

REFERENCE TITLE: mandatory minimum sentences; judicial discretion

State of Arizona
House of Representatives
Fifty-fourth Legislature
First Regular Session
2019

HB 2245

Introduced by
Representatives Rivero: Blackman, Bowers, Campbell, Cook, Dunn, Engel,
Payne, Stringer, Toma, Senator Ugenti-Rita

AN ACT

AMENDING TITLE 13, CHAPTER 7, ARIZONA REVISED STATUTES, BY ADDING SECTION
13-719; 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. Title 13, chapter 7, Arizona Revised Statutes, is
3 amended by adding section 13-719, to read:

4 13-719. Mandatory prison sentence; judicial discretion;
5 annual report; annual savings determination

6 A. NOTWITHSTANDING ANY OTHER LAW, WHEN SENTENCING A DEFENDANT WHO
7 IS CONVICTED OF AN OFFENSE THAT REQUIRES A MANDATORY PRISON SENTENCE, THE
8 COURT MAY DEPART FROM THE APPLICABLE MANDATORY PRISON SENTENCE AND IMPOSE
9 A SHORTER PRISON SENTENCE OR SUSPEND THE SENTENCE AND IMPOSE A TERM OF
10 PROBATION IF THE COURT FINDS THAT, IN GIVING DUE REGARD TO THE NATURE OF
11 THE OFFENSE AND THE DEFENDANT'S HISTORY AND CHARACTER, BOTH OF THE
12 FOLLOWING APPLY:

13 1. THE IMPOSITION OF THE MANDATORY PRISON SENTENCE WOULD RESULT IN
14 AN INJUSTICE TO THE DEFENDANT.

15 2. THE MANDATORY PRISON SENTENCE IS NOT NECESSARY FOR THE
16 PROTECTION OF THE PUBLIC.

17 B. THIS SECTION DOES NOT APPLY TO A CONVICTION FOR ANY OF THE
18 FOLLOWING:

19 1. AN OFFENSE INVOLVING DEATH OR SERIOUS PHYSICAL INJURY TO ANOTHER
20 PERSON.

21 2. AN OFFENSE THAT IS LISTED IN CHAPTER 14 OF THIS TITLE AND THAT
22 IS COMMITTED BY THE DEFENDANT AGAINST A MINOR, OTHER THAN AN OFFENSE
23 INVOLVING SEXUAL CONDUCT IF THE VICTIM WAS FIFTEEN, SIXTEEN OR SEVENTEEN
24 YEARS OF AGE, THE DEFENDANT WAS UNDER NINETEEN YEARS OF AGE OR ATTENDING
25 HIGH SCHOOL AND WAS NOT MORE THAN TWENTY-FOUR MONTHS OLDER THAN THE
26 VICTIM, AND THE CONDUCT WAS CONSENSUAL.

27 3. AN OFFENSE IN WHICH THE DEFENDANT ENGAGES IN A CONTINUING
28 CRIMINAL ENTERPRISE OR ORGANIZES, LEADS, MANAGES OR SUPERVISES OTHERS IN
29 AN OFFENSE.

30 C. THE COURT SHALL STATE ON THE RECORD IN EACH CASE IN WHICH THE
31 COURT DEPARTS FROM A MANDATORY PRISON SENTENCE THE REASON FOR DEPARTING
32 FROM THE MANDATORY PRISON SENTENCE.

33 D. THE ADMINISTRATIVE OFFICE OF THE COURTS SHALL SUBMIT AN ANNUAL
34 REPORT TO THE ARIZONA CRIMINAL JUSTICE COMMISSION THAT CONTAINS THE NAME
35 OF EACH CASE IN WHICH THE COURT DEPARTED FROM A MANDATORY PRISON SENTENCE.

36 E. THE ARIZONA CRIMINAL JUSTICE COMMISSION SHALL ANNUALLY DETERMINE
37 THE COST SAVINGS REALIZED AS A RESULT OF MANDATORY PRISON SENTENCE
38 DEPARTURES AND SHALL NOTIFY THE STATE TREASURER OF THIS AMOUNT.

39 Sec. 2. Short title

40 This act may be cited as the "Arizona Judicial Discretion Act".