

REFERENCE TITLE: commercial sexual exploitation; sentencing

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

HB 2310

Introduced by
Representatives Barnes, Anderson

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 COMMERCIAL**
10 **SEXUAL EXPLOITATION OF A MINOR WHO IS TWELVE YEARS OF AGE OR YOUNGER** shall be
11 sentenced to life imprisonment and is not eligible for suspension of
12 sentence, probation, pardon or release from confinement on any basis except
13 as specifically authorized by section 31-233, subsection A or B until the
14 person has served thirty-five years or the sentence is commuted. This
15 subsection does not 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, **COMMERCIAL SEXUAL EXPLOITATION OF A**
23 **MINOR WHO IS UNDER TWELVE YEARS OF AGE** or manufacturing methamphetamine under
24 circumstances that cause physical injury to a minor who is under twelve years
25 of age ~~may~~ **SHALL** be sentenced to life imprisonment and is not eligible for
26 suspension of sentence, probation, pardon or release from confinement on any
27 basis except as specifically authorized by section 31-233, subsection A or B
28 until the person has served thirty-five years or the sentence is
29 commuted. If a life sentence is not imposed pursuant to this subsection, the
30 person shall be sentenced to a presumptive term of imprisonment for twenty
31 years.

32 C. Except as otherwise provided in this section, a person who is at
33 least eighteen years of age or who has been tried as an adult and who stands
34 convicted of a dangerous crime against children in the first degree involving
35 attempted first degree murder of a minor who is twelve, thirteen or fourteen
36 years of age, second degree murder of a minor who is twelve, thirteen or
37 fourteen years of age, sexual assault of a minor who is twelve, thirteen or
38 fourteen years of age, taking a child for the purpose of prostitution, child
39 prostitution, sexual conduct with a minor who is twelve, thirteen or fourteen
40 years of age, continuous sexual abuse of a child, sex trafficking of a minor
41 who is under fifteen years of age, **COMMERCIAL SEXUAL EXPLOITATION OF A MINOR**
42 **WHO IS TWELVE, THIRTEEN OR FOURTEEN YEARS OF AGE** or manufacturing
43 methamphetamine under circumstances that cause physical injury to a minor who
44 is twelve, thirteen or fourteen years of age or involving or using minors in
45 drug offenses shall be sentenced to a presumptive term of imprisonment for

1 twenty years. If the convicted person has been previously convicted of one
2 predicate felony the person shall be sentenced to a presumptive term of
3 imprisonment for thirty years.

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

13 E. Except as otherwise provided in this section, a person who is at
14 least eighteen years of age or who has been tried as an adult and who stands
15 convicted of a dangerous crime against children involving sexual abuse under
16 section 13-1404 or bestiality under section 13-1411, subsection A, paragraph
17 2 is guilty of a class 3 felony and shall be sentenced to a presumptive term
18 of imprisonment for five years, ~~and~~, unless the person has previously been
19 convicted of a predicate felony, the presumptive term may be increased or
20 decreased by up to two and one-half years pursuant to section 13-702,
21 subsections B, C and D. If the person is sentenced to a term of imprisonment
22 the person is not eligible for release from confinement on any basis except
23 as specifically authorized by section 31-233, subsection A or B until the
24 sentence imposed by the court has been served, the person is eligible for
25 release pursuant to section 41-1604.07 or the sentence is commuted. If the
26 convicted person has been previously convicted of one predicate felony the
27 person shall be sentenced to a presumptive term of imprisonment for fifteen
28 years and is not eligible for suspension of sentence, probation, pardon or
29 release from confinement on any basis except as specifically authorized by
30 section 31-233, subsection A or B until the sentence imposed by the court has
31 been served, the person is eligible for release pursuant to section
32 41-1604.07 or the sentence is commuted.

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

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

1 H. A person who stands convicted of any dangerous crime against
2 children in the first degree pursuant to subsection C or D of this section
3 and who has been previously convicted of two or more predicate felonies shall
4 be sentenced to life imprisonment and is not eligible for suspension of
5 sentence, probation, pardon or release from confinement on any basis except
6 as specifically authorized by section 31-233, subsection A or B until the
7 person has served not fewer than thirty-five years or the sentence is
8 commuted.

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

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

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

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

40 M. For the purposes of this section:

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

43 (a) Second degree murder.

- 1 (b) Aggravated assault resulting in serious physical injury or
- 2 involving the discharge, use or threatening exhibition of a deadly weapon or
- 3 dangerous instrument.
- 4 (c) Sexual assault.
- 5 (d) Molestation of a child.
- 6 (e) Sexual conduct with a minor.
- 7 (f) Commercial sexual exploitation of a minor.
- 8 (g) Sexual exploitation of a minor.
- 9 (h) Child abuse as prescribed in section 13-3623, subsection A,
- 10 paragraph 1.
- 11 (i) Kidnapping.
- 12 (j) Sexual abuse.
- 13 (k) Taking a child for the purpose of prostitution as prescribed in
- 14 section 13-3206.
- 15 (l) Child prostitution as prescribed in section 13-3212.
- 16 (m) Involving or using minors in drug offenses.
- 17 (n) Continuous sexual abuse of a child.
- 18 (o) Attempted first degree murder.
- 19 (p) Sex trafficking.
- 20 (q) Manufacturing methamphetamine under circumstances that cause
- 21 physical injury to a minor.
- 22 (r) Bestiality as prescribed in section 13-1411, subsection A,
- 23 paragraph 2.
- 24 A dangerous crime against children is in the first degree if it is a
- 25 completed offense and is in the second degree if it is a preparatory offense,
- 26 except attempted first degree murder is a dangerous crime against children in
- 27 the first degree.
- 28 2. "Predicate felony" means any felony involving child abuse pursuant
- 29 to section 13-3623, subsection A, paragraph 1, a sexual offense, conduct
- 30 involving the intentional or knowing infliction of serious physical injury or
- 31 the discharge, use or threatening exhibition of a deadly weapon or dangerous
- 32 instrument, or a dangerous crime against children in the first or second
- 33 degree.