



ARIZONA HOUSE OF REPRESENTATIVES

Fifty-sixth Legislature
Second Regular Session

House: JUD DPA 6-2-1-0-0-0

HB 2310: grooming; classification

Sponsor: Representative Grantham, LD 14

House Engrossed

Overview

Establishes *grooming* as a criminal offense classified as either a class 4 felony or a class 5 felony depending on the relationship between the defendant and the victim.

History

[A.R.S. title 13](#), chapter 14 (sexual offenses) includes numerous offenses that specifically relate to or may involve minors, including *sexual abuse* ([A.R.S. § 13-1404](#)), *sexual conduct with a minor* ([A.R.S. § 13-1405](#)), *molestation of a child* ([A.R.S. § 13-1410](#)) and others. Moreover, chapter 35.1 of the criminal code (sexual exploitation of children) defines several other offenses specifically relating to minors, such as *sexual exploitation of a minor* ([A.R.S. § 13-3553](#)), *luring a minor for sexual exploitation* ([A.R.S. § 13-3554](#)) and *unlawful age misrepresentation* ([A.R.S. § 13-3561](#)).

For purposes of certain sexual offenses involving minor victims, statute defines *position of trust* to include a person who is or was any of the following in relation to a minor:

- 1) the minor's parent, stepparent, grandparent, adoptive parent, legal guardian, aunt, uncle or foster parent;
- 2) the minor's teacher or any school employee or volunteer at the minor's school who is eighteen years of age or older;
- 3) the minor's coach or instructor, whether the coach or instructor is an employee or volunteer;
- 4) the minor's clergyman or priest or any person who is at least eighteen years of age and who worked or volunteered for a religious organization that hosted events or activities where the minor was in attendance;
- 5) engaged in a sexual or romantic relationship with the minor's parent, adoptive parent, grandparent, aunt, uncle, legal guardian, foster parent, stepparent, step-grandparent or sibling;
- 6) related to the minor by blood or marriage within the third degree and is at least ten years older than the minor;
- 7) the minor's employer; or
- 8) an employee of a group home or residential treatment facility where the minor resides or has previously resided ([A.R.S. § 13-1401](#)).

An *electronic communication device* is defined in [A.R.S. § 13-3561](#) as any electronic device that is capable of transmitted visual depictions and includes any of the following:

- 1) a *computer, computer system or network* as defined in [A.R.S. § 13-2301](#); and
- 2) a *cellular telephone or wireless telephone* as defined in [A.R.S. § 13-4801](#).

[A.R.S. § 13-1407](#) contains several defenses that a defendant can raise in a prosecution for certain sexual offenses. Subsection E of that statute—commonly referred to as the *Romeo and Juliet Law*—provides a defense to a prosecution for sexual conduct with a minor ([A.R.S. § 13-1405](#)) or aggravated luring a minor for sexual exploitation ([A.R.S. § 13-3560](#)) if all of the following circumstances are met:

- 1) The victim is 15, 16 or 17 years old;
- 2) The defendant is under 19 years old or attending high school and is no more than 24 months older than the victim; and
- 3) The conduct is consensual.

Provisions

1. Creates the criminal offense of *grooming*, which involves a person knowingly using an electronic communication device as defined in [A.R.S. § 13-3561](#), performing an act in person or through a third party or using any written communication to seduce, lure or entice or attempt to seduce, lure or entice a minor to do either of the following:
 - a) commit any offense in [A.R.S. title 13](#) in furtherance of facilitating the sexual seduction or abuse of the minor; or
 - b) distribute photographs that depict a person's sex organs. (Sec. 2)
2. Classifies grooming as a class 5 felony unless the defendant is in a position of trust, in which case the offense becomes a class 4 felony. (Sec. 2)
3. Makes the Romeo and Juliet Law applicable in grooming prosecutions. (Sec. 1)
4. Amends the Romeo and Juliet Law by removing the requirement that the defendant be under 19 years old or attending high school and raising the applicable age-difference between the victim and the defendant from 24 months to 3 years. (Sec. 1)

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