

State of Arizona  
Senate  
Forty-eighth Legislature  
First Regular Session  
2007

# SENATE BILL 1268

AN ACT

AMENDING SECTIONS 13-604, 13-1307, 13-3211, 13-3212 AND 13-3213, ARIZONA  
REVISED STATUTES; RELATING TO PROSTITUTION.

(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, Arizona Revised Statutes, is amended to  
3 read:

4 13-604. Dangerous and repetitive offenders; definitions

5 A. Except as provided in subsection F, G or H of this section or  
6 section 13-604.01, a person who is at least eighteen years of age or who has  
7 been tried as an adult and who stands convicted of a class 4, 5 or 6 felony,  
8 whether a completed or preparatory offense, and who has a historical prior  
9 felony conviction shall be sentenced to imprisonment as prescribed in this  
10 subsection and shall not be eligible for suspension of sentence, probation,  
11 pardon or release from confinement on any basis except as specifically  
12 authorized by section 31-233, subsection A or B until the sentence imposed by  
13 the court has been served, the person is eligible for release pursuant to  
14 section 41-1604.07 or the sentence is commuted. The presumptive term may be  
15 mitigated or aggravated within the range prescribed under this subsection  
16 pursuant to the terms of section 13-702, subsections B, C and D. The terms  
17 are as follows:

<u>Felony</u>	<u>Minimum</u>	<u>Presumptive</u>	<u>Maximum</u>
Class 4	3 years	4.5 years	6 years
Class 5	1.5 years	2.25 years	3 years
Class 6	1 year	1.75 years	2.25 years

22 B. Except as provided in subsection I, J or K of this section or  
23 section 13-604.01, a person who is at least eighteen years of age or who has  
24 been tried as an adult and who stands convicted of a class 2 or 3 felony,  
25 whether a completed or preparatory offense, and who has a historical prior  
26 felony conviction shall be sentenced to imprisonment as prescribed in this  
27 subsection and shall not be eligible for suspension of sentence, probation,  
28 pardon or release from confinement on any basis except as specifically  
29 authorized by section 31-233, subsection A or B until the sentence imposed by  
30 the court has been served, the person is eligible for release pursuant to  
31 section 41-1604.07 or the sentence is commuted. The presumptive term may be  
32 mitigated or aggravated within the range prescribed under this subsection  
33 pursuant to the terms of section 13-702, subsections B, C and D. The terms  
34 are as follows:

<u>Felony</u>	<u>Minimum</u>	<u>Presumptive</u>	<u>Maximum</u>
Class 2	6 years	9.25 years	18.5 years
Class 3	4.5 years	6.5 years	13 years

38 C. Except as provided in subsection F, G, H or S of this section or  
39 section 13-604.01, a person who is at least eighteen years of age or who has  
40 been tried as an adult and who stands convicted of a class 4, 5 or 6 felony,  
41 whether a completed or preparatory offense, and who has two or more  
42 historical prior felony convictions shall be sentenced to imprisonment as  
43 prescribed in this subsection and shall not be eligible for suspension of  
44 sentence, probation, pardon or release from confinement on any basis except  
45 as specifically authorized by section 31-233, subsection A or B until the

1 sentence imposed by the court has been served, the person is eligible for  
 2 release pursuant to section 41-1604.07 or the sentence is commuted. The  
 3 presumptive term may be mitigated or aggravated within the range prescribed  
 4 under this subsection pursuant to the terms of section 13-702, subsections B,  
 5 C and D. The terms are as follows:

<u>Felony</u>	<u>Minimum</u>	<u>Presumptive</u>	<u>Maximum</u>
6 Class 4	8 years	10 years	12 years
7 Class 5	4 years	5 years	6 years
8 Class 6	3 years	3.75 years	4.5 years

9  
 10 D. Except as provided in subsection I, J, K or S of this section or  
 11 section 13-604.01, a person who is at least eighteen years of age or who has  
 12 been tried as an adult and who stands convicted of a class 2 or 3 felony, and  
 13 who has two or more historical prior felony convictions, shall be sentenced  
 14 to imprisonment as prescribed in this subsection and shall not be eligible  
 15 for suspension of sentence, probation, pardon or release from confinement on  
 16 any basis except as specifically authorized by section 31-233, subsection A  
 17 or B until the sentence imposed by the court has been served, the person is  
 18 eligible for release pursuant to section 41-1604.07 or the sentence is  
 19 commuted. The presumptive term may be mitigated or aggravated within the  
 20 range prescribed under this subsection pursuant to the terms of section  
 21 13-702, subsections B, C and D. The terms are as follows:

<u>Felony</u>	<u>Minimum</u>	<u>Presumptive</u>	<u>Maximum</u>
22 Class 2	14 years	15.75 years	28 years
23 Class 3	10 years	11.25 years	20 years

24  
 25 E. A person who is at least eighteen years of age or who has been  
 26 tried as an adult and who stands convicted of any misdemeanor or petty  
 27 offense, other than a traffic offense, and who has been convicted of one or  
 28 more of the same misdemeanors or petty offenses within two years next  
 29 preceding the date of the present offense shall be sentenced for the next  
 30 higher class of offense than that for which such person currently stands  
 31 convicted.

32 F. Except as provided in section 13-604.01, a person who is at least  
 33 eighteen years of age or who has been tried as an adult and who stands  
 34 convicted of a class 4, 5 or 6 felony involving the intentional or knowing  
 35 infliction of serious physical injury or the discharge, use or threatening  
 36 exhibition of a deadly weapon or dangerous instrument without having  
 37 previously been convicted of any felony shall be sentenced to imprisonment as  
 38 prescribed in this subsection and shall not be eligible for suspension of  
 39 sentence, probation, pardon or release from confinement on any basis except  
 40 as specifically authorized by section 31-233, subsection A or B until the  
 41 sentence imposed by the court has been served, the person is eligible for  
 42 release pursuant to section 41-1604.07 or the sentence is commuted. The  
 43 presumptive term may be mitigated or aggravated within the range prescribed  
 44 under this subsection pursuant to the terms of section 13-702, subsections B,  
 45 C and D. The terms are as follows:

<u>Felony</u>	<u>Minimum</u>	<u>Presumptive</u>	<u>Maximum</u>
Class 4	4 years	6 years	8 years
Class 5	2 years	3 years	4 years
Class 6	1.5 years	2.25 years	3 years

5 G. Except as provided in section 13-604.01, upon conviction of a class  
6 4, 5 or 6 felony involving the intentional or knowing infliction of serious  
7 physical injury or the discharge, use or threatening exhibition of a deadly  
8 weapon or dangerous instrument a person who has a historical prior felony  
9 conviction involving the intentional or knowing infliction of serious  
10 physical injury or the use or exhibition of a deadly weapon or dangerous  
11 instrument shall be sentenced to imprisonment as prescribed in this  
12 subsection and shall not be eligible for suspension of sentence, probation,  
13 pardon or release from confinement on any basis except as specifically  
14 authorized by section 31-233, subsection A or B until the sentence imposed by  
15 the court has been served, the person is eligible for release pursuant to  
16 section 41-1604.07 or the sentence is commuted. The presumptive term may be  
17 mitigated or aggravated within the range prescribed under this subsection  
18 pursuant to the terms of section 13-702, subsections B, C and D. The terms  
19 are as follows:

<u>Felony</u>	<u>Minimum</u>	<u>Presumptive</u>	<u>Maximum</u>
Class 4	8 years	10 years	12 years
Class 5	4 years	5 years	6 years
Class 6	3 years	3.75 years	4.5 years

24 H. Except as provided in subsection S of this section or section  
25 13-604.01, upon conviction of a class 4, 5 or 6 felony involving the  
26 intentional or knowing infliction of serious physical injury or the  
27 discharge, use or threatening exhibition of a deadly weapon or dangerous  
28 instrument a person who has two or more historical prior felony convictions  
29 involving the intentional or knowing infliction of serious physical injury or  
30 the use or exhibition of a deadly weapon or dangerous instrument shall be  
31 sentenced to imprisonment as prescribed in this subsection and shall not be  
32 eligible for suspension of sentence, probation, pardon or release from  
33 confinement on any basis except as specifically authorized by section 31-233,  
34 subsection A or B until the sentence imposed by the court has been served,  
35 the person is eligible for release pursuant to section 41-1604.07 or the  
36 sentence is commuted. The presumptive term may be mitigated or aggravated  
37 within the range prescribed under this subsection pursuant to the terms of  
38 section 13-702, subsections B, C and D. The terms are as follows:

<u>Felony</u>	<u>Minimum</u>	<u>Presumptive</u>	<u>Maximum</u>
Class 4	12 years	14 years	16 years
Class 5	6 years	7 years	8 years
Class 6	4.5 years	5.25 years	6 years

43 I. Except as provided in section 13-604.01, upon a first conviction of  
44 a class 2 or 3 felony involving discharge, use or threatening exhibition of a  
45 deadly weapon or dangerous instrument or upon conviction of a class 2 or 3

1 felony when the intentional or knowing infliction of serious physical injury  
 2 upon another has occurred, the defendant shall be sentenced to imprisonment  
 3 as prescribed in this subsection and shall not be eligible for suspension of  
 4 sentence, probation, pardon or release from confinement on any basis except  
 5 as specifically authorized by section 31-233, subsection A or B until the  
 6 sentence imposed by the court has been served, the person is eligible for  
 7 release pursuant to section 41-1604.07 or the sentence is commuted. The  
 8 presumptive term may be mitigated or aggravated within the range prescribed  
 9 under this subsection pursuant to the terms of section 13-702, subsections B,  
 10 C and D. The terms are as follows:

<u>Felony</u>	<u>Minimum</u>	<u>Presumptive</u>	<u>Maximum</u>
Class 2	7 years	10.5 years	21 years
Class 3	5 years	7.5 years	15 years

14 J. Except as provided in section 13-604.01, upon conviction of a class  
 15 2 or 3 felony involving the discharge, use or threatening exhibition of a  
 16 deadly weapon or dangerous instrument or the intentional or knowing  
 17 infliction of serious physical injury upon another, a person who has a  
 18 historical prior felony conviction that is a class 1, 2 or 3 felony involving  
 19 the use or exhibition of a deadly weapon or dangerous instrument or the  
 20 intentional or knowing infliction of serious physical injury on another shall  
 21 be sentenced to imprisonment as prescribed in this subsection and shall not  
 22 be eligible for suspension of sentence, probation, pardon or release from  
 23 confinement on any basis except as specifically authorized by section 31-233,  
 24 subsection A or B until the sentence imposed by the court has been served,  
 25 the person is eligible for release pursuant to section 41-1604.07 or the  
 26 sentence is commuted. The presumptive term may be mitigated or aggravated  
 27 within the range prescribed under this subsection pursuant to the terms of  
 28 section 13-702, subsections B, C and D. The terms are as follows:

<u>Felony</u>	<u>Minimum</u>	<u>Presumptive</u>	<u>Maximum</u>
Class 2	14 years	15.75 years	28 years
Class 3	10 years	11.25 years	20 years

32 K. Except as provided in subsection S of this section or section  
 33 13-604.01, upon conviction for a class 2 or 3 felony involving the discharge,  
 34 use or threatening exhibition of a deadly weapon or dangerous instrument or  
 35 the intentional or knowing infliction of serious physical injury upon  
 36 another, a person who has two or more historical prior felony convictions  
 37 that are class 1, 2 or 3 felonies involving the use or exhibition of a deadly  
 38 weapon or dangerous instrument or the intentional or knowing infliction of  
 39 serious physical injury on another shall be sentenced to imprisonment as  
 40 prescribed in this subsection and shall not be eligible for suspension of  
 41 sentence, probation, pardon or release from confinement on any basis except  
 42 as specifically authorized by section 31-233, subsection A or B until the  
 43 sentence imposed by the court has been served, the person is eligible for  
 44 release pursuant to section 41-1604.07 or the sentence is commuted. The  
 45 presumptive term may be mitigated or aggravated within the range prescribed

1 under this subsection pursuant to the terms of section 13-702, subsections B,  
2 C and D. The terms are as follows:

<u>Felony</u>	<u>Minimum</u>	<u>Presumptive</u>	<u>Maximum</u>
4 Class 2	21 years	28 years	35 years
5 Class 3	15 years	20 years	25 years

6 L. For the purposes of subsections I, J and K of this section in  
7 determining the applicability of the penalties provided in this section for  
8 second or subsequent class 2 or 3 felonies, the conviction for any felony  
9 committed ~~prior to~~ BEFORE October 1, 1978 which, if committed after October  
10 1, 1978, could be a dangerous felony under this section may be designated by  
11 the state as a prior felony.

12 M. Convictions for two or more offenses committed on the same occasion  
13 shall be counted as only one conviction for purposes of this section.

14 N. A person who has been convicted in any court outside the  
15 jurisdiction of this state of an offense which if committed within this state  
16 would be punishable as a felony or misdemeanor is subject to the provisions  
17 of this section. A person who has been convicted as an adult of an offense  
18 punishable as a felony or a misdemeanor under the provisions of any prior  
19 code in this state shall be subject to the provisions of this section.

20 O. Time spent incarcerated within the two years next preceding the  
21 date of the offense for which a person is currently being sentenced under  
22 subsection E of this section shall not be included in the two years required  
23 to be free of convictions for purposes of that subsection.

24 P. The penalties prescribed by this section shall be substituted for  
25 the penalties otherwise authorized by law if the previous conviction or the  
26 allegation that the defendant committed a felony while released on bond or on  
27 the defendant's own recognizance or while escaped from preconviction custody  
28 as provided in subsection R of this section is charged in the indictment or  
29 information and admitted or found by the court or if the dangerous nature of  
30 the felony is charged in the indictment or information and admitted or found  
31 by the trier of fact. The release provisions prescribed by this section  
32 shall not be substituted for any penalties required by the substantive  
33 offense or provision of law that specifies a later release or completion of  
34 the sentence imposed prior to release. The court shall allow the allegation  
35 of a prior conviction, the dangerous nature of the felony or the allegation  
36 that the defendant committed a felony while released on bond or on the  
37 defendant's own recognizance or while escaped from preconviction custody at  
38 any time prior to the date the case is actually tried unless the allegation  
39 is filed fewer than twenty days before the case is actually tried and the  
40 court finds on the record that the defendant was in fact prejudiced by the  
41 untimely filing and states the reasons for these findings, provided that when  
42 the allegation of a prior conviction is filed, the state must make available  
43 to the defendant a copy of any material or information obtained concerning  
44 the prior conviction. The charge of previous conviction or the allegation  
45 that the defendant committed a felony while released on bond or on the

1 defendant's own recognizance or while escaped from preconviction custody  
2 shall not be read to the jury. For the purposes of this subsection,  
3 "dangerous nature of the felony" means a felony involving the discharge, use  
4 or threatening exhibition of a deadly weapon or dangerous instrument or the  
5 intentional or knowing infliction of serious physical injury upon another.

6 Q. Intentional failure by the court to impose the mandatory sentences  
7 or probation conditions provided in this title shall be deemed to be  
8 malfeasance.

9 R. A person who is convicted of committing any felony offense, which  
10 felony offense is committed while the person is released on bail or on the  
11 defendant's own recognizance on a separate felony offense or while the person  
12 is escaped from preconviction custody for a separate felony offense, shall be  
13 sentenced to a term of imprisonment two years longer than would otherwise be  
14 imposed for the felony offense committed while released on bond or on the  
15 defendant's own recognizance or while escaped from preconviction custody.  
16 The additional sentence imposed under this subsection is in addition to any  
17 enhanced punishment that may be applicable under any of the other subsections  
18 of this section. The defendant is not eligible for suspension of sentence,  
19 probation, pardon or release from confinement on any basis except as  
20 specifically authorized by section 31-233, subsection A or B until the two  
21 years are served, the person is eligible for release pursuant to section  
22 41-1604.07 or the sentence is commuted.

23 S. A person who is at least eighteen years of age or who has been  
24 tried as an adult and who stands convicted of a serious offense except a drug  
25 offense, first degree murder or any dangerous crime against children, whether  
26 a completed or preparatory offense, and who has previously been convicted of  
27 two or more serious offenses not committed on the same occasion shall be  
28 sentenced to life imprisonment and is not eligible for suspension of  
29 sentence, probation, pardon or release from confinement on any basis except  
30 as specifically authorized by section 31-233, subsection A or B until the  
31 person has served not less than twenty-five years or the sentence is  
32 commuted.

33 T. A person who is convicted of committing any felony offense with the  
34 intent to promote, further or assist any criminal conduct by a criminal  
35 street gang shall not be eligible for suspension of sentence, probation,  
36 pardon or release from confinement on any basis except as authorized by  
37 section 31-233, subsection A or B until the sentence imposed by the court has  
38 been served, the person is eligible for release pursuant to section  
39 41-1604.07 or the sentence is commuted. The presumptive, minimum and maximum  
40 sentence for the offense shall be increased by three years. The additional  
41 sentence imposed pursuant to this subsection is in addition to any enhanced  
42 sentence that may be applicable.

43 U. A person who is convicted of intentionally or knowingly committing  
44 aggravated assault on a peace officer while the officer is engaged in the  
45 execution of any official duties pursuant to section 13-1204, subsection A,

1 paragraph 1 or 2 shall be sentenced to imprisonment for not less than the  
2 presumptive sentence authorized under this chapter and is not eligible for  
3 suspension of sentence, commutation or release on any basis until the  
4 sentence imposed is served.

5 V. Except as provided in section 13-604.01 or 13-703, if the victim is  
6 an unborn child in the womb at any stage of its development, the defendant  
7 shall be sentenced pursuant to this section.

8 W. For the purposes of this section:

9 1. "Absconder" means a probationer who has moved from the  
10 probationer's primary place of residence without permission of the probation  
11 officer, who cannot be located within ninety days of the previous contact and  
12 against whom a petition to revoke has been filed in the superior court  
13 alleging that the probationer's whereabouts are unknown. A probationer is no  
14 longer deemed to be an absconder when voluntarily or involuntarily returned  
15 to probation service.

16 2. "Historical prior felony conviction" means:

17 (a) Any prior felony conviction for which the offense of conviction:

18 (i) Mandated a term of imprisonment except for a violation of chapter  
19 34 of this title involving a drug below the threshold amount; or

20 (ii) Involved the intentional or knowing infliction of serious physical  
21 injury; or

22 (iii) Involved the use or exhibition of a deadly weapon or dangerous  
23 instrument; or

24 (iv) Involved the illegal control of a criminal enterprise; or

25 (v) Involved aggravated driving under the influence of intoxicating  
26 liquor or drugs, driving while under the influence of intoxicating liquor or  
27 drugs with a suspended, canceled, revoked or refused driver license or  
28 driving under the influence of intoxicating liquor or drugs with two or more  
29 driving under the influence of intoxicating liquor or drug convictions within  
30 a period of ~~sixty~~ EIGHTY-FOUR months; or

31 (vi) Involved any dangerous crime against children as defined in  
32 section 13-604.01.

33 (b) Any class 2 or 3 felony, except the offenses listed in subdivision  
34 (a) of this paragraph, that was committed within the ten years immediately  
35 preceding the date of the present offense. Any time spent on absconder  
36 status while on probation or incarcerated is excluded in calculating if the  
37 offense was committed within the preceding ten years. If a court determines  
38 a person was not on absconder status while on probation that time is not  
39 excluded.

40 (c) Any class 4, 5 or 6 felony, except the offenses listed in  
41 subdivision (a) of this paragraph, that was committed within the five years  
42 immediately preceding the date of the present offense. Any time spent on  
43 absconder status while on probation or incarcerated is excluded in  
44 calculating if the offense was committed within the preceding five years. If

1 a court determines a person was not on absconder status while on probation  
2 that time is not excluded.

3 (d) Any felony conviction that is a third or more prior felony  
4 conviction.

5 3. "Preconviction custody" means the confinement of a person in a jail  
6 in this state or another state after the person is arrested for or charged  
7 with a felony offense.

8 4. "Serious offense" means any of the following offenses if committed  
9 in this state or any offense committed outside this state which if committed  
10 in this state would constitute one of the following offenses:

11 (a) First degree murder.

12 (b) Second degree murder.

13 (c) Manslaughter.

14 (d) Aggravated assault resulting in serious physical injury or  
15 involving the discharge, use or threatening exhibition of a deadly weapon or  
16 dangerous instrument.

17 (e) Sexual assault.

18 (f) Any dangerous crime against children.

19 (g) Arson of an occupied structure.

20 (h) Armed robbery.

21 (i) Burglary in the first degree.

22 (j) Kidnapping.

23 (k) Sexual conduct with a minor under fifteen years of age.

24 (l) **CHILD PROSTITUTION.**

25 5. "Substantive offense" means the felony, misdemeanor or petty  
26 offense that the trier of fact found beyond a reasonable doubt the defendant  
27 committed. Substantive offense does not include allegations that, if proven,  
28 would enhance the sentence of imprisonment or fine to which the defendant  
29 otherwise would be subject.

30 Sec. 2. Section 13-1307, Arizona Revised Statutes, is amended to read:

31 **13-1307. Sex trafficking: classification**

32 A. It is unlawful for a person to knowingly recruit, entice, harbor,  
33 transport, provide or obtain by any means another person **WHO IS EIGHTEEN**  
34 **YEARS OF AGE OR OLDER** with the intent of causing the other person to engage  
35 in prostitution by force, fraud or coercion.

36 **B. IT IS UNLAWFUL FOR A PERSON TO RECRUIT, ENTICE, HARBOR, TRANSPORT,**  
37 **PROVIDE OR OBTAIN BY ANY MEANS ANOTHER PERSON WHO IS UNDER EIGHTEEN YEARS OF**  
38 **AGE WITH THE INTENT OF CAUSING THE OTHER PERSON TO ENGAGE IN PROSTITUTION.**

39 **C. NOTWITHSTANDING ANY OTHER LAW, A SENTENCE IMPOSED ON A PERSON FOR A**  
40 **VIOLATION OF SUBSECTION B OF THIS SECTION SHALL BE CONSECUTIVE TO ANY OTHER**  
41 **SENTENCE IMPOSED ON THE PERSON AT ANY TIME.**

42 ~~B.~~ **D.** A person who violates this section is guilty of a class 2  
43 felony, except that, ~~if~~ if the offense is committed against a person who is  
44 under fifteen years of age, the offense is a dangerous crime against children  
45 punishable pursuant to section 13-604.01.

1           Sec. 3. Section 13-3211, Arizona Revised Statutes, is amended to read:

2           13-3211. Definitions

3           ~~For the purposes of~~ IN this chapter, unless the context otherwise  
4 requires:

5           1. "Employee" means a person who conducts lawful or unlawful business  
6 for another person under a master-servant relationship or as an independent  
7 contractor and who is compensated by wages, commissions, tips or other  
8 valuable consideration.

9           2. "House of prostitution" means any building, structure or place ~~THAT~~  
10 IS used for the purpose of prostitution or lewdness or where acts of  
11 prostitution occur.

12           3. "Operate and maintain" means to organize, design, perpetuate or  
13 control. Operate and maintain includes providing financial support by paying  
14 utilities, rent, maintenance costs or advertising costs, supervising  
15 activities or work schedules, and directing or furthering the aims of the  
16 enterprise.

17           4. "Oral sexual contact" means oral contact with the penis, vulva or  
18 anus.

19           5. "Prostitution" means engaging in or agreeing or offering to engage  
20 in sexual conduct ~~with another person~~ under a fee arrangement with ~~that~~  
21 ~~person or~~ any ~~other~~ person FOR MONEY OR ANY OTHER VALUABLE CONSIDERATION.

22           6. "Prostitution enterprise" means any corporation, partnership,  
23 association or other legal entity or any group of individuals associated in  
24 fact although not a legal entity engaged in providing prostitution services.

25           7. "Sadomasochistic abuse" means flagellation or torture by or ~~upon~~ ON  
26 a person who is nude or clad in undergarments or in revealing or bizarre  
27 costume or the condition of being fettered, bound or otherwise physically  
28 restrained on the part of one so clothed.

29           8. "Sexual conduct" means sexual contact, sexual intercourse, oral  
30 sexual contact or sadomasochistic abuse.

31           9. "Sexual contact" means any direct or indirect fondling or  
32 manipulating of any part of the genitals, anus or female breast.

33           10. "Sexual intercourse" means penetration into the penis, vulva or  
34 anus by any part of the body or by any object.

35           Sec. 4. Section 13-3212, Arizona Revised Statutes, is amended to read:

36           13-3212. Child prostitution; classification; increased  
37 punishment

38           A. A person commits child prostitution by knowingly:

39           1. Causing any minor to engage in prostitution.

40           2. Using any minor for THE purposes of prostitution.

41           3. Permitting a minor WHO IS under ~~such~~ THE person's custody or  
42 control to engage in prostitution.

43           4. Receiving any benefit for or on account of procuring or placing a  
44 minor in any place or in the charge or custody of any person for the purpose  
45 of prostitution.

1 5. Receiving any benefit pursuant to an agreement to participate in  
2 the proceeds of prostitution of a minor.

3 6. Financing, managing, supervising, controlling or owning, either  
4 alone or in association with others, prostitution activity involving a minor.

5 7. Transporting or financing the transportation of any minor ~~through~~  
6 ~~or across this state~~ with the intent that ~~such~~ THE minor engage in  
7 prostitution.

8 8. ENGAGING IN PROSTITUTION WITH A MINOR.

9 B. NOTWITHSTANDING ANY OTHER LAW, A SENTENCE IMPOSED ON A PERSON FOR A  
10 VIOLATION OF THIS SECTION INVOLVING A MINOR WHO IS FIFTEEN, SIXTEEN, OR  
11 SEVENTEEN YEARS OF AGE SHALL BE CONSECUTIVE TO ANY OTHER SENTENCE IMPOSED ON  
12 THE PERSON AT ANY TIME.

13 C. IF A PERSON IS CONVICTED OF A VIOLATION OF SUBSECTION A, PARAGRAPH  
14 8 OF THIS SECTION, THE VICTIM IS FIFTEEN, SIXTEEN OR SEVENTEEN YEARS OF AGE  
15 AND THE COURT SENTENCES THE PERSON TO A TERM OF PROBATION, THE COURT SHALL  
16 ORDER THAT AS AN INITIAL TERM OF PROBATION THE PERSON BE IMPRISONED IN THE  
17 COUNTY JAIL FOR NOT LESS THAN THIRTY DAYS. THIS JAIL TERM OF INCARCERATION  
18 SHALL NOT BE DELETED, DEFERRED OR OTHERWISE SUSPENDED AND SHALL COMMENCE ON  
19 THE DATE OF SENTENCING. THIS SUBSECTION DOES NOT APPLY TO PERSONS WHO ARE  
20 SENTENCED TO SERVE A PERIOD OF INCARCERATION IN THE STATE DEPARTMENT OF  
21 CORRECTIONS.

22 ~~B.~~ D. Child prostitution is a class 2 felony, ~~and~~ EXCEPT THAT if the  
23 minor is under fifteen years of age, it is punishable pursuant to section  
24 13-604.01.

25 E. IF THE OTHER PERSON IS A PEACE OFFICER POSING AS A MINOR, CHILD  
26 PROSTITUTION PURSUANT TO SUBSECTION A, PARAGRAPH 8 OF THIS SECTION IS A CLASS  
27 3 FELONY.

28 F. IF THE MINOR IS FIFTEEN, SIXTEEN OR SEVENTEEN YEARS OF AGE, CHILD  
29 PROSTITUTION PURSUANT TO SUBSECTION A, PARAGRAPH 1, 2, 3, 4, 5, 6 OR 7 OF  
30 THIS SECTION IS A CLASS 2 FELONY, THE PERSON CONVICTED SHALL BE SENTENCED  
31 PURSUANT TO THIS SECTION AND THE PERSON IS NOT ELIGIBLE FOR SUSPENSION OF  
32 SENTENCE, PROBATION, PARDON OR RELEASE FROM CONFINEMENT ON ANY BASIS EXCEPT  
33 AS SPECIFICALLY AUTHORIZED BY SECTION 31-233, SUBSECTION A OR B UNTIL THE  
34 SENTENCE IMPOSED BY THE COURT HAS BEEN SERVED OR COMMUTED. THE PRESUMPTIVE  
35 TERM MAY BE AGGRAVATED OR MITIGATED WITHIN THE RANGE UNDER THIS SECTION  
36 PURSUANT TO SECTION 13-702, SUBSECTIONS B, C AND D. THE TERMS ARE AS  
37 FOLLOWS:

38 1. THE TERM FOR A FIRST OFFENSE IS AS FOLLOWS:

<u>MINIMUM</u>	<u>PRESUMPTIVE</u>	<u>MAXIMUM</u>
7 YEARS	10.5 YEARS	21 YEARS

41 2. THE TERM FOR A DEFENDANT WHO HAS ONE HISTORICAL PRIOR FELONY  
42 CONVICTION IS AS FOLLOWS:

<u>MINIMUM</u>	<u>PRESUMPTIVE</u>	<u>MAXIMUM</u>
14 YEARS	15.75 YEARS	28 YEARS

1           3. THE TERM FOR A DEFENDANT WHO HAS TWO OR MORE HISTORICAL PRIOR  
2 FELONY CONVICTIONS IS AS FOLLOWS:

3 <u>MINIMUM</u>	<u>PRESUMPTIVE</u>	<u>MAXIMUM</u>
4           21 YEARS	28 YEARS	35 YEARS

5           Sec. 5. Section 13-3213, Arizona Revised Statutes, is amended to read:  
6           13-3213. Defense

7           It is a defense to a prosecution pursuant to section 13-3212,  
8 SUBSECTION A, PARAGRAPH 8 if the defendant engaged in the conduct  
9 constituting the offense with a minor ~~of~~ WHO IS fifteen, sixteen or seventeen  
10 years of age and at the time of the offense the defendant ~~did not know and~~  
11 could not reasonably have known the age of the minor.

12           Sec. 6. Emergency

13           This act is an emergency measure that is necessary to preserve the  
14 public peace, health or safety and is operative immediately as provided by  
15 law.