarify Flexibility in Polygraph Considerations

Items 10 and 11 appropriately allow polygraph examinations to be successfully passed or resolved. The proposal also recognizes that some individuals may be unable to take polygraphs and provides flexibility for addressing examination concerns.

I appreciate this recognition of professional judgment and individualized circumstances.

Recommendation: Clarify that inconclusive or disputed polygraph results may be reviewed and resolved by the treatment and supervision team and should not automatically disqualify an otherwise eligible individual from early termination consideration.

3. Consider Mental Health, Neurodevelopmental Conditions, and Young Adult Development

Individuals with autism, ADHD, intellectual disabilities, depression, anxiety, or other relevant mental health and neurodevelopmental conditions may have different treatment and supervision needs.

Young adults, particularly those ages 18–26, may also be experiencing continued cognitive and emotional development that affects judgment, impulse control, decision-making, and responses to treatment.

Recommendation: Consider relevant mental health, developmental, cognitive, and behavioral factors when evaluating treatment progress, compliance, and suitability for early termination, including developmental maturity among young adults ages 18–26 when relevant. This consideration should not create a new mandatory assessment or eligibility requirement.

Appropriate accommodations should be available, and developmental differences or communication difficulties should not automatically be interpreted as resistance to treatment or increased risk.

4. Prevent Unnecessary or Unreasonable Barriers to Completion

Item 3 addresses completion of standard and specialized probation conditions, while Item 12 addresses additional testing and assessments.

Although appropriate requirements are important, individuals should not be prevented from receiving individualized consideration solely because a service is unavailable, a requirement duplicates prior programming, or an assessment no longer supports additional treatment.

Recommendation: Provide for review of outstanding requirements, recognition of substantially equivalent programming, and reasonable alternatives when services are unavailable or no longer clinically appropriate. An unmet condition should not automatically bar consideration for early termination; any concern should be evaluated for its relevance to current risk, rehabilitation, and public safety.

5. Establish Clear and Transparent Review Procedures

The proposal encourages individuals to discuss early termination with their probation officers. However, clearer guidance about the review process would be helpful.

Recommendation: Provide written procedures allowing legally eligible individuals to request an early termination review and receive an explanation of the recommendation. When early termination is not supported, identify specific concerns and reasonable steps that could support future consideration, while preserving access to judicial review where authorized by law.

6. Recognize Successful Reentry and Family Stability

Stable housing, employment, family relationships, and community support are important considerations in successful rehabilitation.

The proposal appropriately recognizes protective factors in Item 15. However, supervision requirements can sometimes interfere with the very stability individuals are expected to establish.

Restrictions affecting housing, employment, family contact, transportation, or necessary digital access should be evaluated according to their actual relationship to an individual's risk.

Recommendation: Consider whether continued supervision requirements remain necessary for public safety and whether they create unnecessary barriers to employment, housing, family stability, and successful community reintegration.

Closing

The proposed considerations contain important provisions supporting individualized assessments, treatment progress, and public safety.

The recommended clarifications would help ensure that early termination remains a meaningful opportunity for legally eligible individuals who demonstrate rehabilitation, sustained compliance, and reduced risk.

Effective supervision should recognize progress, support successful reintegration, and preserve judicial discretion wherever permitted by law.

Thank you for considering these recommendations.

Respectfully submitted,

Rachel S. Bretz
Criminal Justice Reform & Legislative Advocate

[redacted]
Scottsdale, Arizona

Ashlesha Naik

From: Rachel Bretz [redacted]
Sent: Friday, November 13, 2026 10:38 AM
To: Arizona Sex Offender Management Board
Subject: Response to AZSOMB Early Termination Template

Categories: Call to the Public Written Comments

Dear Chairwoman Goulden and Members of the Board,

Thank you for your continued work developing consistent guidelines for early termination of probation. The proposed template provides a useful framework for presenting information to the court. Several clarifications would further strengthen its fairness, transparency, and ability to support individualized judicial decision-making.

Strengths of the Proposed Template

- **Consistency:** Establishes a standardized format for presenting information to the court.
- **Individualized Assessment:** Includes treatment history, risk assessments, and probation performance.
- **Transparency:** Calls for explanations when early termination is not recommended.
- **Accountability:** Identifies goals for future consideration when a request is not supported.

These elements help promote evidence-based decisions while preserving judicial discretion.

Recommended Clarifications and Additions

1. Clarify the Individual's Right to Request Early Termination

Under Arizona Rule of Criminal Procedure 27.4, individuals may request early termination of probation, subject to applicable statutory restrictions. The probation officer's recommendation should not determine whether an otherwise eligible individual can submit a request for judicial consideration.

Recommendation: Clarify that individuals may independently request early termination without first obtaining their probation officer's approval. The template should distinguish the probation officer's responsibility to provide information and recommendations from the court's authority to make the final determination.

2. Establish an Opportunity and Timeline to Submit Supporting Information

The template primarily directs probation officers to gather and present information. However, the court should not be limited to information obtained or selected by the probation officer.

Recommendation: Establish a clear procedure requiring individuals to be notified of their opportunity to submit supporting documentation and given a reasonable, specified timeframe to do so before the probation officer finalizes the response.

Supporting information should be accepted from individuals, attorneys, therapists, counselors, treatment providers, correctional institutions, family members, employers, and other relevant sources.

Probation officers should consider and include relevant, verifiable information from these sources, without being solely responsible for locating every supporting record. The process should not create additional waiting periods or unnecessary delays in judicial review.

3. Recognize Rehabilitation Throughout the Justice Process

The template addresses performance during probation, but meaningful rehabilitation may begin much earlier.

Individuals may demonstrate positive conduct, participate in counseling, maintain employment, and comply with pretrial supervision before sentencing. During incarceration, they may complete educational, vocational, treatment, and rehabilitation programs.

Recommendation: Expand the template to include relevant accomplishments and positive conduct during pre-sentencing, incarceration, and probation.

These accomplishments should be considered favorable factors, not additional requirements for early termination.

4. Allow Individuals to Review and Correct Information

Because the probation officer's response may significantly influence the court's decision, individuals should have an opportunity to identify inaccuracies or omissions.

Recommendation: Provide individuals and their attorneys, when represented, a reasonable opportunity to review the probation officer's response and submit corrections or additional information before the court makes its determination.

Any unresolved factual disagreements should be clearly identified for the court.

5. Ensure Accurate Presentation of Criminal History and Assessments

The template requests information regarding dismissed charges, criminal history, and specialized assessments. These materials should be presented with appropriate context.

Recommendation: Clearly distinguish convictions from dismissed charges and unproven allegations. Additionally, unavailable or clinically inappropriate assessments should be identified and explained rather than automatically treated as unfavorable findings.

The absence of a particular assessment should not independently prevent consideration for early termination unless required by law or supported by an individualized determination.

6. Preserve Judicial Discretion and Individualized Consideration

The proposed template appropriately asks probation officers to explain recommendations against early termination and identify goals for future consideration.

Recommendation: Retain these provisions while clarifying that an unfavorable recommendation does not, by itself, prevent an otherwise eligible individual from seeking judicial review. The court should receive a balanced presentation of both concerns and documented progress.

Closing

The goal of this template should be to provide the court with accurate, complete, and balanced information—not simply the probation officer's perspective.

Allowing individuals to participate meaningfully, submit supporting documentation, and correct inaccuracies will strengthen the process without creating additional burdens or barriers to early termination.

Thank you for considering these recommendations.

Respectfully submitted,

Rachel S. Bretz

Criminal Justice Reform & Legislative Advocate
Scottsdale, Arizona
[redacted]

Ashlesha Naik

From: Rachel Bretz [redacted]
Sent: Friday, November 13, 2026 11:30 AM
To: Arizona Sex Offender Management Board
Subject: Regarding Board's Agenda Item of Community Notification

Categories: Call to the Public Written Comments

Dear Chairwoman Goulden and Members of the Board,

Thank you for taking the time to examine how an individual's actual assessed risk, rather than solely their offense classification, should inform community notification decisions.

As the Board examines community notification practices, I encourage consideration of the unintended consequences for spouses, children, parents, friends, and other family members.

Public notification can contribute to:

- Housing instability and barriers to family reunification.
- Harassment, stigma, and social isolation affecting family members and friends.
- Financial hardship and employment difficulties.
- Disruption of supportive relationships with family and friends that can contribute to rehabilitation and successful reintegration.

I appreciate the Board's willingness to examine this important issue. I hope the discussion will consider how community notification can remain effective in protecting the public while also recognizing its potential impact on family members and friends.

Thank you for your time and consideration.

Respectfully submitted,

Rachel S. Bretz

Criminal Justice Reform & Legislative Advocate
Scottsdale, Arizona
[redacted]

Ashlesha Naik

From: Rachel Bretz [redacted]
Sent: Friday, November 13, 2026 11:50 AM
To: Arizona Sex Offender Management Board
Subject: Support for Rep Powell's Recommendation for responding to public comments

Categories: Call to the Public Written Comments

Dear Chairwoman Goulden and Members of the Board,

I would like to express my support for Representative Powell's recommendation that the Board establish a consistent policy and procedure for responding to public comments and inquiries.

I believe this would benefit both the Board and the public by improving communication and providing clarity.

Some concerns could potentially be resolved quickly by the Board acknowledging the issue, clarifying that it does not fall within the Board's authority, and directing the individual to the appropriate person or agency.

Establishing a consistent policy and procedure could also reduce the need to revisit previously addressed questions, allowing the Board to devote more time and resources to fulfilling its responsibilities and objectives as established by Arizona statute, while ensuring that public concerns are acknowledged and appropriately addressed.

I encourage the Board to give Representative Powell's recommendation serious consideration. A clear, practical policy and procedure would be a meaningful step toward greater transparency, efficiency, and constructive public engagement.

Thank you for your time and consideration.

Respectfully submitted,

Rachel S. Bretz
Criminal Justice Reform & Legislative Advocate
Scottsdale, Arizona
[redacted]

Ashlesha Naik

From: Rachel Bretz [redacted]
Sent: Friday, November 13, 2026 12:09 PM
To: Arizona Sex Offender Management Board
Subject: Support for Rep Powell's Legislative Review & Response Proposal

Categories: Call to the Public Written Comments

Dear Chairwoman Goulden and Members of the Board,

I would like to express my strong support for Representative Powell's proposal to establish a formal policy, guidelines, and organizational structure for legislative bill tracking, purview identification, and response formulation.

His proposal outlines a thoughtful, practical approach, including the establishment of a Legislative Review Subcommittee, a structured process for identifying and evaluating relevant bills, and timely communication of the Board's findings and recommendations to legislators.

I strongly encourage the Board to establish the proposed subcommittee and approve the necessary procedures by December 2026, so the process is fully operational when the legislative session begins in January. Legislative bills can advance quickly, making it essential that review begins as soon as bills are introduced rather than after they have progressed through critical stages.

I also appreciate the Board's creation of a Request to Speak account. However, the Board's findings and recommendations should also be formally communicated in writing to the appropriate legislators and legislative committees, as was done during the previous session. I encourage the Board to establish a procedure for submitting these communications within three business days following its discussion, vote, and adoption of a position on proposed legislation.

Representative Powell's proposal provides a clear framework for accomplishing these objectives. I urge the Board to move forward with its implementation in preparation for the upcoming legislative session.

Thank you for your time and consideration.

Respectfully submitted,

Rachel S. Bretz
Criminal Justice Reform
& Legislative Advocate

Scottsdale, Arizona
[redacted]

Thank you.

- Rachel

Rachel S Bretz
[redacted]