

REFERENCE TITLE: **sentencing; mandatory minimum; exception**

State of Arizona  
Senate  
Fifty-fifth Legislature  
First Regular Session  
2021

# **SB 1195**

Introduced by  
Senators Engel: Otondo, Shope

**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 minimum sentence exception; factors to  
5 consider; sentencing record

6 A. NOTWITHSTANDING ANY OTHER LAW, THE COURT MAY IMPOSE A SENTENCE  
7 THAT IS BELOW A MANDATORY MINIMUM SENTENCE IF THE COURT FINDS THAT IT IS  
8 NECESSARY IN ORDER TO COMPLY WITH SUBSECTION B OF THIS SECTION.

9 B. THE COURT SHALL IMPOSE A SENTENCE THAT IS SUFFICIENT, BUT NOT  
10 GREATER THAN NECESSARY, TO COMPLY WITH THE PURPOSES LISTED IN PARAGRAPH 2  
11 OF THIS SUBSECTION. THE COURT SHALL CONSIDER ALL OF THE FOLLOWING TO  
12 DETERMINE THE PARTICULAR SENTENCE TO IMPOSE:

13 1. THE NATURE AND CIRCUMSTANCES OF THE OFFENSE AND THE HISTORY AND  
14 CHARACTERISTICS OF THE DEFENDANT.

15 2. THE NEED FOR THE SENTENCE IMPOSED TO DO ALL OF THE FOLLOWING:

16 (a) REFLECT THE SERIOUSNESS OF THE OFFENSE, TO PROMOTE RESPECT FOR  
17 THE LAW AND TO PROVIDE JUST PUNISHMENT FOR THE OFFENSE.

18 (b) AFFORD ADEQUATE DETERRENCE TO CRIMINAL CONDUCT.

19 (c) PROTECT THE PUBLIC FROM THE DEFENDANT COMMITTING FURTHER CRIME.

20 (d) PROVIDE THE DEFENDANT WITH NEEDED EDUCATION OR VOCATIONAL  
21 TRAINING, MEDICAL CARE OR OTHER CORRECTIONAL TREATMENT IN THE MOST  
22 EFFECTIVE MANNER.

23 3. THE KINDS OF SENTENCES THAT ARE AVAILABLE.

24 4. THE KINDS OF SENTENCE AND THE SENTENCING RANGE THAT IS  
25 ESTABLISHED FOR THE APPLICABLE CATEGORY OF OFFENSE COMMITTED BY THE  
26 APPLICABLE CATEGORY OF DEFENDANT AS SET FORTH IN STATUTE.

27 5. THE NEED TO AVOID UNWARRANTED SENTENCE DISPARITIES AMONG  
28 DEFENDANTS WHO HAVE SIMILAR CRIMINAL HISTORY RECORDS AND WHO HAVE BEEN  
29 FOUND GUILTY OF SIMILAR CONDUCT.

30 6. THE NEED TO PROVIDE RESTITUTION TO ANY VICTIM OF THE OFFENSE.

31 C. BEFORE IMPOSING A SENTENCE THAT IS BELOW THE MANDATORY MINIMUM  
32 PURSUANT TO THIS SECTION, THE COURT SHALL PROVIDE THE PARTIES NOTICE OF  
33 THE COURT'S INTENT TO DO SO AND AN OPPORTUNITY TO RESPOND. THE COURT  
34 SHALL INCLUDE IN THE DEFENDANT'S SENTENCING RECORD THE REASONS THAT THE  
35 SPECIFIC FACTORS LISTED IN SUBSECTION B OF THIS SECTION REQUIRE THE  
36 IMPOSITION OF A SENTENCE THAT IS BELOW THE STATUTORY MINIMUM.

37 D. THIS SECTION DOES NOT LIMIT ANY OF THE DEFENDANT'S APPEAL  
38 RIGHTS.