

State of Arizona
House of Representatives
Fifty-second Legislature
First Regular Session
2015

CHAPTER 51
HOUSE BILL 2289

AN ACT

AMENDING SECTIONS 13-703 AND 13-708, ARIZONA REVISED STATUTES; RELATING TO SENTENCING.

(TEXT OF BILL BEGINS ON NEXT PAGE)

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

2 Section 1. Section 13-703, Arizona Revised Statutes, is amended to
3 read:

4 13-703. Repetitive offenders; sentencing

5 A. ~~A person shall be sentenced as a category one repetitive~~
6 ~~offender~~ If the A person is convicted of ~~two~~ MULTIPLE felony offenses that
7 were not committed on the same occasion but that either are consolidated
8 for trial purposes or are not historical prior felony convictions, ~~—~~ THE
9 PERSON SHALL BE SENTENCED AS A FIRST TIME FELONY OFFENDER PURSUANT TO
10 SECTION 13-702 FOR THE FIRST OFFENSE, AS A CATEGORY ONE REPETITIVE
11 OFFENDER FOR THE SECOND OFFENSE, AND

12 B. ~~A person shall be sentenced~~ as a category two repetitive
13 offender FOR THE THIRD AND SUBSEQUENT OFFENSES. ~~if the person either:~~

14 ~~1. Is convicted of three or more felony offenses that were not~~
15 ~~committed on the same occasion but that either are consolidated for trial~~
16 ~~purposes or are not historical prior felony convictions.~~

17 ~~2.~~ B. Except as provided in section 13-704 or 13-705, A PERSON
18 SHALL BE SENTENCED AS A CATEGORY TWO REPETITIVE OFFENDER IF THE PERSON is
19 at least eighteen years of age or has been tried as an adult and stands
20 convicted of a felony and has one historical prior felony conviction.

21 C. Except as provided in section 13-704 or 13-705, a person shall
22 be sentenced as a category three repetitive offender if the person is at
23 least eighteen years of age or has been tried as an adult and stands
24 convicted of a felony and has two or more historical prior felony
25 convictions.

26 D. The presumptive term set by this section may be aggravated or
27 mitigated within the range under this section pursuant to section 13-701,
28 subsections C, D and E.

29 E. If a person is sentenced as a category one repetitive offender
30 pursuant to subsection A of this section and if at least two aggravating
31 circumstances listed in section 13-701, subsection D apply or at least two
32 mitigating circumstances listed in section 13-701, subsection E apply, the
33 court may impose a mitigated or aggravated sentence pursuant to subsection
34 H of this section.

35 F. If a person is sentenced as a category two repetitive offender
36 pursuant to subsection B of this section and if at least two aggravating
37 circumstances listed in section 13-701, subsection D apply or at least two
38 mitigating circumstances listed in section 13-701, subsection E apply, the
39 court may impose a mitigated or aggravated sentence pursuant to subsection
40 I of this section.

41 G. If a person is sentenced as a category three repetitive offender
42 pursuant to subsection C of this section and at least two aggravating
43 circumstances listed in section 13-701, subsection D or at least two
44 mitigating circumstances listed in section 13-701, subsection E apply, the
45 court may impose a mitigated or aggravated sentence pursuant to subsection J
46 of this section.

1 H. A category one repetitive offender shall be sentenced within the
2 following ranges:

<u>Felony</u>	<u>Mitigated</u>	<u>Minimum</u>	<u>Presumptive</u>	<u>Maximum</u>	<u>Aggravated</u>
3 Class 2	3 years	4 years	5 years	10 years	12.5 years
4 Class 3	2 years	2.5 years	3.5 years	7 years	8.75 years
5 Class 4	1 year	1.5 years	2.5 years	3 years	3.75 years
6 Class 5	.5 years	.75 years	1.5 years	2 years	2.5 years
7 Class 6	.25 years	.5 years	1 year	1.5 years	2 years

8
9 I. A category two repetitive offender shall be sentenced within the
10 following ranges:

<u>Felony</u>	<u>Mitigated</u>	<u>Minimum</u>	<u>Presumptive</u>	<u>Maximum</u>	<u>Aggravated</u>
11 Class 2	4.5 years	6 years	9.25 years	18.5 years	23 years
12 Class 3	3.25 years	4.5 years	6.5 years	13 years	16.25 years
13 Class 4	2.25 years	3 years	4.5 years	6 years	7.5 years
14 Class 5	1 year	1.5 years	2.25 years	3 years	3.75 years
15 Class 6	.75 years	1 year	1.75 years	2.25 years	2.75 years

16
17 J. A category three repetitive offender shall be sentenced within the
18 following ranges:

<u>Felony</u>	<u>Mitigated</u>	<u>Minimum</u>	<u>Presumptive</u>	<u>Maximum</u>	<u>Aggravated</u>
19 Class 2	10.5 years	14 years	15.75 years	28 years	35 years
20 Class 3	7.5 years	10 years	11.25 years	20 years	25 years
21 Class 4	6 years	8 years	10 years	12 years	15 years
22 Class 5	3 years	4 years	5 years	6 years	7.5 years
23 Class 6	2.25 years	3 years	3.75 years	4.5 years	5.75 years

24
25 K. The aggravated or mitigated term imposed pursuant to subsection H,
26 I or J of this section may be imposed only if at least two of the aggravating
27 circumstances are found beyond a reasonable doubt to be true by the trier of
28 fact or are admitted by the defendant, except that an aggravating
29 circumstance under section 13-701, subsection D, paragraph 11 shall be found
30 to be true by the court, or in mitigation of the crime are found to be true
31 by the court, on any evidence or information introduced or submitted to the
32 court or the trier of fact before sentencing or any evidence presented at
33 trial, and factual findings and reasons in support of these findings are set
34 forth on the record at the time of sentencing.

35 L. Convictions for two or more offenses committed on the same occasion
36 shall be counted as only one conviction for the purposes of subsection B,
37 paragraph 2 and subsection C of this section.

38 M. For the purposes of subsection B, paragraph 2 and subsection C of
39 this section, a person who has been convicted in any court outside the
40 jurisdiction of this state of an offense that was punishable by that
41 jurisdiction as a felony is subject to this section. A person who has been
42 convicted as an adult of an offense punishable as a felony under the
43 provisions of any prior code in this state or the jurisdiction in which the
44 offense was committed is subject to this section. A person who has been
45 convicted of a felony weapons possession violation in any court outside the

1 jurisdiction of this state that would not be punishable as a felony under the
2 laws of this state is not subject to this section.

3 N. The penalties prescribed by this section shall be substituted for
4 the penalties otherwise authorized by law if an allegation of prior
5 conviction is charged in the indictment or information and admitted or found
6 by the court. The release provisions prescribed by this section shall not be
7 substituted for any penalties required by the substantive offense or a
8 provision of law that specifies a later release or completion of the sentence
9 imposed before release. The court shall allow the allegation of a prior
10 conviction at any time before the date the case is actually tried unless the
11 allegation is filed fewer than twenty days before the case is actually tried
12 and the court finds on the record that the person was in fact prejudiced by
13 the untimely filing and states the reasons for these findings. If the
14 allegation of a prior conviction is filed, the state must make available to
15 the person a copy of any material or information obtained concerning the
16 prior conviction. The charge of previous conviction shall not be read to the
17 jury. For the purposes of this subsection, "substantive offense" means the
18 felony offense that the trier of fact found beyond a reasonable doubt the
19 person committed. Substantive offense does not include allegations that, if
20 proven, would enhance the sentence of imprisonment or fine to which the
21 person otherwise would be subject.

22 O. A person who is sentenced pursuant to this section is not eligible
23 for suspension of sentence, probation, pardon or release from confinement on
24 any basis, except as specifically authorized by section 31-233, subsection A
25 or B, until the sentence imposed by the court has been served, the person is
26 eligible for release pursuant to section 41-1604.07 or the sentence is
27 commuted.

28 P. The court shall inform all of the parties before sentencing occurs
29 of its intent to impose an aggravated or mitigated sentence pursuant to
30 subsection H, I or J of this section. If the court fails to inform the
31 parties, a party waives its right to be informed unless the party timely
32 objects at the time of sentencing.

33 Q. The court in imposing a sentence shall consider the evidence and
34 opinions presented by the victim or the victim's immediate family at any
35 aggravation or mitigation proceeding or in the presentence report.

36 Sec. 2. Section 13-708, Arizona Revised Statutes, is amended to
37 read:

38 13-708. Offenses committed while released from confinement

39 A. A person who is convicted of any felony involving a dangerous
40 offense that is committed while the person is on probation for a conviction
41 of a felony offense or parole, work furlough, community supervision or any
42 other release or has escaped from confinement for conviction of a felony
43 offense shall be sentenced to imprisonment for not less than the presumptive
44 sentence authorized under this chapter and is not eligible for suspension or
45 commutation or release on any basis until the sentence imposed is served.

1 B. A person who is convicted of a dangerous offense that is committed
2 while the person is on release or has escaped from confinement for a
3 conviction of a serious offense as defined in section 13-706, an offense
4 resulting in serious physical injury or an offense involving the use or
5 exhibition of a deadly weapon or dangerous instrument shall be sentenced to
6 the maximum sentence authorized under this chapter and is not eligible for
7 suspension or commutation or release on any basis until the sentence imposed
8 is served. If the court finds that at least two substantial aggravating
9 circumstances listed in section 13-701, subsection D apply, the court may
10 increase the maximum sentence authorized under this chapter by up to
11 twenty-five ~~per cent~~ PERCENT. ~~A sentence imposed pursuant to this subsection~~
12 ~~shall revoke the convicted person's release if the person was on release and~~
13 ~~shall be consecutive to any other sentence from which the convicted person~~
14 ~~had been temporarily released or had escaped, unless the sentence from which~~
15 ~~the convicted person had been paroled or placed on probation was imposed by a~~
16 ~~jurisdiction other than this state.~~

17 C. A person who is convicted of any felony offense that is not
18 included in subsection A or B of this section and that is committed while the
19 person is on probation for a conviction of a felony offense or parole, work
20 furlough, community supervision or any other release or escape from
21 confinement for conviction of a felony offense shall be sentenced to a term
22 of not less than the presumptive sentence authorized for the offense and the
23 person is not eligible for suspension of sentence, probation, pardon or
24 release from confinement on any basis except as specifically authorized by
25 section 31-233, subsection A or B until the sentence imposed by the court has
26 been served, the person is eligible for release pursuant to section
27 41-1604.07 or the sentence is commuted. The release provisions prescribed by
28 this section shall not be substituted for any penalties required by the
29 substantive offense or provision of law that specifies a later release or
30 completion of the sentence imposed before release. ~~A sentence imposed~~
31 ~~pursuant to this subsection shall revoke the convicted person's release if~~
32 ~~the person was on release and shall be consecutive to any other sentence from~~
33 ~~which the convicted person had been temporarily released or had escaped,~~
34 ~~unless the sentence from which the convicted person had been paroled or~~
35 ~~placed on probation was imposed by a jurisdiction other than this state.~~ For
36 the purposes of this subsection, "substantive offense" means the felony,
37 misdemeanor or petty offense that the trier of fact found beyond a reasonable
38 doubt the defendant committed. Substantive offense does not include
39 allegations that, if proven, would enhance the sentence of imprisonment or
40 fine to which the defendant would otherwise be subject.

41 D. A person who is convicted of committing any felony offense that is
42 committed while the person is released on bond or on the person's own
43 recognizance on a separate felony offense or while the person is escaped from
44 preconviction custody for a separate felony offense shall be sentenced to a
45 term of imprisonment two years longer than would otherwise be imposed for the
46 felony offense committed while on release. The additional sentence imposed

1 under this subsection is in addition to any enhanced punishment that may be
2 applicable under section 13-703, section 13-704, section 13-1204, subsection
3 C or section 13-714. The person is not eligible for suspension of sentence,
4 probation, pardon or release from confinement on any basis, except as
5 specifically authorized by section 31-233, subsection A or B, until the two
6 years are served, the person is eligible for release pursuant to section
7 41-1604.07 or the sentence is commuted. The penalties prescribed by this
8 subsection shall be substituted for the penalties otherwise authorized by law
9 if the allegation that the person committed a felony while released on bond
10 or on the person's own recognizance or while escaped from preconviction
11 custody is charged in the indictment or information and admitted or found by
12 the court. The release provisions prescribed by this subsection shall not be
13 substituted for any penalties required by the substantive offense or
14 provision of law that specifies a later release or completion of the sentence
15 imposed before release. The court shall allow the allegation that the person
16 committed a felony while released on bond or on the person's own recognizance
17 on a separate felony offense or while escaped from preconviction custody on a
18 separate felony offense at any time before the case is actually tried unless
19 the allegation is filed fewer than twenty days before the case is actually
20 tried and the court finds on the record that the person was in fact
21 prejudiced by the untimely filing and states the reasons for these
22 findings. The allegation that the person committed a felony while released
23 on bond or on the person's own recognizance or while escaped from
24 preconviction custody shall not be read to the jury. For the purposes of
25 this subsection, "substantive offense" means the felony offense that the
26 trier of fact found beyond a reasonable doubt the person
27 committed. Substantive offense does not include allegations that, if proven,
28 would enhance the sentence of imprisonment or fine to which the person
29 otherwise would be subject.

30 E. A SENTENCE IMPOSED PURSUANT TO SUBSECTION A, B OR C OF THIS SECTION
31 SHALL REVOKE THE CONVICTED PERSON'S RELEASE IF THE PERSON WAS ON RELEASE AND
32 SHALL BE CONSECUTIVE TO ANY OTHER SENTENCE FROM WHICH THE CONVICTED PERSON
33 HAD BEEN TEMPORARILY RELEASED OR HAD ESCAPED, UNLESS THE SENTENCE FROM WHICH
34 THE CONVICTED PERSON HAD BEEN PAROLED OR PLACED ON PROBATION WAS IMPOSED BY A
35 JURISDICTION OTHER THAN THIS STATE.

APPROVED BY THE GOVERNOR MARCH 23, 2015.

FILED IN THE OFFICE OF THE SECRETARY OF STATE MARCH 23, 2015.