

REFERENCE TITLE: child; vulnerable adult; abuse

State of Arizona  
Senate  
Fifty-fifth Legislature  
Second Regular Session  
2022

# **SB 1130**

Introduced by  
Senator Rogers

AN ACT

AMENDING SECTIONS 13-705 AND 13-3623, ARIZONA REVISED STATUTES; RELATING  
TO FAMILY OFFENSES.

(TEXT OF BILL BEGINS ON NEXT PAGE)

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

2 Section 1. Section 13-705, Arizona Revised Statutes, is amended to  
3 read:

4 13-705. Dangerous crimes against children; sentences;  
5 definitions

6 A. A person who is at least eighteen years of age and who is  
7 convicted of a dangerous crime against children in the first degree  
8 involving commercial sexual exploitation of a minor or child sex  
9 trafficking and the person has previously been convicted of a dangerous  
10 crime against children in the first degree shall be sentenced to  
11 imprisonment in the custody of the state department of corrections for  
12 natural life. A person who is sentenced to natural life is not eligible  
13 for commutation, parole, work furlough, work release or release from  
14 confinement on any basis for the remainder of the person's natural life.

15 B. A person who is at least eighteen years of age and who is  
16 convicted of a dangerous crime against children in the first degree  
17 involving sexual assault of a minor who is twelve years of age or younger  
18 or sexual conduct with a minor who is twelve years of age or younger shall  
19 be sentenced to life imprisonment and is not eligible for suspension of  
20 sentence, probation, pardon or release from confinement on any basis  
21 except as specifically authorized by section 31-233, subsection A or B  
22 until the person has served thirty-five years or the sentence is  
23 commuted. This subsection does not apply to masturbatory contact.

24 C. Except as otherwise provided in this section, a person who is at  
25 least eighteen years of age or who has been tried as an adult and who is  
26 convicted of a dangerous crime against children in the first degree  
27 involving attempted first degree murder of a minor who is under twelve  
28 years of age, second degree murder of a minor who is under twelve years of  
29 age, sexual assault of a minor who is under twelve years of age, sexual  
30 conduct with a minor who is under twelve years of age or manufacturing  
31 methamphetamine under circumstances that cause physical injury to a minor  
32 who is under twelve years of age may be sentenced to life imprisonment and  
33 is not eligible for suspension of sentence, probation, pardon or release  
34 from confinement on any basis except as specifically authorized by section  
35 31-233, subsection A or B until the person has served thirty-five years or  
36 the sentence is commuted. If a life sentence is not imposed pursuant to  
37 this subsection, the person shall be sentenced to a term of imprisonment  
38 as follows:

<u>Minimum</u>	<u>Presumptive</u>	<u>Maximum</u>
13 years	20 years	27 years

39  
40  
41 D. Except as otherwise provided in this section, a person who is at  
42 least eighteen years of age or who has been tried as an adult and who is  
43 convicted of a dangerous crime against children in the first degree  
44 involving attempted first degree murder of a minor who is twelve, thirteen  
45 or fourteen years of age, second degree murder of a minor who is twelve,

1 thirteen or fourteen years of age, sexual assault of a minor who is  
 2 twelve, thirteen or fourteen years of age, taking a child for the purpose  
 3 of prostitution, child sex trafficking, commercial sexual exploitation of  
 4 a minor, sexual conduct with a minor who is twelve, thirteen or fourteen  
 5 years of age, continuous sexual abuse of a child or manufacturing  
 6 methamphetamine under circumstances that cause physical injury to a minor  
 7 who is twelve, thirteen or fourteen years of age or involving or using  
 8 minors in drug offenses shall be sentenced to a term of imprisonment as  
 9 follows:

<u>Minimum</u>	<u>Presumptive</u>	<u>Maximum</u>
13 years	20 years	27 years

12 A person who has been previously convicted of one predicate felony shall  
 13 be sentenced to a term of imprisonment as follows:

<u>Minimum</u>	<u>Presumptive</u>	<u>Maximum</u>
23 years	30 years	37 years

16 E. Except as otherwise provided in this section, a person who is at  
 17 least eighteen years of age or who has been tried as an adult and who is  
 18 convicted of a dangerous crime against children in the first degree  
 19 involving aggravated assault, unlawful mutilation, molestation of a child,  
 20 sexual exploitation of a minor, aggravated luring a minor for sexual  
 21 exploitation, child abuse or kidnapping shall be sentenced to a term of  
 22 imprisonment as follows:

<u>Minimum</u>	<u>Presumptive</u>	<u>Maximum</u>
10 years	17 years	24 years

25 A person who has been previously convicted of one predicate felony shall  
 26 be sentenced to a term of imprisonment as follows:

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

29 F. Except as otherwise provided in this section, if a person is at  
 30 least eighteen years of age or has been tried as an adult and is convicted  
 31 of a dangerous crime against children involving luring a minor for sexual  
 32 exploitation, sexual extortion or unlawful age misrepresentation and is  
 33 sentenced to a term of imprisonment, the term of imprisonment is as  
 34 follows and the person is not eligible for release from confinement on any  
 35 basis except as specifically authorized by section 31-233, subsection A  
 36 or B until the sentence imposed by the court has been served, the person  
 37 is eligible for release pursuant to section 41-1604.07 or the sentence is  
 38 commuted:

<u>Minimum</u>	<u>Presumptive</u>	<u>Maximum</u>
5 years	10 years	15 years

41 A person who has been previously convicted of one predicate felony shall  
 42 be sentenced to a term of imprisonment as follows and the person is not  
 43 eligible for suspension of sentence, probation, pardon or release from  
 44 confinement on any basis except as specifically authorized by section  
 45 31-233, subsection A or B until the sentence imposed by the court has been

1 served, the person is eligible for release pursuant to section 41-1604.07  
 2 or the sentence is commuted:

3	<u>Minimum</u>	<u>Presumptive</u>	<u>Maximum</u>
4	8 years	15 years	22 years

5 G. Except as otherwise provided in this section, if a person is at  
 6 least eighteen years of age or has been tried as an adult and is convicted  
 7 of a dangerous crime against children involving sexual abuse or bestiality  
 8 under section 13-1411, subsection A, paragraph 2 and is sentenced to a  
 9 term of imprisonment, the term of imprisonment is as follows and the  
 10 person is not eligible for release from confinement on any basis except as  
 11 specifically authorized by section 31-233, subsection A or B until the  
 12 sentence imposed by the court has been served, the person is eligible for  
 13 release pursuant to section 41-1604.07 or the sentence is commuted:

14	<u>Minimum</u>	<u>Presumptive</u>	<u>Maximum</u>
15	2.5 years	5 years	7.5 years

16 A person who has been previously convicted of one predicate felony shall  
 17 be sentenced to a term of imprisonment as follows and the person is not  
 18 eligible for suspension of sentence, probation, pardon or release from  
 19 confinement on any basis except as specifically authorized by section  
 20 31-233, subsection A or B until the sentence imposed by the court has been  
 21 served, the person is eligible for release pursuant to section 41-1604.07  
 22 or the sentence is commuted:

23	<u>Minimum</u>	<u>Presumptive</u>	<u>Maximum</u>
24	8 years	15 years	22 years

25 H. The presumptive sentences prescribed in subsections C, D and E  
 26 of this section or subsections F and G of this section if the person has  
 27 previously been convicted of a predicate felony may be increased or  
 28 decreased pursuant to section 13-701, subsections C, D and E.

29 I. Except as provided in subsection G of this section, a person who  
 30 is sentenced for a dangerous crime against children in the first degree  
 31 pursuant to this section is not eligible for suspension of sentence,  
 32 probation, pardon or release from confinement on any basis except as  
 33 specifically authorized by section 31-233, subsection A or B until the  
 34 sentence imposed by the court has been served or commuted.

35 J. A person who is convicted of any dangerous crime against  
 36 children in the first degree pursuant to subsection C, D or E of this  
 37 section and who has been previously convicted of two or more predicate  
 38 felonies shall be sentenced to life imprisonment and is not eligible for  
 39 suspension of sentence, probation, pardon or release from confinement on  
 40 any basis except as specifically authorized by section 31-233, subsection  
 41 A or B until the person has served not fewer than thirty-five years or the  
 42 sentence is commuted.

1 K. Notwithstanding chapter 10 of this title, a person who is at  
2 least eighteen years of age or who has been tried as an adult and who is  
3 convicted of a dangerous crime against children in the second degree  
4 pursuant to subsection B, C, D or E of this section is guilty of a class 3  
5 felony and if the person is sentenced to a term of imprisonment, the term  
6 of imprisonment is as follows and the person is not eligible for release  
7 from confinement on any basis except as specifically authorized by section  
8 31-233, subsection A or B until the person has served the sentence imposed  
9 by the court, the person is eligible for release pursuant to section  
10 41-1604.07 or the sentence is commuted:

11 <u>Minimum</u>	12 <u>Presumptive</u>	13 <u>Maximum</u>
14 5 years	15 10 years	16 15 years

17 L. A person who is convicted of any dangerous crime against  
18 children in the second degree and who has been previously convicted of one  
19 or more predicate felonies is not eligible for suspension of sentence,  
20 probation, pardon or release from confinement on any basis except as  
21 specifically authorized by section 31-233, subsection A or B until the  
22 sentence imposed by the court has been served, the person is eligible for  
23 release pursuant to section 41-1604.07 or the sentence is commuted.

24 M. Section 13-704, subsection J and section 13-707, subsection B  
25 apply to the determination of prior convictions.

26 N. The sentence imposed on a person by the court for a dangerous  
27 crime against children under subsection G of this section involving sexual  
28 abuse may be served concurrently with other sentences if the offense  
29 involved only one victim. The sentence imposed on a person for any other  
30 dangerous crime against children in the first or second degree shall be  
31 consecutive to any other sentence imposed on the person at any time,  
32 including sexual abuse of the same victim.

33 O. In this section, for purposes of punishment an unborn child  
34 shall be treated like a minor who is under twelve years of age.

35 P. A dangerous crime against children is in the first degree if it  
36 is a completed offense and is in the second degree if it is a preparatory  
37 offense, except attempted first degree murder is a dangerous crime against  
38 children in the first degree.

39 Q. It is not a defense to a dangerous crime against children that  
40 the minor is a person posing as a minor or is otherwise fictitious if the  
41 defendant knew or had reason to know the purported minor was under fifteen  
42 years of age.

43 R. For the purposes of this section:

44 1. "Dangerous crime against children" means any of the following  
45 that is committed against a minor who is under fifteen years of age:

(a) Second degree murder.

(b) Aggravated assault resulting in serious physical injury or  
involving the discharge, use or threatening exhibition of a deadly weapon  
or dangerous instrument.

- 1 (c) Sexual assault.
- 2 (d) Molestation of a child.
- 3 (e) Sexual conduct with a minor.
- 4 (f) Commercial sexual exploitation of a minor.
- 5 (g) Sexual exploitation of a minor.
- 6 (h) Child abuse as prescribed in section 13-3623, subsection A,
- 7 paragraph 1 **OR SUBSECTION E.**
- 8 (i) Kidnapping.
- 9 (j) Sexual abuse.
- 10 (k) Taking a child for the purpose of prostitution as prescribed in
- 11 section 13-3206.
- 12 (l) Child sex trafficking as prescribed in section 13-3212.
- 13 (m) Involving or using minors in drug offenses.
- 14 (n) Continuous sexual abuse of a child.
- 15 (o) Attempted first degree murder.
- 16 (p) Sex trafficking.
- 17 (q) Manufacturing methamphetamine under circumstances that cause
- 18 physical injury to a minor.
- 19 (r) Bestiality as prescribed in section 13-1411, subsection A,
- 20 paragraph 2.
- 21 (s) Luring a minor for sexual exploitation.
- 22 (t) Aggravated luring a minor for sexual exploitation.
- 23 (u) Unlawful age misrepresentation.
- 24 (v) Unlawful mutilation.
- 25 (w) Sexual extortion as prescribed in section 13-1428.

26 2. "Predicate felony" means any felony involving child abuse  
27 pursuant to section 13-3623, subsection A, paragraph 1, a sexual offense,  
28 conduct involving the intentional or knowing infliction of serious physical  
29 injury or the discharge, use or threatening exhibition of a deadly weapon  
30 or dangerous instrument, or a dangerous crime against children in the first  
31 or second degree.

32 Sec. 2. Section 13-3623, Arizona Revised Statutes, is amended to  
33 read:

34 13-3623. Child or vulnerable adult abuse; emotional abuse;  
35 unlawful medical practices; classification;  
36 exceptions; definitions

37 A. Under circumstances likely to produce death or serious physical  
38 injury, any person who causes a child or vulnerable adult to suffer  
39 physical injury or, having the care or custody of a child or vulnerable  
40 adult, who causes or permits the person or health of the child or  
41 vulnerable adult to be injured or who causes or permits a child or  
42 vulnerable adult to be placed in a situation where the person or health of  
43 the child or vulnerable adult is endangered is guilty of an offense as  
44 follows:

1           1. If done intentionally or knowingly, the offense is a class 2  
2 felony and if the victim is under fifteen years of age it is punishable  
3 pursuant to section 13-705.

4           2. If done recklessly, the offense is a class 3 felony.

5           3. If done with criminal negligence, the offense is a class 4  
6 felony.

7           B. Under circumstances other than those likely to produce death or  
8 serious physical injury to a child or vulnerable adult, any person who  
9 causes a child or vulnerable adult to suffer physical injury or abuse or,  
10 having the care or custody of a child or vulnerable adult, who causes or  
11 permits the person or health of the child or vulnerable adult to be  
12 injured or who causes or permits a child or vulnerable adult to be placed  
13 in a situation where the person or health of the child or vulnerable adult  
14 is endangered is guilty of an offense as follows:

15           1. If done intentionally or knowingly, the offense is a class 4  
16 felony.

17           2. If done recklessly, the offense is a class 5 felony.

18           3. If done with criminal negligence, the offense is a class 6  
19 felony.

20           C. For the purposes of subsections A and B of this section, the  
21 terms endangered and abuse include ~~but are not limited to~~ circumstances in  
22 which a child or vulnerable adult is permitted to enter or remain in any  
23 structure or vehicle in which volatile, toxic or flammable chemicals are  
24 found or equipment is possessed by any person for the purpose of  
25 manufacturing a dangerous drug in violation of section 13-3407, subsection  
26 A, paragraph 3 or 4. Notwithstanding any other provision of this section,  
27 a violation committed under the circumstances described in this subsection  
28 does not require that a person have care or custody of the child or  
29 vulnerable adult.

30           D. A person who intentionally or knowingly engages in emotional  
31 abuse of a vulnerable adult who is a patient or resident in any setting in  
32 which health care, health-related services or assistance with one or more  
33 of the activities of daily living is provided or, having the care or  
34 custody of a vulnerable adult, who intentionally or knowingly subjects or  
35 permits the vulnerable adult to be subjected to emotional abuse is guilty  
36 of a class 6 felony.

37           E. A HEALTH CARE PROFESSIONAL WHO ENGAGES IN ANY OF THE FOLLOWING  
38 PRACTICES OR CAUSES ANY OF THESE PRACTICES TO BE PERFORMED ON A CHILD OR  
39 VULNERABLE ADULT TO ATTEMPT TO CHANGE THE CHILD'S OR VULNERABLE ADULT'S  
40 SEX OR TO AFFIRM THE CHILD'S OR VULNERABLE ADULT'S PERCEPTION OF THE  
41 CHILD'S OR VULNERABLE ADULT'S SEX IF THAT PERCEPTION IS INCONSISTENT WITH  
42 THE CHILD'S OR VULNERABLE ADULT'S SEX IS GUILTY OF AN OFFENSE AS PROVIDED  
43 IN SUBSECTION F OF THIS SECTION:

1 1. PERFORMING SURGERIES THAT STERILIZE, INCLUDING CASTRATION,  
2 VASECTOMY, HYSTERECTOMY, OOPHORECTOMY, METOIDIOPLASTY, ORCHIECTOMY,  
3 PENECTOMY, PHALLOPLASTY AND VAGINOPLASTY.

4 2. PERFORMING A MASTECTOMY.

5 3. ADMINISTERING, PRESCRIBING OR SUPPLYING ANY OF THE FOLLOWING  
6 MEDICATIONS THAT INDUCE TRANSIENT OR PERMANENT INFERTILITY:

7 (a) PUBERTY-BLOCKING MEDICATION THAT STOPS OR DELAYS NORMAL  
8 PUBERTY.

9 (b) SUPRAPHYSIOLOGIC DOSES OF TESTOSTERONE TO FEMALES.

10 (c) SUPRAPHYSIOLOGIC DOSES OF ESTROGEN TO MALES.

11 4. REMOVING ANY OTHERWISE HEALTHY OR NONDISEASED BODY PART OR  
12 TISSUE.

13 F. A PERSON WHO VIOLATES SUBSECTION E OF THIS SECTION IS GUILTY OF:

14 1. A CLASS 2 FELONY IF THE OFFENSE IS DONE INTENTIONALLY OR  
15 KNOWINGLY, AND IF THE VICTIM IS UNDER FIFTEEN YEARS OF AGE IT IS  
16 PUNISHABLE PURSUANT TO SECTION 13-705.

17 2. A CLASS 3 FELONY IF THE OFFENSE IS DONE RECKLESSLY.

18 3. A CLASS 4 FELONY IF THE OFFENSE IS DONE WITH CRIMINAL  
19 NEGLIGENCE.

20 G. SUBSECTION E OF THIS SECTION DOES NOT APPLY TO A HEALTH CARE  
21 PROFESSIONAL WHO ACTS IN ACCORDANCE WITH A GOOD FAITH MEDICAL DECISION OF  
22 A PARENT OR GUARDIAN OF A CHILD OR VULNERABLE ADULT WHO IS BORN WITH A  
23 MEDICALLY VERIFIABLE GENETIC DISORDER OF SEX DEVELOPMENT, INCLUDING:

24 1. A DISORDER IN WHICH THE AMBIGUITY OF THE EXTERNAL BIOLOGICAL SEX  
25 CHARACTERISTICS CANNOT BE RESOLVED, SUCH AS A MINOR BEING BORN WITH  
26 FORTY-SIX XX CHROMOSOMES WITH VIRILIZATION, FORTY-SIX XY CHROMOSOMES WITH  
27 UNDER-VIRILIZATION OR BOTH OVARIAN AND TESTICULAR TISSUE.

28 2. A SEXUAL DEVELOPMENT DISORDER FOR WHICH A PHYSICIAN HAS  
29 DETERMINED THROUGH GENETIC TESTING THAT THE CHILD OR VULNERABLE ADULT DOES  
30 NOT HAVE THE NORMAL CHROMOSOME STRUCTURE FOR A MALE OR A FEMALE.

31 ~~F.~~ H. This section does not apply to:

32 1. A health care provider as defined in section 36-3201 who permits  
33 a patient to die or the patient's condition to deteriorate by not  
34 providing health care if that patient refuses that care directly or  
35 indirectly through a health care directive as defined in section 36-3201,  
36 through a surrogate pursuant to section 36-3231 or through a court  
37 appointed guardian as provided for in title 14, chapter 5, article 3.

38 2. A vulnerable adult who is being furnished spiritual treatment  
39 through prayer alone and who would not otherwise be considered to be  
40 abused, neglected or endangered if medical treatment were being furnished.

41 ~~F.~~ I. For the purposes of this section:

42 1. "Abuse", when used in reference to a child, means abuse as  
43 defined in section 8-201, except for those acts in the definition that are  
44 declared unlawful by another statute of this title and, when used in  
45 reference to a vulnerable adult, means:



- 1 (a) Intentional infliction of physical harm.  
2 (b) Injury caused by criminally negligent acts or omissions.  
3 (c) Unlawful imprisonment, as described in section 13-1303.  
4 (d) Sexual abuse or sexual assault.  
5 (e) MEDICAL PRACTICES IN VIOLATION OF SUBSECTION E OF THIS SECTION.  
6 2. "Child" means an individual who is under eighteen years of age.  
7 3. "Emotional abuse" means a pattern of ridiculing or demeaning a  
8 vulnerable adult, making derogatory remarks to a vulnerable adult,  
9 verbally harassing a vulnerable adult or threatening to inflict physical  
10 or emotional harm on a vulnerable adult.  
11 4. "Physical injury" means the impairment of physical condition and  
12 includes any skin bruising, pressure sores, bleeding, failure to thrive,  
13 malnutrition, dehydration, burns, fracture of any bone, subdural hematoma,  
14 soft tissue swelling, injury to any internal organ or any physical  
15 condition that imperils health or welfare.  
16 5. "Serious physical injury" means physical injury that creates a  
17 reasonable risk of death or that causes serious or permanent  
18 disfigurement, serious impairment of health or loss or protracted  
19 impairment of the function of any bodily organ or limb.  
20 6. "Vulnerable adult" means an individual who is eighteen years of  
21 age or older and who is unable to protect himself from abuse, neglect or  
22 exploitation by others because of a mental or physical impairment.