

REFERENCE TITLE: molestation; dangerous crimes against children

State of Arizona  
House of Representatives  
Forty-eighth Legislature  
First Regular Session  
2007

# HB 2187

Introduced by  
Representatives Barnes, Kirkpatrick: Reagan

AN ACT

AMENDING SECTION 13-604.01, ARIZONA REVISED STATUTES; RELATING TO DANGEROUS  
CRIMES AGAINST CHILDREN.

(TEXT OF BILL BEGINS ON NEXT PAGE)

1 Be it enacted by the Legislature of the State of Arizona:  
2 Section 1. Section 13-604.01, Arizona Revised Statutes, is amended to  
3 read:  
4 13-604.01. Dangerous crimes against children; sentences;  
5 definitions  
6 A. A person who is at least eighteen years of age and who stands  
7 convicted of a dangerous crime against children in the first degree involving  
8 sexual assault of a minor who is twelve years of age or younger, ~~or~~ sexual  
9 conduct with a minor who is twelve years of age or younger **OR MOLESTATION OF**  
10 **A CHILD WHO IS TWELVE YEARS OF AGE OR YOUNGER** shall be sentenced to life  
11 imprisonment and is not eligible for suspension of sentence, probation,  
12 pardon or release from confinement on any basis except as specifically  
13 authorized by section 31-233, subsection A or B until the person has served  
14 thirty-five years or the sentence is commuted. This subsection does not  
15 apply to masturbatory contact.  
16 B. Except as otherwise provided in this section, a person who is at  
17 least eighteen years of age or who has been tried as an adult and who stands  
18 convicted of a dangerous crime against children in the first degree involving  
19 attempted first degree murder of a minor who is under twelve years of age,  
20 second degree murder of a minor who is under twelve years of age, sexual  
21 assault of a minor who is under twelve years of age, sexual conduct with a  
22 minor who is under twelve years of age, **MOLESTATION OF A CHILD WHO IS UNDER**  
23 **TWELVE YEARS OF AGE** or manufacturing methamphetamine under circumstances that  
24 cause physical injury to a minor who is under twelve years of age ~~may~~ **SHALL**  
25 be sentenced to life imprisonment and is not eligible for suspension of  
26 sentence, probation, pardon or release from confinement on any basis except  
27 as specifically authorized by section 31-233, subsection A or B until the  
28 person has served thirty-five years or the sentence is commuted. If a life  
29 sentence is not imposed pursuant to this subsection, the person shall be  
30 sentenced to a presumptive term of imprisonment for twenty years.  
31 C. Except as otherwise provided in this section, a person who is at  
32 least eighteen years of age or who has been tried as an adult and who stands  
33 convicted of a dangerous crime against children in the first degree involving  
34 attempted first degree murder of a minor who is twelve, thirteen or fourteen  
35 years of age, second degree murder of a minor who is twelve, thirteen or  
36 fourteen years of age, sexual assault of a minor who is twelve, thirteen or  
37 fourteen years of age, taking a child for the purpose of prostitution, child  
38 prostitution, sexual conduct with a minor who is twelve, thirteen or fourteen  
39 years of age, continuous sexual abuse of a child, sex trafficking of a minor  
40 who is under fifteen years of age, **MOLESTATION OF A CHILD WHO IS TWELVE,**  
41 **THIRTEEN OR FOURTEEN YEARS OF AGE** or manufacturing methamphetamine under  
42 circumstances that cause physical injury to a minor who is twelve, thirteen  
43 or fourteen years of age or involving or using minors in drug offenses shall  
44 be sentenced to a presumptive term of imprisonment for twenty years. If the  
45 convicted person has been previously convicted of one predicate felony the

1 person shall be sentenced to a presumptive term of imprisonment for thirty  
2 years.

3 D. Except as otherwise provided in this section, a person who is at  
4 least eighteen years of age or who has been tried as an adult and who stands  
5 convicted of a dangerous crime against children in the first degree involving  
6 aggravated assault, ~~molestation of a child~~, commercial sexual exploitation of  
7 a minor, sexual exploitation of a minor, child abuse or kidnapping shall be  
8 sentenced to a presumptive term of imprisonment for seventeen years. If the  
9 convicted person has been previously convicted of one predicate felony the  
10 person shall be sentenced to a presumptive term of imprisonment for  
11 twenty-eight years.

12 E. Except as otherwise provided in this section, a person who is at  
13 least eighteen years of age or who has been tried as an adult and who stands  
14 convicted of a dangerous crime against children involving sexual abuse under  
15 section 13-1404 or bestiality under section 13-1411, subsection A, paragraph  
16 2 is guilty of a class 3 felony and shall be sentenced to a presumptive term  
17 of imprisonment for five years, ~~and~~, unless the person has previously been  
18 convicted of a predicate felony, the presumptive term may be increased or  
19 decreased by up to two and one-half years pursuant to section 13-702,  
20 subsections B, C and D. If the person is sentenced to a term of imprisonment  
21 the person is not eligible for release from confinement on any basis except  
22 as specifically authorized by section 31-233, subsection A or B until the  
23 sentence imposed by the court has been served, the person is eligible for  
24 release pursuant to section 41-1604.07 or the sentence is commuted. If the  
25 convicted person has been previously convicted of one predicate felony the  
26 person shall be sentenced to a presumptive term of imprisonment for fifteen  
27 years and is not eligible for suspension of sentence, probation, pardon or  
28 release from confinement on any basis except as specifically authorized by  
29 section 31-233, subsection A or B until the sentence imposed by the court has  
30 been served, the person is eligible for release pursuant to section  
31 41-1604.07 or the sentence is commuted.

32 F. The presumptive sentences prescribed in subsections B, C and D of  
33 this section or subsection E of this section if the person has previously  
34 been convicted of a predicate felony may be increased or decreased by up to  
35 seven years pursuant to ~~the provisions of~~ section 13-702, subsections B, C  
36 and D.

37 G. Except as provided in subsection E of this section, a person  
38 sentenced for a dangerous crime against children in the first degree pursuant  
39 to this section is not eligible for suspension of sentence, probation, pardon  
40 or release from confinement on any basis except as specifically authorized by  
41 section 31-233, subsection A or B until the sentence imposed by the court has  
42 been served or commuted.

43 H. A person who stands convicted of any dangerous crime against  
44 children in the first degree pursuant to subsection C or D of this section  
45 and who has been previously convicted of two or more predicate felonies shall

1 be sentenced to life imprisonment and is not eligible for suspension of  
2 sentence, probation, pardon or release from confinement on any basis except  
3 as specifically authorized by section 31-233, subsection A or B until the  
4 person has served not fewer than thirty-five years or the sentence is  
5 commuted.

6 I. Notwithstanding chapter 10 of this title, a person who is at least  
7 eighteen years of age or who has been tried as an adult and who stands  
8 convicted of a dangerous crime against children in the second degree pursuant  
9 to subsection C or D of this section or luring a minor for sexual  
10 exploitation pursuant to section 13-3554 is guilty of a class 3 felony and  
11 shall be sentenced to a presumptive term of imprisonment for ten years. The  
12 presumptive term may be increased or decreased by up to five years pursuant  
13 to section 13-702, subsections B, C and D. If the person is sentenced to a  
14 term of imprisonment the person is not eligible for release from confinement  
15 on any basis except as specifically authorized by section 31-233, subsection  
16 A or B until the person has served the sentence imposed by the court, the  
17 person is eligible for release pursuant to section 41-1604.07 or the sentence  
18 is commuted. A person who is convicted of any dangerous crime against  
19 children in the second degree and who has been previously convicted of one or  
20 more predicate felonies is not eligible for suspension of sentence,  
21 probation, pardon or release from confinement on any basis except as  
22 specifically authorized by section 31-233, subsection A or B until the  
23 sentence imposed by the court has been served, the person is eligible for  
24 release pursuant to section 41-1604.07 or the sentence is commuted.

25 J. Section 13-604, subsections M and O apply to the determination of  
26 prior convictions.

27 K. The sentence imposed on a person by the court for a dangerous crime  
28 against children ~~under subsection D of this section and that involves child~~  
29 ~~molestation or~~ INVOLVING sexual abuse pursuant to subsection E of this  
30 section may be served concurrently with other sentences if the offense  
31 involved only one victim. The sentence imposed on a person for any other  
32 dangerous crime against children in the first or second degree shall be  
33 consecutive to any other sentence imposed on the person at any time,  
34 including child molestation and sexual abuse of the same victim.

35 L. In this section, for purposes of punishment an unborn child shall  
36 be treated like a minor who is under twelve years of age.

37 M. For the purposes of this section:

38 1. "Dangerous crime against children" means any of the following that  
39 is committed against a minor who is under fifteen years of age:

40 (a) Second degree murder.

41 (b) Aggravated assault resulting in serious physical injury or  
42 involving the discharge, use or threatening exhibition of a deadly weapon or  
43 dangerous instrument.

44 (c) Sexual assault.

45 (d) Molestation of a child.

- 1 (e) Sexual conduct with a minor.
- 2 (f) Commercial sexual exploitation of a minor.
- 3 (g) Sexual exploitation of a minor.
- 4 (h) Child abuse as prescribed in section 13-3623, subsection A,
- 5 paragraph 1.
- 6 (i) Kidnapping.
- 7 (j) Sexual abuse.
- 8 (k) Taking a child for the purpose of prostitution as prescribed in
- 9 section 13-3206.
- 10 (l) Child prostitution as prescribed in section 13-3212.
- 11 (m) Involving or using minors in drug offenses.
- 12 (n) Continuous sexual abuse of a child.
- 13 (o) Attempted first degree murder.
- 14 (p) Sex trafficking.
- 15 (q) Manufacturing methamphetamine under circumstances that cause
- 16 physical injury to a minor.
- 17 (r) Bestiality as prescribed in section 13-1411, subsection A,
- 18 paragraph 2.

19 A dangerous crime against children is in the first degree if it is a  
20 completed offense and is in the second degree if it is a preparatory offense,  
21 except attempted first degree murder is a dangerous crime against children in  
22 the first degree.

23 2. "Predicate felony" means any felony involving child abuse pursuant  
24 to section 13-3623, subsection A, paragraph 1, a sexual offense, conduct  
25 involving the intentional or knowing infliction of serious physical injury or  
26 the discharge, use or threatening exhibition of a deadly weapon or dangerous  
27 instrument, or a dangerous crime against children in the first or second  
28 degree.