

REFERENCE TITLE: human trafficking; prostitution

State of Arizona
House of Representatives
Fifty-first Legislature
Second Regular Session
2014

HB 2454

Introduced by
Representative Farnsworth E

AN ACT

AMENDING SECTIONS 13-701, 13-2301, 13-3212 AND 13-3214, ARIZONA REVISED
STATUTES; RELATING TO HUMAN TRAFFICKING.

(TEXT OF BILL BEGINS ON NEXT PAGE)

1 Be it enacted by the Legislature of the State of Arizona:

2 Section 1. Section 13-701, Arizona Revised Statutes, is amended to
3 read:

4 13-701. Sentence of imprisonment for felony; presentence
5 report; aggravating and mitigating factors;
6 consecutive terms of imprisonment; definition

7 A. A sentence of imprisonment for a felony shall be a definite term of
8 years and the person sentenced, unless otherwise provided by law, shall be
9 committed to the custody of the state department of corrections.

10 B. No prisoner may be transferred to the custody of the state
11 department of corrections without a certified copy of the judgment and
12 sentence, signed by the sentencing judge, and a copy of a recent presentence
13 investigation report unless the court has waived preparation of the report.

14 C. The minimum or maximum term imposed pursuant to section 13-702,
15 13-703, 13-704, 13-705, 13-708, 13-710, 13-1406, 13-3212 or 13-3419 may be
16 imposed only if one or more of the circumstances alleged to be in aggravation
17 of the crime are found to be true by the trier of fact beyond a reasonable
18 doubt or are admitted by the defendant, except that an alleged aggravating
19 circumstance under subsection D, paragraph 11 of this section shall be found
20 to be true by the court, or in mitigation of the crime are found to be true
21 by the court, on any evidence or information introduced or submitted to the
22 court or the trier of fact before sentencing or any evidence presented at
23 trial, and factual findings and reasons in support of such findings are set
24 forth on the record at the time of sentencing.

25 D. For the purpose of determining the sentence pursuant to subsection
26 C of this section, the trier of fact shall determine and the court shall
27 consider the following aggravating circumstances, except that the court shall
28 determine an aggravating circumstance under paragraph 11 of this subsection:

29 1. Infliction or threatened infliction of serious physical injury,
30 except if this circumstance is an essential element of the offense of
31 conviction or has been utilized to enhance the range of punishment under
32 section 13-704.

33 2. Use, threatened use or possession of a deadly weapon or dangerous
34 instrument during the commission of the crime, except if this circumstance is
35 an essential element of the offense of conviction or has been utilized to
36 enhance the range of punishment under section 13-704.

37 3. If the offense involves the taking of or damage to property, the
38 value of the property taken or damaged.

39 4. Presence of an accomplice.

40 5. Especially heinous, cruel or depraved manner in which the offense
41 was committed.

42 6. The defendant committed the offense as consideration for the
43 receipt, or in the expectation of the receipt, of anything of pecuniary
44 value.

- 1 7. The defendant procured the commission of the offense by payment, or
2 promise of payment, of anything of pecuniary value.
- 3 8. At the time of the commission of the offense, the defendant was a
4 public servant and the offense involved conduct directly related to the
5 defendant's office or employment.
- 6 9. The victim or, if the victim has died as a result of the conduct of
7 the defendant, the victim's immediate family suffered physical, emotional or
8 financial harm.
- 9 10. During the course of the commission of the offense, the death of an
10 unborn child at any stage of its development occurred.
- 11 11. The defendant was previously convicted of a felony within the ten
12 years immediately preceding the date of the offense. A conviction outside
13 the jurisdiction of this state for an offense that if committed in this state
14 would be punishable as a felony is a felony conviction for the purposes of
15 this paragraph.
- 16 12. The defendant was wearing body armor as defined in section 13-3116.
- 17 13. The victim of the offense is at least sixty-five years of age or is
18 a disabled person as defined in section 38-492, subsection B.
- 19 14. The defendant was appointed pursuant to title 14 as a fiduciary and
20 the offense involved conduct directly related to the defendant's duties to
21 the victim as fiduciary.
- 22 15. Evidence that the defendant committed the crime out of malice
23 toward a victim because of the victim's identity in a group listed in section
24 41-1750, subsection A, paragraph 3 or because of the defendant's perception
25 of the victim's identity in a group listed in section 41-1750, subsection A,
26 paragraph 3.
- 27 16. The defendant was convicted of a violation of section 13-1102,
28 section 13-1103, section 13-1104, subsection A, paragraph 3 or section
29 13-1204, subsection A, paragraph 1 or 2 arising from an act that was
30 committed while driving a motor vehicle and the defendant's alcohol
31 concentration at the time of committing the offense was 0.15 or more. For
32 the purposes of this paragraph, "alcohol concentration" has the same meaning
33 prescribed in section 28-101.
- 34 17. Lying in wait for the victim or ambushing the victim during the
35 commission of any felony.
- 36 18. The offense was committed in the presence of a child and any of the
37 circumstances exists that are set forth in section 13-3601, subsection A.
- 38 19. The offense was committed in retaliation for a victim either
39 reporting criminal activity or being involved in an organization, other than
40 a law enforcement agency, that is established for the purpose of reporting or
41 preventing criminal activity.
- 42 20. The defendant was impersonating a peace officer as defined in
43 section 1-215.
- 44 21. The defendant was in violation of 8 United States Code section
45 1323, 1324, 1325, 1326 or 1328 at the time of the commission of the offense.

1 22. The defendant used a remote stun gun or an authorized remote stun
2 gun in the commission of the offense. For the purposes of this paragraph:

3 (a) "Authorized remote stun gun" means a remote stun gun that has all
4 of the following:

5 (i) An electrical discharge that is less than one hundred thousand
6 volts and less than nine joules of energy per pulse.

7 (ii) A serial or identification number on all projectiles that are
8 discharged from the remote stun gun.

9 (iii) An identification and tracking system that, on deployment of
10 remote electrodes, disperses coded material that is traceable to the
11 purchaser through records that are kept by the manufacturer on all remote
12 stun guns and all individual cartridges sold.

13 (iv) A training program that is offered by the manufacturer.

14 (b) "Remote stun gun" means an electronic device that emits an
15 electrical charge and that is designed and primarily employed to incapacitate
16 a person or animal either through contact with electrodes on the device
17 itself or remotely through wired probes that are attached to the device or
18 through a spark, plasma, ionization or other conductive means emitting from
19 the device.

20 23. During or immediately following the commission of the offense, the
21 defendant committed a violation of section 28-661, 28-662 or 28-663.

22 24. THE DEFENDANT WAS CONVICTED OF A VIOLATION OF SECTION 13-1307 OR
23 13-1308 AND THE DEFENDANT RECRUITED, ENTICED OR OBTAINED THE VICTIM FROM A
24 SHELTER THAT IS DESIGNED TO SERVE RUNAWAY YOUTH, FOSTER CHILDREN, HOMELESS
25 PERSONS OR VICTIMS OF HUMAN TRAFFICKING, DOMESTIC VIOLENCE OR SEXUAL ASSAULT.

26 ~~24.~~ 25. Any other factor that the state alleges is relevant to the
27 defendant's character or background or to the nature or circumstances of the
28 crime.

29 E. For the purpose of determining the sentence pursuant to subsection
30 C of this section, the court shall consider the following mitigating
31 circumstances:

32 1. The age of the defendant.

33 2. The defendant's capacity to appreciate the wrongfulness of the
34 defendant's conduct or to conform the defendant's conduct to the requirements
35 of law was significantly impaired, but not so impaired as to constitute a
36 defense to prosecution.

37 3. The defendant was under unusual or substantial duress, although not
38 to a degree that would constitute a defense to prosecution.

39 4. The degree of the defendant's participation in the crime was minor,
40 although not so minor as to constitute a defense to prosecution.

41 5. During or immediately following the commission of the offense, the
42 defendant complied with all duties imposed under sections 28-661, 28-662 and
43 28-663.

1 6. Any other factor that is relevant to the defendant's character or
2 background or to the nature or circumstances of the crime and that the court
3 finds to be mitigating.

4 F. If the trier of fact finds at least one aggravating circumstance,
5 the trial court may find by a preponderance of the evidence additional
6 aggravating circumstances. In determining what sentence to impose, the court
7 shall take into account the amount of aggravating circumstances and whether
8 the amount of mitigating circumstances is sufficiently substantial to justify
9 the lesser term. If the trier of fact finds aggravating circumstances and
10 the court does not find any mitigating circumstances, the court shall impose
11 an aggravated sentence.

12 G. The court in imposing a sentence shall consider the evidence and
13 opinions presented by the victim or the victim's immediate family at any
14 aggravation or mitigation proceeding or in the presentence report.

15 H. This section does not affect any provision of law that imposes the
16 death penalty, that expressly provides for imprisonment for life or that
17 authorizes or restricts the granting of probation and suspending the
18 execution of sentence.

19 I. The intentional failure by the court to impose the mandatory
20 sentences or probation conditions provided in this title is malfeasance.

21 J. For the purposes of this section, "trier of fact" means a jury,
22 unless the defendant and the state waive a jury in which case the trier of
23 fact means the court.

24 Sec. 2. Section 13-2301, Arizona Revised Statutes, is amended to read:
25 13-2301. Definitions

26 A. For the purposes of sections 13-2302, 13-2303 and 13-2304:

27 1. "Collect an extension of credit" means to induce in any way any
28 person to make repayment of that extension.

29 2. "Creditor" means any person making an extension of credit or any
30 person claiming by, under or through any person making an extension of
31 credit.

32 3. "Debtor" means any person to whom an extension of credit is made or
33 any person who guarantees the repayment of an extension of credit, or in any
34 manner undertakes to indemnify the creditor against loss resulting from the
35 failure of any person to whom an extension is made to repay the extension.

36 4. "Extend credit" means to make or renew any loan or to enter into
37 any agreement, tacit or express, whereby the repayment or satisfaction of any
38 debt or claim, whether acknowledged or disputed, valid or invalid, and
39 however arising, may or shall be deferred.

40 5. "Extortionate extension of credit" means any extension of credit
41 with respect to which it is the understanding of the creditor and the debtor
42 at the time the extension is made that delay in making repayment or failure
43 to make repayment could result in the use of violence or other criminal means
44 to cause harm to the person or the reputation or property of any person.

1 6. "Extortionate means" means the use, or an express or implicit
2 threat of use, of violence or other criminal means to cause harm to the
3 person or the reputation or property of any person.

4 7. "Repayment of any extension of credit" means the repayment,
5 satisfaction or discharge in whole or in part of any debt or claim,
6 acknowledged or disputed, valid or invalid, resulting from or in connection
7 with that extension of credit.

8 B. For the purposes of section 13-2305, 13-2306 or 13-2307:

9 1. "Dealer in property" means a person who buys and sells property as
10 a business.

11 2. "Stolen property" means property of another as defined in section
12 13-1801 that has been the subject of any unlawful taking.

13 3. "Traffic" means to sell, transfer, distribute, dispense or
14 otherwise dispose of stolen property to another person, or to buy, receive,
15 possess or obtain control of stolen property, with the intent to sell,
16 transfer, distribute, dispense or otherwise dispose of the property to
17 another person.

18 C. For the purposes of this chapter:

19 1. "Animal activity" means a commercial enterprise that uses animals
20 for food, clothing or fiber production, agriculture or biotechnology.

21 2. "Animal facility" means a building or premises where a commercial
22 activity in which the use of animals is essential takes place, ~~which may~~
23 ~~include~~ INCLUDING a zoo, rodeo, circus, amusement park, hunting preserve and
24 horse and dog event.

25 3. "Animal or ecological terrorism" means any felony in violation of
26 section 13-2312, subsection B that involves at least three persons acting in
27 concert, that involves the intentional or knowing infliction of property
28 damage in an amount of more than ten thousand dollars to the property that is
29 used by a person for the operation of a lawfully conducted animal activity or
30 to a commercial enterprise that is engaged in a lawfully operated animal
31 facility or research facility and that involves either:

32 (a) The use of a deadly weapon or dangerous instrument.

33 (b) The intentional or knowing infliction of serious physical injury
34 on a person engaged in a lawfully conducted animal activity or participating
35 in a lawfully conducted animal facility or research facility.

36 4. "Biological agent" means any microorganism, virus, infectious
37 substance or biological product that may be engineered through biotechnology
38 or any naturally occurring or bioengineered component of any microorganism,
39 virus, infectious substance or biological product and that is capable of
40 causing any of the following:

41 (a) Death, disease or physical injury in a human, animal, plant or
42 other living organism.

43 (b) The deterioration or contamination of air, food, water, equipment,
44 supplies or material of any kind.

1 5. "Combination" means persons who collaborate in carrying on or
2 furthering the activities or purposes of a criminal syndicate even though
3 such persons may not know each other's identity, membership in the
4 combination changes from time to time or one or more members may stand in a
5 wholesaler-retailer or other arm's length relationship with others as to
6 activities or dealings between or among themselves in an illicit operation.

7 6. "Communication service provider" has the same meaning prescribed in
8 section 13-3001.

9 7. "Criminal syndicate" means any combination of persons or
10 enterprises engaging, or having the purpose of engaging, on a continuing
11 basis in conduct that violates any one or more provisions of any felony
12 statute of this state.

13 8. "Explosive agent" means an explosive as defined in section 13-3101
14 and flammable fuels or fire accelerants in amounts over fifty gallons but
15 excludes:

16 (a) Fireworks as defined in section 36-1601.

17 (b) Firearms.

18 (c) A propellant actuated device or propellant actuated industrial
19 tool.

20 (d) A device that is commercially manufactured primarily for the
21 purpose of illumination.

22 (e) A rocket having a propellant charge of less than four ounces.

23 9. "Material support or resources" includes money or other financial
24 securities, financial services, lodging, sustenance, training, safehouses,
25 false documentation or identification, communications equipment, facilities,
26 weapons, lethal substances, explosives, personnel, transportation, disguises
27 and other physical assets but does not include medical assistance, legal
28 assistance or religious materials.

29 10. "Public establishment" means a structure that is owned, leased or
30 operated by this state or a political subdivision of this state or a health
31 care institution as defined in section 36-401.

32 11. "Research facility" means a laboratory, institution, medical care
33 facility, government facility, public or private educational institution or
34 nature preserve at which a scientific test, experiment or investigation
35 involving the use of animals is lawfully carried out, conducted or attempted.

36 12. "Terrorism" means any felony, including any completed or
37 preparatory offense, that involves the use of a deadly weapon or a weapon of
38 mass destruction or the intentional or knowing infliction of serious physical
39 injury with the intent to either:

40 (a) Influence the policy or affect the conduct of this state or any of
41 the political subdivisions, agencies or instrumentalities of this state.

42 (b) Cause substantial damage to or substantial interruption of public
43 communications, communication service providers, public transportation,
44 common carriers, public utilities, public establishments or other public
45 services.

1 13. "Toxin" means the toxic material of plants, animals,
2 microorganisms, viruses, fungi or infectious substances or a recombinant
3 molecule, whatever its origin or method of reproduction, including:

4 (a) Any poisonous substance or biological product that may be
5 engineered through biotechnology and that is produced by a living organism.

6 (b) Any poisonous isomer or biological product, homolog or derivative
7 of such substance.

8 14. "Vector" means a living organism or molecule, including a
9 recombinant molecule or biological product that may be engineered through
10 biotechnology, that is capable of carrying a biological agent or toxin to a
11 host.

12 15. "Weapon of mass destruction" means:

13 (a) Any device or object that is designed or that the person intends
14 to use to cause multiple deaths or serious physical injuries through the use
15 of an explosive agent or the release, dissemination or impact of a toxin,
16 biological agent, poisonous chemical, or its precursor, or any vector.

17 (b) Except as authorized and used in accordance with a license,
18 registration or exemption by the radiation regulatory agency pursuant to
19 section 30-672, any device or object that is designed or that the person
20 intends to use to release radiation or radioactivity at a level that is
21 dangerous to human life.

22 D. For the purposes of sections 13-2312, 13-2313, 13-2314 and 13-2315,
23 unless the context otherwise requires:

24 1. "Control", in relation to an enterprise, means the possession of
25 sufficient means to permit substantial direction over the affairs of an
26 enterprise and, in relation to property, means to acquire or possess.

27 2. "Enterprise" means any corporation, partnership, association, labor
28 union or other legal entity or any group of persons associated in fact
29 although not a legal entity.

30 3. "Financial institution" means any business under the jurisdiction
31 of the department of financial institutions or a banking or securities
32 regulatory agency of the United States, a business coming within the
33 definition of a bank, financial agency or financial institution as prescribed
34 by 31 United States Code section 5312 or 31 Code of Federal Regulations
35 section 103.11 or a business under the jurisdiction of the securities
36 division of the corporation commission, the state real estate department or
37 the department of insurance.

38 4. "Racketeering" means any act, including any preparatory or
39 completed offense, that is chargeable or indictable under the laws of the
40 state or country in which the act occurred and, if the act occurred in a
41 state or country other than this state, that would be chargeable or
42 indictable under the laws of this state if the act had occurred in this
43 state, and that would be punishable by imprisonment for more than one year
44 under the laws of this state and, if the act occurred in a state or country
45 other than this state, under the laws of the state or country in which the

- 1 act occurred, regardless of whether the act is charged or indicted, and the
2 act involves either:
- 3 (a) Terrorism, animal terrorism or ecological terrorism that results
4 or is intended to result in a risk of serious physical injury or death.
 - 5 (b) Any of the following acts if committed for financial gain:
 - 6 (i) Homicide.
 - 7 (ii) Robbery.
 - 8 (iii) Kidnapping.
 - 9 (iv) Forgery.
 - 10 (v) Theft.
 - 11 (vi) Bribery.
 - 12 (vii) Gambling.
 - 13 (viii) Usury.
 - 14 (ix) Extortion.
 - 15 (x) Extortionate extensions of credit.
 - 16 (xi) Prohibited drugs, marijuana or other prohibited chemicals or
17 substances.
 - 18 (xii) Trafficking in explosives, weapons or stolen property.
 - 19 (xiii) Participating in a criminal syndicate.
 - 20 (xiv) Obstructing or hindering criminal investigations or
21 prosecutions.
 - 22 (xv) Asserting false claims including, but not limited to, false
23 claims asserted through fraud or arson.
 - 24 (xvi) Intentional or reckless false statements or publications
25 concerning land for sale or lease or sale of subdivided lands or sale and
26 mortgaging of unsubdivided lands.
 - 27 (xvii) Resale of realty with intent to defraud.
 - 28 (xviii) Intentional or reckless fraud in the purchase or sale of
29 securities.
 - 30 (xix) Intentional or reckless sale of unregistered securities or real
31 property securities.
 - 32 (xx) A scheme or artifice to defraud.
 - 33 (xxi) Obscenity.
 - 34 (xxii) Sexual exploitation of a minor.
 - 35 (xxiii) Prostitution.
 - 36 (xxiv) Restraint of trade or commerce in violation of section 34-252.
 - 37 (xxv) Terrorism.
 - 38 (xxvi) Money laundering.
 - 39 (xxvii) Obscene or indecent telephone communications to minors for
40 commercial purposes.
 - 41 (xxviii) Counterfeiting marks as proscribed in section 44-1453.
 - 42 (xxix) Animal terrorism or ecological terrorism.
 - 43 (xxx) Smuggling of human beings.
 - 44 (xxxii) CHILD PROSTITUTION.
 - 45 (xxxiii) SEX TRAFFICKING.

1 (xxxiii) TRAFFICKING OF PERSONS FOR FORCED LABOR OR SERVICES.

2 5. "Records" means any book, paper, writing, computer program, data,
3 image or information that is collected, recorded, preserved or maintained in
4 any form of storage medium.

5 6. "Remedy racketeering" means to enter a civil judgment pursuant to
6 this chapter or chapter 39 of this title against property or a person who is
7 subject to liability, including liability for injury to the state that is
8 caused by racketeering or by actions in concert with racketeering.

9 E. For the purposes of sections 13-2316, 13-2316.01 and 13-2316.02:

10 1. "Access" means to instruct, communicate with, store data in,
11 retrieve data from or otherwise make use of any resources of a computer,
12 computer system or network.

13 2. "Access device" means any card, token, code, account number,
14 electronic serial number, mobile or personal identification number, password,
15 encryption key, biometric identifier or other means of account access,
16 including a canceled or revoked access device, that can be used alone or in
17 conjunction with another access device to obtain money, goods, services,
18 computer or network access or any other thing of value or that can be used to
19 initiate a transfer of any thing of value.

20 3. "Computer" means an electronic device that performs logic,
21 arithmetic or memory functions by the manipulations of electronic or magnetic
22 impulses and includes all input, output, processing, storage, software or
23 communication facilities that are connected or related to such a device in a
24 system or network.

25 4. "Computer contaminant" means any set of computer instructions that
26 is designed to modify, damage, destroy, record or transmit information within
27 a computer, computer system or network without the intent or permission of
28 the owner of the information, computer system or network. Computer
29 contaminant includes a group of computer instructions, such as viruses or
30 worms, that is self-replicating or self-propagating and that is designed to
31 contaminate other computer programs or computer data, to consume computer
32 resources, to modify, destroy, record or transmit data or in some other
33 fashion to usurp the normal operation of the computer, computer system or
34 network.

35 5. "Computer program" means a series of instructions or statements, in
36 a form acceptable to a computer, that permits the functioning of a computer
37 system in a manner designed to provide appropriate products from the computer
38 system.

39 6. "Computer software" means a set of computer programs, procedures
40 and associated documentation concerned with the operation of a computer
41 system.

42 7. "Computer system" means a set of related, connected or unconnected
43 computer equipment, devices and software, including storage, media and
44 peripheral devices.

1 8. "Critical infrastructure resource" means any computer or
2 communications system or network that is involved in providing services
3 necessary to ensure or protect the public health, safety or welfare,
4 including services that are provided by any of the following:

- 5 (a) Medical personnel and institutions.
- 6 (b) Emergency services agencies.
- 7 (c) Public and private utilities, including water, power,
8 communications and transportation services.
- 9 (d) Fire departments, districts or volunteer organizations.
- 10 (e) Law enforcement agencies.
- 11 (f) Financial institutions.
- 12 (g) Public educational institutions.
- 13 (h) Government agencies.

14 9. "False or fraudulent pretense" means the unauthorized use of an
15 access device or the use of an access device to exceed authorized access.

16 10. "Financial instrument" means any check, draft, money order,
17 certificate of deposit, letter of credit, bill of exchange, credit card or
18 marketable security or any other written instrument as defined in section
19 13-2001 that is transferable for value.

20 11. "Network" includes a complex of interconnected computer or
21 communication systems of any type.

22 12. "Property" means financial instruments, information, including
23 electronically produced data, computer software and programs in either
24 machine or human readable form, and anything of value, tangible or
25 intangible.

26 13. "Proprietary or confidential computer security information" means
27 information about a particular computer, computer system or network that
28 relates to its access devices, security practices, methods and systems,
29 architecture, communications facilities, encryption methods and system
30 vulnerabilities and that is not made available to the public by its owner or
31 operator.

32 14. "Services" includes computer time, data processing, storage
33 functions and all types of communication functions.

34 Sec. 3. Section 13-3212, Arizona Revised Statutes, is amended to read:

35 13-3212. Child prostitution; classification; increased
36 punishment

37 A. A person commits child prostitution by knowingly:

- 38 1. Causing any minor to engage in prostitution.
- 39 2. Using any minor for the purposes of prostitution.
- 40 3. Permitting a minor who is under the person's custody or control to
41 engage in prostitution.
- 42 4. Receiving any benefit for or on account of procuring or placing a
43 minor in any place or in the charge or custody of any person for the purpose
44 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 with the
6 intent that the minor engage in prostitution.

7 B. A person who is at least eighteen years of age commits child
8 prostitution by knowingly:

9 1. Engaging in prostitution with a minor who is under fifteen years of
10 age.

11 2. Engaging in prostitution with a minor who the person knows **OR**
12 **SHOULD HAVE KNOWN** is fifteen, sixteen or seventeen years of age.

13 3. Engaging in prostitution with a minor who is fifteen, sixteen or
14 seventeen years of age.

15 C. It is not a defense to a prosecution under subsection A and
16 subsection B, paragraphs 1 and 2 of this section that the other person is a
17 peace officer posing as a minor or a person assisting a peace officer posing
18 as a minor.

19 D. Notwithstanding any other law, a sentence imposed on a person for a
20 violation of subsection A or subsection B, paragraph 2 of this section
21 involving a minor who is fifteen, sixteen or seventeen years of age shall be
22 consecutive to any other sentence imposed on the person at any time.

23 E. Child prostitution pursuant to subsection A of this section is a
24 class 2 felony if the minor is under fifteen years of age and is punishable
25 pursuant to section 13-705.

26 F. Child prostitution pursuant to subsection B, paragraph 1 of this
27 section is a class 2 felony and is punishable pursuant to section 13-705.

28 **G. IF THE MINOR IS FIFTEEN, SIXTEEN OR SEVENTEEN YEARS OF AGE, CHILD**
29 **PROSTITUTION PURSUANT TO SUBSECTION A OF THIS SECTION IS A CLASS 2 FELONY,**
30 **THE PERSON CONVICTED SHALL BE SENTENCED PURSUANT TO THIS SECTION AND THE**
31 **PERSON IS NOT ELIGIBLE FOR SUSPENSION OF SENTENCE, PROBATION, PARDON OR**
32 **RELEASE FROM CONFINEMENT ON ANY BASIS EXCEPT AS SPECIFICALLY AUTHORIZED BY**
33 **SECTION 31-233, SUBSECTION A OR B UNTIL THE SENTENCE IMPOSED BY THE COURT HAS**
34 **BEEN SERVED OR COMMUTED. THE PRESUMPTIVE TERM MAY BE AGGRAVATED OR MITIGATED**
35 **WITHIN THE RANGE UNDER THIS SECTION PURSUANT TO SECTION 13-701, SUBSECTIONS**
36 **C, D AND E. THE TERMS ARE AS FOLLOWS:**

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

38 <u>MINIMUM</u>	<u>PRESUMPTIVE</u>	<u>MAXIMUM</u>
39 10 YEARS	13.5 YEARS	24 YEARS

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

42 <u>MINIMUM</u>	<u>PRESUMPTIVE</u>	<u>MAXIMUM</u>
43 17 YEARS	24 YEARS	31 YEARS

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

<u>MINIMUM</u>	<u>PRESUMPTIVE</u>	<u>MAXIMUM</u>
24 YEARS	31 YEARS	38 YEARS

~~G.~~ H. If the minor is fifteen, sixteen or seventeen years of age, child prostitution pursuant to subsection ~~A and subsection~~ B, paragraph 2 of this section is a class 2 felony, the person convicted shall be sentenced pursuant to this section and the person is not eligible for suspension of sentence, probation, pardon or release from confinement on any basis except as specifically authorized by section 31-233, subsection A or B until the sentence imposed by the court has been served or commuted. The presumptive term may be aggravated or mitigated within the range under this section pursuant to section 13-701, subsections C, D and E. The terms are as follows:

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

2. The term for a defendant who has one historical prior felony conviction ~~for a violation of this section~~ is as follows:

<u>Minimum</u>	<u>Presumptive</u>	<u>Maximum</u>
14 years	15.75 years	28 years

3. The term for a defendant who has two or more historical prior felony convictions ~~for a violation of this section~~ is as follows:

<u>Minimum</u>	<u>Presumptive</u>	<u>Maximum</u>
21 years	28 years	35 years

~~H.~~ I. Child prostitution pursuant to subsection B, paragraph 3 of this section is a class 6 felony. If the court sentences the person to a term of probation, the court shall order that as an initial term of probation the person be imprisoned in the county jail for not less than one hundred eighty consecutive days. This jail term shall commence on the date of sentencing. The court may suspend ninety days of the jail sentence if the person has not previously been convicted of a violation of this section, a violation of section 13-3214 or a violation of any city or town ordinance that prohibits prostitution and that has the same or substantially similar elements as section 13-3214 and the person successfully completes an appropriate court ordered education or treatment program.

~~I.~~ J. ~~Nothing in~~ This section ~~precludes~~ DOES NOT PRECLUDE the state from alleging and proving any other sentencing enhancements as provided by law.

Sec. 4. Section 13-3214, Arizona Revised Statutes, is amended to read: 13-3214. Prostitution; classification

A. It is unlawful for a person to knowingly engage in prostitution.

B. This section does not prohibit cities or towns from enacting and enforcing ordinances to suppress and prohibit prostitution that provide a

1 punishment for misdemeanor violations that is at least as stringent as
2 provided in this section.

3 C. For the purposes of sentencing under this section, a previous
4 violation of any city or town ordinance that prohibits prostitution and that
5 has the same or substantially similar elements as this section shall be
6 deemed to be a previous violation of this section.

7 D. IT IS AN AFFIRMATIVE DEFENSE TO A PROSECUTION UNDER THIS SECTION
8 THAT THE DEFENDANT COMMITTED THE ACTS CONSTITUTING PROSTITUTION AS A DIRECT
9 RESULT OF BEING A VICTIM OF SEX TRAFFICKING.

10 ~~D.~~ E. A person who violates this section is guilty of a class 1
11 misdemeanor, except that:

12 1. A person who is convicted of a first violation of this section
13 shall be sentenced to serve not less than fifteen consecutive days in jail
14 and is not eligible for probation or suspension of execution of sentence
15 until the entire sentence is served.

16 2. A person who is convicted of a second violation of this section
17 shall be sentenced to serve not less than thirty consecutive days in jail and
18 is not eligible for probation or suspension of execution of sentence until
19 the entire sentence is served.

20 3. A person who is convicted of a third violation of this section
21 shall be sentenced to serve not less than sixty consecutive days in jail, is
22 not eligible for probation or suspension of execution of sentence until the
23 entire sentence is served and shall complete an appropriate court ordered
24 education or treatment program.

25 4. A person who has previously been convicted of three or more
26 violations of this section and who commits a subsequent violation of this
27 section is guilty of a class 5 felony, shall be sentenced to serve not less
28 than one hundred eighty consecutive days in jail and is not eligible for
29 probation or suspension of execution of sentence until the entire sentence is
30 served. This paragraph does not prohibit a person from being sentenced to
31 serve a period of incarceration in the state department of corrections.