

PROPOSED

HOUSE OF REPRESENTATIVES AMENDMENTS TO H.B. 2469

(Reference to printed bill)

1 Strike everything after the enacting clause and insert:

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

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

1 the sentence is commuted. This subsection does not apply to masturbatory
2 contact.

3 C. Except as otherwise provided in this section, a person who is at
4 least eighteen years of age or who has been tried as an adult and who is
5 convicted of a dangerous crime against children in the first degree
6 involving attempted first degree murder of a minor who is under twelve
7 years of age, sexual assault of a minor who is under twelve years of age,
8 sexual conduct with a minor who is under twelve years of age or
9 manufacturing methamphetamine under circumstances that cause physical
10 injury to a minor who is under twelve years of age may be sentenced to life
11 imprisonment and is not eligible for suspension of sentence, probation,
12 pardon or release from confinement on any basis except as specifically
13 authorized by section 31-233, subsection A or B until the person has served
14 thirty-five years or the sentence is commuted. If a life sentence is not
15 imposed pursuant to this subsection, the person shall be sentenced to a
16 term of imprisonment as follows:

<u>Minimum</u>	<u>Presumptive</u>	<u>Maximum</u>
17 13 years	20 years	27 years

19 D. Except as otherwise provided in this section, a person who is at
20 least eighteen years of age or who has been tried as an adult and who is
21 convicted of a dangerous crime against children in the first degree
22 involving second degree murder of a minor who is under fifteen years of age
23 may be sentenced to life imprisonment and is not eligible for suspension of
24 sentence, probation, pardon or release from confinement on any basis except
25 as specifically authorized by section 31-233, subsection A or B until the
26 person has served thirty-five years or the sentence is commuted. If a life
27 sentence is not imposed pursuant to this subsection, the person shall be
28 sentenced to a term of imprisonment as follows:

<u>Minimum</u>	<u>Presumptive</u>	<u>Maximum</u>
29 25 years	30 years	35 years

31 E. Except as otherwise provided in this section, a person who is
32 at least eighteen years of age or who has been tried as an adult and who is

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

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

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

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

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

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

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

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

30 G. Except as otherwise provided in this section, if a person is at
31 least eighteen years of age or has been tried as an adult and is convicted
32 of a dangerous crime against children involving luring a minor for sexual

1 exploitation, sexual extortion or unlawful age misrepresentation and is
2 sentenced to a term of imprisonment, the term of imprisonment is as follows
3 and the person is not eligible for release from confinement on any basis
4 except as specifically authorized by section 31-233, subsection A or B
5 until the sentence imposed by the court has been served or is commuted,
6 except that if the person is convicted of unlawful age misrepresentation
7 the person is eligible for release pursuant to section 41-1604.07:

8	<u>Minimum</u>	<u>Presumptive</u>	<u>Maximum</u>
9	5 years	10 years	15 years

10 A person who has been previously convicted of one predicate felony shall be
11 sentenced to a term of imprisonment as follows and the person is not
12 eligible for suspension of sentence, probation, pardon or release from
13 confinement on any basis except as specifically authorized by section
14 31-233, subsection A or B until the sentence imposed by the court has been
15 served or is commuted, except that if the person is convicted of unlawful
16 age misrepresentation the person is eligible for release pursuant to
17 section 41-1604.07:

18	<u>Minimum</u>	<u>Presumptive</u>	<u>Maximum</u>
19	8 years	15 years	22 years

20 H. Except as otherwise provided in this section, if a person is at
21 least eighteen years of age or has been tried as an adult and is convicted
22 of a dangerous crime against children involving sexual abuse or bestiality
23 under section 13-1411, subsection A, paragraph 2 and is sentenced to a term
24 of imprisonment, the term of imprisonment is as follows and the person is
25 not eligible for release from confinement on any basis except as
26 specifically authorized by section 31-233, subsection A or B until the
27 sentence imposed by the court has been served, the person is eligible for
28 release pursuant to section 41-1604.07 or the sentence is commuted:

29	<u>Minimum</u>	<u>Presumptive</u>	<u>Maximum</u>
30	2.5 years	5 years	7.5 years

31 A person who has been previously convicted of one predicate felony shall be
32 sentenced to a term of imprisonment as follows and the person is not

1 eligible for suspension of sentence, probation, pardon or release from
2 confinement on any basis except as specifically authorized by section
3 31-233, subsection A or B until the sentence imposed by the court has been
4 served, the person is eligible for release pursuant to section 41-1604.07
5 or the sentence is commuted:

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

6
7
8 I. Except as otherwise provided in this section, a person who is at
9 least eighteen years of age or who has been tried as an adult and who is
10 convicted of a dangerous crime against children in the first degree
11 involving continuous sexual abuse of a child shall be sentenced to a term
12 of imprisonment as follows:

<u>Minimum</u>	<u>Presumptive</u>	<u>Maximum</u>
39 years	60 years	81 years

13
14
15 A person who has been previously convicted of one predicate felony shall be
16 sentenced to a term of imprisonment as follows:

<u>Minimum</u>	<u>Presumptive</u>	<u>Maximum</u>
69 years	90 years	111 years

17
18
19 J. The presumptive sentences prescribed in subsections C, D, E, ~~and~~
20 F and I of this section or subsections G and H of this section if the
21 person has previously been convicted of a predicate felony may be increased
22 or decreased pursuant to section 13-701, subsections C, D and E.

23
24
25 K. Except as provided in subsections G, H, M and N of this section,
26 a person who is sentenced for a dangerous crime against children in the
27 first degree pursuant to this section is not eligible for suspension of
28 sentence, probation, pardon or release from confinement on any basis except
as specifically authorized by section 31-233, subsection A or B until the
sentence imposed by the court has been served or commuted.

29
30
31 L. A person who is convicted of any dangerous crime against children
32 in the first degree pursuant to subsection C, D, E, ~~or~~ F or I of this
section and who has been previously convicted of two or more predicate
felonies shall be sentenced to life imprisonment and is not eligible for

1 suspension of sentence, probation, pardon or release from confinement on
2 any basis except as specifically authorized by section 31-233, subsection A
3 or B until the person has served not fewer than thirty-five years or the
4 sentence is commuted.

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

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

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

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

26 P. The sentence imposed on a person by the court for a dangerous
27 crime against children under subsection H 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.

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

3 R. A dangerous crime against children is in the first degree if it
4 is a completed offense and is in the second degree if it is a preparatory
5 offense, except attempted first degree murder is a dangerous crime against
6 children in the first degree.

7 S. It is not a defense to a dangerous crime against children that
8 the minor is a person posing as a minor or is otherwise fictitious if the
9 defendant knew or had reason to know the purported minor was under fifteen
10 years of age.

11 T. For the purposes of this section:

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

14 (a) Second degree murder.

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

18 (c) Sexual assault.

19 (d) Molestation of a child.

20 (e) Sexual conduct with a minor.

21 (f) Commercial sexual exploitation of a minor.

22 (g) Sexual exploitation of a minor.

23 (h) Child abuse as prescribed in section 13-3623, subsection A,
24 paragraph 1.

25 (i) Kidnapping.

26 (j) Sexual abuse.

27 (k) Taking a child for the purpose of prostitution as prescribed in
28 section 13-3206.

29 (l) Child sex trafficking as prescribed in section 13-3212.

30 (m) Involving or using minors in drug offenses.

31 (n) Continuous sexual abuse of a child.

32 (o) Attempted first degree murder.

- 1 (p) Sex trafficking.
- 2 (q) Manufacturing methamphetamine under circumstances that cause
- 3 physical injury to a minor.
- 4 (r) Bestiality as prescribed in section 13-1411, subsection A,
- 5 paragraph 2.
- 6 (s) Luring a minor for sexual exploitation.
- 7 (t) Aggravated luring a minor for sexual exploitation.
- 8 (u) Unlawful age misrepresentation.
- 9 (v) Unlawful mutilation.
- 10 (w) Sexual extortion as prescribed in section 13-1428.
- 11 (x) DRUG TRAFFICKING HOMICIDE.

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

18 Sec. 2. Section 13-706, Arizona Revised Statutes, is amended to
19 read:

20 13-706. Serious, violent or aggravated offenders; sentencing;
21 life imprisonment; definitions

22 A. A person who is at least eighteen years of age or who has been
23 tried as an adult and who is convicted of a serious offense ~~except a drug~~
24 ~~offense~~, first degree murder or any dangerous crime against children as
25 defined in section 13-705, whether a completed or preparatory offense, and
26 who has previously been convicted of two or more serious offenses not
27 committed on the same occasion shall be sentenced to life imprisonment and
28 is not eligible for suspension of sentence, probation, pardon or release
29 from confinement on any basis, except as specifically authorized by section
30 31-233, subsection A or B, until the person has served at least twenty-five
31 years or the sentence is commuted.

1 B. Unless a longer term of imprisonment or death is the prescribed
2 penalty and notwithstanding any provision that establishes a shorter term
3 of imprisonment, a person who has been convicted of committing or
4 attempting or conspiring to commit any violent or aggravated felony and who
5 has previously been convicted on separate occasions of two or more violent
6 or aggravated felonies not committed on the same occasion shall be
7 sentenced to imprisonment for life and is not eligible for suspension of
8 sentence, probation, pardon or release on any basis except that the person
9 may be eligible for commutation after the person has served at least
10 thirty-five years.

11 C. In order for the penalty under subsection B of this section to
12 apply, both of the following must occur:

13 1. The aggravated or violent felonies that comprise the prior
14 convictions shall have been entered within fifteen years of the conviction
15 for the third offense, not including time spent in custody or on probation
16 for an offense or while the person is an absconder.

17 2. The sentence for the first aggravated or violent felony
18 conviction shall have been imposed before the conduct occurred that gave
19 rise to the second conviction, and the sentence for the second aggravated
20 or violent felony conviction shall have been imposed before the conduct
21 occurred that gave rise to the third conviction.

22 D. Chapter 3 of this title applies to all offenses under this
23 section.

24 E. For the purposes of this section, if a person has been convicted
25 of an offense committed in another jurisdiction that if committed in this
26 state would be a violation or attempted violation of any of the offenses
27 listed in this section and that has the same elements of an offense listed
28 in this section, the offense committed in another jurisdiction is
29 considered an offense committed in this state.

30 F. For the purposes of this section:

1 1. "Serious offense" means any of the following offenses if
2 committed in this state or any offense committed outside this state that if
3 committed in this state would constitute one of the following offenses:

4 (a) First degree murder.

5 (b) Second degree murder.

6 (c) Manslaughter.

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

10 (e) Sexual assault.

11 (f) Any dangerous crime against children.

12 (g) Arson of an occupied structure.

13 (h) Armed robbery.

14 (i) Burglary in the first degree.

15 (j) Kidnapping.

16 (k) Sexual conduct with a minor under fifteen years of age.

17 (l) Child sex trafficking.

18 (m) DRUG TRAFFICKING HOMICIDE.

19 2. "Violent or aggravated felony" means any of the following
20 offenses:

21 (a) First degree murder.

22 (b) Second degree murder.

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

26 (d) Dangerous or deadly assault by prisoner.

27 (e) Committing assault with intent to incite to riot or participate
28 in riot.

29 (f) Drive by shooting.

30 (g) Discharging a firearm at a residential structure if the
31 structure is occupied.

32 (h) Kidnapping.

- 1 (i) Sexual conduct with a minor that is a class 2 felony.
- 2 (j) Sexual assault.
- 3 (k) Molestation of a child.
- 4 (l) Continuous sexual abuse of a child.
- 5 (m) Violent sexual assault.
- 6 (n) Burglary in the first degree committed in a residential
7 structure if the structure is occupied.
- 8 (o) Arson of an occupied structure.
- 9 (p) Arson of an occupied jail or prison facility.
- 10 (q) Armed robbery.
- 11 (r) Participating in or assisting a criminal syndicate or leading or
12 participating in a criminal street gang.
- 13 (s) Terrorism.
- 14 (t) Taking a child for the purpose of prostitution.
- 15 (u) Child sex trafficking.
- 16 (v) Commercial sexual exploitation of a minor.
- 17 (w) Sexual exploitation of a minor.
- 18 (x) Unlawful introduction of disease or parasite as prescribed by
19 section 13-2912, subsection A, paragraph 2 or 3.
- 20 (y) DRUG TRAFFICKING HOMICIDE.

21 Sec. 3. Title 13, chapter 11, Arizona Revised Statutes, is amended
22 by adding section 13-1106, to read:

23 13-1106. Drug trafficking homicide; classification; definition

24 A. A PERSON COMMITS DRUG TRAFFICKING HOMICIDE IF BOTH OF THE
25 FOLLOWING APPLY:

26 1. THE PERSON SELLS A DANGEROUS DRUG IN VIOLATION OF SECTION 13-3407
27 OR A NARCOTIC DRUG IN VIOLATION OF SECTION 13-3408 AND INJECTING, INHALING,
28 ABSORBING OR INGESTING THE DANGEROUS DRUG OR NARCOTIC DRUG CAUSES ANOTHER
29 PERSON'S DEATH.

30 2. THE SALE OF THE DANGEROUS DRUG OR NARCOTIC DRUG TO THE OTHER
31 PERSON WAS A CONTRIBUTING CAUSE OF THE OTHER PERSON'S DEATH AND THE DEATH
32 DID NOT RESULT FROM A CAUSE THAT IS NOT CONNECTED TO THE DEFENDANT. FOR

1 THE PURPOSES OF THIS PARAGRAPH, THE STATE IS NOT REQUIRED TO PROVE THAT THE
2 SALE OF THE DANGEROUS DRUG OR NARCOTIC DRUG WAS THE SOLE AND IMMEDIATE
3 CAUSE OF THE OTHER PERSON'S DEATH.

4 B. DRUG TRAFFICKING HOMICIDE IS A CLASS 1 FELONY AND IS PUNISHABLE
5 AS FOLLOWS:

<u>MINIMUM</u>	<u>PRESUMPTIVE</u>	<u>MAXIMUM</u>
10 CALENDAR YEARS	16 CALENDAR YEARS	25 CALENDAR YEARS

8 C. A PERSON WHO IS CONVICTED OF DRUG TRAFFICKING HOMICIDE AND WHO
9 HAS PREVIOUSLY BEEN CONVICTED OF DRUG TRAFFICKING HOMICIDE OR A CLASS 2 OR
10 3 FELONY INVOLVING A DANGEROUS OFFENSE SHALL BE SENTENCED AS FOLLOWS:

<u>MINIMUM</u>	<u>PRESUMPTIVE</u>	<u>MAXIMUM</u>
15 CALENDAR YEARS	20 CALENDAR YEARS	29 CALENDAR YEARS

13 D. THE PRESUMPTIVE TERM IMPOSED PURSUANT TO SUBSECTIONS B AND C OF
14 THIS SECTION MAY BE AGGRAVATED OR MITIGATED PURSUANT TO SECTION 13-701,
15 SUBSECTIONS D AND E.

16 E. NOTWITHSTANDING SUBSECTION B OR C OF THIS SECTION, IF THE VICTIM
17 IS UNDER FIFTEEN YEARS OF AGE, DRUG TRAFFICKING HOMICIDE IS PUNISHABLE
18 PURSUANT TO SECTION 13-705.

19 F. FOR THE PURPOSES OF THIS SECTION, "SALE" HAS THE SAME MEANING
20 PRESCRIBED IN SECTION 13-3401.

21 Sec. 4. Short title

22 This act may be cited as the "Ashley Dunn Act".

23 Amend title to conform

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