

Prohibited possessor; mental health; information sharing with law enforcement

1 Section 1. Title 13 Chapter 31, section 13-3101 is amended to read:

2 **13-3101. Definitions**

3 A. In this chapter, unless the context otherwise requires:

4 1. "Deadly weapon" means anything that is designed for lethal use. The term includes a
5 firearm.

6 2. "Deface" means to remove, alter or destroy the manufacturer's serial number.

7 3. "Explosive" means any dynamite, nitroglycerine, black powder, or other similar
8 explosive material, including plastic explosives. Explosive does not include ammunition or
9 ammunition components such as primers, percussion caps, smokeless powder, black powder
10 and black powder substitutes used for hand loading purposes.

11 4. "Firearm" means any loaded or unloaded handgun, pistol, revolver, rifle, shotgun or
12 other weapon that will expel, is designed to expel or may readily be converted to expel a
13 projectile by the action of an explosive. Firearm does not include a firearm in permanently
14 inoperable condition.

15 5. "Improvised explosive device" means a device that incorporates explosives or destructive,
16 lethal, noxious, pyrotechnic or incendiary chemicals and that is designed to destroy,
17 disfigure, terrify or harass.

18 6. "Occupied structure" means any building, object, vehicle, watercraft, aircraft or place
19 with sides and a floor that is separately securable from any other structure attached to it,
20 that is used for lodging, business, transportation, recreation or storage and in which one or
21 more human beings either are or are likely to be present or so near as to be in equivalent
22 danger at the time the discharge of a firearm occurs. Occupied structure includes any
23 dwelling house, whether occupied, unoccupied or vacant.

24 7. "Prohibited possessor" means any person **WHO**:

25 (a) ~~Who~~ Has been found to constitute a danger to self or to others or to be persistently or
26 acutely disabled or gravely disabled pursuant to court order pursuant to section 36-540, and
27 whose right to possess a firearm has not been restored pursuant to section 13-925.

28 (b) ~~Who~~ Has been convicted within or without this state of a felony or who has been
29 adjudicated delinquent for a felony and whose civil right to possess or carry a gun or firearm
30 has not been restored.

31 (c) ~~Who~~ Is at the time of possession serving a term of imprisonment in any correctional or
32 detention facility.

33 (d) ~~Who~~ is at the time of possession serving a term of probation pursuant to a conviction for
34 a domestic violence offense as defined in section 13-3601 or a felony offense, parole,
35 community supervision, work furlough, home arrest or release on any other basis or who is
36 serving a term of probation or parole pursuant to the interstate compact under title 31,
37 chapter 3, article 4.1.

- 1 (e) ~~Who~~ Is an undocumented alien or a nonimmigrant alien traveling with or without
2 documentation in this state for business or pleasure or who is studying in this state and who
3 maintains a foreign residence abroad. This subdivision does not apply to:
- 4 (i) Nonimmigrant aliens who possess a valid hunting license or permit that is lawfully issued
5 by a state in the United States.
 - 6 (ii) Nonimmigrant aliens who enter the United States to participate in a competitive target
7 shooting event or to display firearms at a sports or hunting trade show that is sponsored by
8 a national, state or local firearms trade organization devoted to the competitive use or other
9 sporting use of firearms.
 - 10 (iii) Certain diplomats.
 - 11 (iv) Officials of foreign governments or distinguished foreign visitors who are designated by
12 the United States department of state.
 - 13 (v) Persons who have received a waiver from the United States attorney general.
- 14 (f) ~~Who~~ Has been found incompetent pursuant to rule 11, Arizona rules of criminal
15 procedure, and who subsequently has not been found competent.
- 16 (g) ~~Who~~ Is found guilty except insane.
- 17 (h) IS SUBJECT TO A COURT ORDERED GUARDIANSHIP PURSUANT TO SECTION
18 14-5303, EXCEPT IF THE APPOINTMENT OF A GUARDIAN IS DUE SOLELY TO THE
19 WARD'S PHYSICAL INCAPACITY.
- 20 8. "Prohibited weapon":
- 21 (a) Includes the following:
 - 22 (i) An item that is a bomb, grenade, rocket having a propellant charge of more than four
23 ounces or mine and that is explosive, incendiary or poison gas.
 - 24 (ii) A device that is designed, made or adapted to muffle the report of a firearm.
 - 25 (iii) A firearm that is capable of shooting more than one shot automatically, without manual
26 reloading, by a single function of the trigger.
 - 27 (iv) A rifle with a barrel length of less than sixteen inches, or shotgun with a barrel length
28 of less than eighteen inches, or any firearm that is made from a rifle or shotgun and that, as
29 modified, has an overall length of less than twenty-six inches.
 - 30 (v) An instrument, including a nunchaku, that consists of two or more sticks, clubs, bars or
31 rods to be used as handles, connected by a rope, cord, wire or chain, in the design of a weapon
32 used in connection with the practice of a system of self-defense.
 - 33 (vi) A breakable container that contains a flammable liquid with a flash point of one
34 hundred fifty degrees Fahrenheit or less and that has a wick or similar device capable of
35 being ignited.
 - 36 (vii) A chemical or combination of chemicals, compounds or materials, including dry ice,
37 that is possessed or manufactured for the purpose of generating a gas to cause a mechanical
38 failure, rupture or bursting or an explosion or detonation of the chemical or combination of
39 chemicals, compounds or materials.
 - 40 (viii) An improvised explosive device.

1 (ix) Any combination of parts or materials that is designed and intended for use in making
2 or converting a device into an item set forth in item (i), (vi) or (viii) of this subdivision.

3 (b) Does not include:

4 (i) Any fireworks that are imported, distributed or used in compliance with state laws or
5 local ordinances.

6 (ii) Any propellant, propellant actuated devices or propellant actuated industrial tools that
7 are manufactured, imported or distributed for their intended purposes.

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

9 9. "Trafficking" means to sell, transfer, distribute, dispense or otherwise dispose of a
10 weapon or explosive to another person, or to buy, receive, possess or obtain control of a
11 weapon or explosive, with the intent to sell, transfer, distribute, dispense or otherwise dispose
12 of the weapon or explosive to another person.

13 B. The items set forth in subsection A, paragraph 8, subdivision (a), items (i), (ii), (iii) and
14 (iv) of this section do not include any firearms or devices that are registered in the national
15 firearms registry and transfer records of the United States treasury department or any
16 firearm that has been classified as a curio or relic by the United States treasury department.

17 **14-5304. Findings; limitations; filing; fingerprinting**

18 A. In exercising its appointment authority pursuant to this chapter, the court shall encourage
19 the development of maximum self-reliance and independence of the incapacitated person.

20 B. The court may appoint a general or limited guardian as requested if the court finds by
21 clear and convincing evidence that:

22 1. The person for whom a guardian is sought is incapacitated.

23 2. The appointment is necessary to provide for the demonstrated needs of the incapacitated
24 person.

25 3. The person's needs cannot be met by less restrictive means, including the use of
26 appropriate technological assistance.

27 C. In conformity with the evidence regarding the extent of the ward's incapacity, the court
28 may appoint a limited guardian and specify time limits on the guardianship and limitations
29 on the guardian's powers.

30 D. The guardian shall file an acceptance of appointment with the appointing court.

31 E. The court may require each person who seeks appointment as a guardian to furnish a full
32 set of fingerprints to enable the court to conduct a criminal background investigation. The
33 court shall submit the person's completed fingerprint card to the department of public
34 safety. The person shall bear the cost of obtaining the person's criminal history record
35 information. The cost shall not exceed the actual cost of obtaining the person's criminal
36 history record information. Criminal history records checks shall be conducted pursuant to
37 section 41-1750 and Public Law 92-544. The department of public safety may exchange this
38 fingerprint data with the federal bureau of investigation. This subsection does not apply to a
39 fiduciary who is licensed pursuant to section 14-5651 or an employee of a financial
40 institution.

1 **F. The court shall make a specific finding as to whether the appointment of a guardian is due**
2 **solely to the ward's physical incapacity.**

3 **G. Unless the court makes a specific finding that the appointment of a guardian is due solely**
4 **to the ward's physical incapacity under subsection F of this section, at the time of appointing**
5 **a guardian, the court shall transmit the ward's name, sex and date of birth, the last four**
6 **digits of the ward's social security number, if available, the court case number, the court**
7 **originating agency identification number and the date of the guardian's appointment to the**
8 **supreme court. The supreme court shall transmit the information to the department of**
9 **public safety. The department of public safety shall transmit the information to the national**
10 **instant criminal background check system.**

11 **H. ON REQUEST, THE CLERK OF THE COURT SHALL PROVIDE CERTIFIED**
12 **COPIES OF THE COMMITMENT ORDER TO A LAW ENFORCEMENT OR**
13 **PROSECUTING AGENCY THAT IS INVESTIGATING OR PROSECUTING A**
14 **PROHIBITED POSSESSOR AS DEFINED IN SECTION 13-3101.**

15 **Section 2. Delayed effective date**

16 **This act is effective from and after December 31, 2016**