

REFERENCE TITLE: prostitution; children; trafficking

State of Arizona  
Senate  
Fifty-first Legislature  
First Regular Session  
2013

## **SB 1355**

Introduced by  
Senators Hobbs, Lopez: Farley

AN ACT

AMENDING SECTIONS 13-3208, 13-3211, 13-3212 AND 13-3214, 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 13-3208, Arizona Revised Statutes, is amended to  
3 read:

4 13-3208. Entering a house of prostitution; engaging a  
5 prostitution enterprise; operating or maintaining a  
6 house of prostitution or prostitution enterprise;  
7 classification

8 A. A person who knowingly ~~is an employee at~~ ENTERS a house of  
9 prostitution or WHO ENGAGES A prostitution enterprise FOR THE PURPOSE OF  
10 PAYING MONEY OR OTHER VALUABLE CONSIDERATION FOR SEXUAL CONDUCT is guilty of  
11 a class 1 misdemeanor.

12 B. A person who knowingly operates or maintains a house of  
13 prostitution or prostitution enterprise is guilty of a class 5 felony.

14 Sec. 2. Section 13-3211, Arizona Revised Statutes, is amended to read:  
15 13-3211. Definitions

16 In this chapter, unless the context otherwise requires:

17 ~~1. "Employee" means a person who conducts lawful or unlawful business~~  
18 ~~for another person under a master-servant relationship or as an independent~~  
19 ~~contractor and who is compensated by wages, commissions, tips or other~~  
20 ~~valuable consideration.~~

21 ~~2.~~ 1. "House of prostitution" means any building, structure or place  
22 that is used for the purpose of prostitution or lewdness or where acts of  
23 prostitution occur.

24 ~~3.~~ 2. "Operate and maintain" means to organize, design, perpetuate or  
25 control. Operate and maintain includes providing financial support by paying  
26 utilities, rent, maintenance costs or advertising costs, supervising  
27 activities or work schedules, and directing or furthering the aims of the  
28 enterprise.

29 ~~4.~~ 3. "Oral sexual contact" means oral contact with the penis, vulva  
30 or anus.

31 ~~5.~~ 4. "Prostitution" means engaging in or agreeing or offering to  
32 engage in sexual conduct under a fee arrangement with any person for money or  
33 any other valuable consideration.

34 ~~6.~~ 5. "Prostitution enterprise" means any corporation, partnership,  
35 association or other legal entity or any group of individuals associated in  
36 fact although not a legal entity engaged in providing prostitution services.

37 ~~7.~~ 6. "Sadomasochistic abuse" means flagellation or torture by or on  
38 a person who is nude or clad in undergarments or in revealing or bizarre  
39 costume or the condition of being fettered, bound or otherwise physically  
40 restrained on the part of one so clothed.

41 ~~8.~~ 7. "Sexual conduct" means sexual contact, sexual intercourse, oral  
42 sexual contact or sadomasochistic abuse.

43 ~~9.~~ 8. "Sexual contact" means any direct or indirect fondling or  
44 manipulating of any part of the genitals, anus or female breast.

1       ~~10-~~ 9. "Sexual intercourse" means penetration into the penis, vulva or  
2 anus by any part of the body or by any object.

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

4       13-3212. Child prostitution; classification; increased  
5               punishment

6       A. A person commits child prostitution by knowingly:

7           1. Causing any minor to engage in prostitution.

8           2. Using any minor for the purposes of prostitution.

9           3. Permitting a minor who is under the person's custody or control to  
10 engage in prostitution.

11          4. Receiving any benefit for or on account of procuring or placing a  
12 minor in any place or in the charge or custody of any person for the purpose  
13 of prostitution.

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

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

18          7. Transporting or financing the transportation of any minor with the  
19 intent that the minor engage in prostitution.

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

22           1. Engaging in prostitution with a minor who is under fifteen years of  
23 age.

24           2. Engaging in prostitution with a minor who the person knows is  
25 fifteen, sixteen or seventeen years of age.

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

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

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

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

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

41       G. If the minor is fifteen, sixteen or seventeen years of age, child  
42 prostitution pursuant to subsection A and subsection B, paragraph 2 of this  
43 section is a class 2 felony, the person convicted shall be sentenced pursuant  
44 to this section and the person is not eligible for suspension of sentence,  
45 probation, pardon or release from confinement on any basis except as

1 specifically authorized by section 31-233, subsection A or B until the  
2 sentence imposed by the court has been served or commuted. The presumptive  
3 term may be aggravated or mitigated within the range under this section  
4 pursuant to section 13-701, subsections C, D and E. The terms are as  
5 follows:

6 1. The term for a first offense is as follows:  
7 

<u>Minimum</u>	<u>Presumptive</u>	<u>Maximum</u>
7 years	10.5 years	21 years

8 2. The term for a defendant who has one historical prior felony  
9 conviction for a violation of this section is as follows:  
10 

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

11 3. The term for a defendant who has two or more historical prior  
12 felony convictions for a violation of this section is as follows:  
13 

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

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

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

27 J. A MINOR WHO IS A VICTIM OF CHILD PROSTITUTION SHALL NOT BE CHARGED  
28 WITH A VIOLATION OF THIS SECTION OR SECTION 13-3214.

29 Sec. 4. Section 13-3214, Arizona Revised Statutes, is amended to read:  
30 13-3214. Prostitution; classification

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

32 B. This section does not prohibit cities or towns from enacting and  
33 enforcing ordinances to suppress and prohibit prostitution that provide a  
34 punishment for misdemeanor violations that is at least as stringent as  
35 provided in this section, EXCEPT THAT AN ORDINANCE THAT APPLIES TO A MINOR  
36 SHALL NOT PROVIDE A PUNISHMENT THAT IS GREATER THAN ANY PUNISHMENT PROVIDED  
37 BY STATE LAW.

38 C. For the purposes of sentencing under this section, a previous  
39 violation of any city or town ordinance that prohibits prostitution and that  
40 has the same or substantially similar elements as this section shall be  
41 deemed to be a previous violation of this section.  
42  
43  
44

1           D. THIS SECTION DOES NOT APPLY TO A MINOR WHO ENGAGES IN OR AGREES TO  
2 OR OFFERS TO ENGAGE IN SEXUAL CONDUCT FOR MONEY OR OTHER VALUABLE  
3 CONSIDERATION.

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

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

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

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

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