

REFERENCE TITLE: **child sex trafficking; facilitating prostitution**

State of Arizona  
House of Representatives  
Fifty-sixth Legislature  
Second Regular Session  
2024

## **HB 2665**

Introduced by  
Representative Biasiucci

**AN ACT**

**AMENDING SECTIONS 12-116.07, 13-1421, 13-3212 AND 13-3967, ARIZONA REVISED STATUTES; RELATING TO PROSTITUTION.**

(TEXT OF BILL BEGINS ON NEXT PAGE)

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

2 Section 1. Section 12-116.07, Arizona Revised Statutes, is amended  
3 to read:

4 12-116.07. Assessments for dangerous crimes against children  
5 and sexual offenses

6 A. In addition to any other assessment or restitution, if a person  
7 is convicted of a dangerous crime against children as defined in section  
8 13-705 or ~~sexual assault~~ A VIOLATION OF SECTION 13-1404, 13-1405, 13-1406  
9 OR 13-3212, the court shall order the person to pay an assessment of \$500.  
10 The assessment shall not be waived and is not subject to a surcharge.

11 B. The court shall transmit the monies collected pursuant to this  
12 section to the county treasurer for the purpose of defraying the cost of  
13 investigations pursuant to section 13-1414.

14 Sec. 2. Section 13-1421, Arizona Revised Statutes, is amended to  
15 read:

16 13-1421. Evidence relating to victim's chastity; pretrial  
17 hearing

18 A. Evidence relating to a victim's reputation for chastity and  
19 opinion evidence relating to a victim's chastity are not admissible in any  
20 prosecution for any offense in this chapter, SECTION 13-3212 OR CHAPTER  
21 35.1 OF THIS TITLE. Evidence of specific instances of the victim's prior  
22 sexual conduct may be admitted only if a judge finds the evidence is  
23 relevant and is material to a fact in issue in the case and that the  
24 inflammatory or prejudicial nature of the evidence does not outweigh the  
25 probative value of the evidence, and if the evidence is one of the  
26 following:

- 27 1. Evidence of the victim's past sexual conduct with the defendant.
- 28 2. Evidence of specific instances of sexual activity showing the  
29 source or origin of semen, pregnancy, disease or trauma.
- 30 3. Evidence that supports a claim that the victim has a motive in  
31 accusing the defendant of the crime.
- 32 4. Evidence offered for the purpose of impeachment when the  
33 prosecutor puts the victim's prior sexual conduct in issue.
- 34 5. Evidence of false allegations of sexual misconduct made by the  
35 victim against others.

36 B. Evidence described in subsection A OF THIS SECTION shall not be  
37 referred to in any statements to a jury or introduced at trial without a  
38 court order after a hearing on written motions is held to determine the  
39 admissibility of the evidence. If new information is discovered during  
40 the course of the trial that may make the evidence described in subsection  
41 A OF THIS SECTION admissible, the court may hold a hearing to determine  
42 the admissibility of the evidence under subsection A OF THIS SECTION. The  
43 standard for admissibility of evidence under subsection A OF THIS SECTION  
44 is by clear and convincing evidence.



1 D. Notwithstanding any other law, a sentence imposed on a person  
2 for a violation of this section shall be consecutive to any other sentence  
3 imposed on the person at any time.

4 E. Child sex trafficking pursuant to subsection A of this section  
5 is a class 2 felony if the minor is under fifteen years of age and is  
6 punishable pursuant to section 13-705.

7 F. Child sex trafficking pursuant to subsection B, paragraph 1 of  
8 this section is a class 2 felony and is punishable pursuant to section  
9 13-705.

10 G. Except as provided in subsection H of this section, if the minor  
11 is fifteen, sixteen or seventeen years of age, child sex trafficking  
12 pursuant to subsection A of this section is a class 2 felony, the person  
13 convicted shall be sentenced pursuant to this section and the person is  
14 not eligible for suspension of sentence, probation, pardon or release from  
15 confinement on any basis except as specifically authorized by section  
16 31-233, subsection A or B until the sentence imposed by the court has been  
17 served or commuted. The presumptive term may be aggravated or mitigated  
18 within the range under this section pursuant to section 13-701,  
19 subsections C, D and E. The terms are as follows:

20 1. The term for a first offense is as follows:

21	<u>Minimum</u>	<u>Presumptive</u>	<u>Maximum</u>
22	13 years	20 years	27 years

23 2. The term for a defendant who has one historical prior felony  
24 conviction is as follows:

25	<u>Minimum</u>	<u>Presumptive</u>	<u>Maximum</u>
26	25 years	35 years	45 years

27 3. The term for a defendant who has two or more historical prior  
28 felony convictions is as follows:

29	<u>Minimum</u>	<u>Presumptive</u>	<u>Maximum</u>
30	30 years	40 years	50 years

31 H. If the person has previously been convicted of child sex  
32 trafficking involving a minor who is fifteen, sixteen or seventeen years  
33 of age, child sex trafficking pursuant to subsection A of this section is  
34 a class 2 felony, the person convicted shall be sentenced pursuant to this  
35 section and the person shall be sentenced to imprisonment in the custody  
36 of the state department of corrections for natural life. A person who is  
37 sentenced to natural life is not eligible for commutation, parole, work  
38 furlough, work release or release from confinement on any basis for the  
39 remainder of the person's natural life.

40 I. If the minor is fifteen, sixteen or seventeen years of age,  
41 child sex trafficking pursuant to subsection B, paragraph 2 of this  
42 section is a class 2 felony, the person convicted shall be sentenced  
43 pursuant to this section and the person is not eligible for suspension of  
44 sentence, probation, pardon or release from confinement on any basis  
45 except as specifically authorized by section 31-233, subsection A or B

1 until the sentence imposed by the court has been served or commuted. The  
2 presumptive term may be aggravated or mitigated within the range under  
3 this section pursuant to section 13-701, subsections C, D and E. The  
4 terms are as follows:

5 1. The term for a first offense is as follows:

6	<u>Minimum</u>	<u>Presumptive</u>	<u>Maximum</u>
7	7 years	10.5 years	21 years

8 2. The term for a defendant who has one historical prior felony  
9 conviction is as follows:

10	<u>Minimum</u>	<u>Presumptive</u>	<u>Maximum</u>
11	14 years	15.75 years	28 years

12 3. The term for a defendant who has two or more historical prior  
13 felony convictions is as follows:

14	<u>Minimum</u>	<u>Presumptive</u>	<u>Maximum</u>
15	21 years	28 years	35 years

16 J. Except as provided in subsection K of this section, child sex  
17 trafficking pursuant to subsection B, paragraph 3 of this section is a  
18 class 5 felony. If the court sentences the person to a term of probation,  
19 the court shall order that as an initial term of probation the person be  
20 imprisoned in the county jail for not less than one hundred eighty  
21 consecutive days. This jail term shall commence on the date of  
22 sentencing. The court may suspend ninety days of the jail sentence if the  
23 person has not previously been convicted of a violation of this section, a  
24 violation of section 13-3214 or a violation of any city or town ordinance  
25 that prohibits prostitution and that has the same or substantially similar  
26 elements as section 13-3214 and the person successfully completes an  
27 appropriate court ordered education or treatment program.

28 K. If the person has previously been convicted of child sex  
29 trafficking or attempted child sex trafficking pursuant to this section,  
30 child sex trafficking pursuant to subsection B, paragraph 3 of this  
31 section is a class 2 felony and the person is not eligible for suspension  
32 of sentence, probation, pardon or release from confinement on any basis  
33 except as specifically authorized by section 31-233, subsection A or B  
34 until the sentence imposed has been served or commuted.

35 L. This section does not preclude the state from alleging and  
36 proving any other sentencing enhancements as provided by law.

37 M. For the purposes of this section, "sexually explicit  
38 performance" means a live or public act or show intended to arouse or  
39 satisfy the sexual desires or appeal to the prurient interest of patrons.

40 Sec. 4. Section 13-3967, Arizona Revised Statutes, is amended to  
41 read:

42 13-3967. Release on bailable offenses before trial;  
43 definition

44 A. At his appearance before a judicial officer, any person who is  
45 charged with a public offense that is bailable as a matter of right shall

1 be ordered released pending trial on his own recognizance or on the  
2 execution of bail in an amount specified by the judicial officer.

3 B. In determining the method of release or the amount of bail, the  
4 judicial officer, on the basis of available information, shall take into  
5 account all of the following:

6 1. The views of the victim.

7 2. The nature and circumstances of the offense charged.

8 3. Whether the accused has a prior arrest or conviction for a  
9 serious offense or violent or aggravated felony as defined in section  
10 13-706 or an offense in another state that would be a serious offense or  
11 violent or aggravated felony as defined in section 13-706 if committed in  
12 this state.

13 4. Evidence that the accused poses a danger to others in the  
14 community.

15 5. The results of a risk or lethality assessment in a domestic  
16 violence charge that is presented to the court.

17 6. The weight of evidence against the accused.

18 7. The accused's family ties, employment, financial resources,  
19 character and mental condition.

20 8. The results of any drug test submitted to the court.

21 9. Whether the accused is using any substance if its possession or  
22 use is illegal pursuant to chapter 34 of this title.

23 10. Whether the accused violated section 13-3407, subsection A,  
24 paragraph 2, 3, 4 or 7 involving methamphetamine or section 13-3407.01.

25 11. The length of residence in the community.

26 12. The accused's record of arrests and convictions.

27 13. The accused's record of appearance at court proceedings or of  
28 flight to avoid prosecution or failure to appear at court proceedings.

29 14. Whether the accused has entered or remained in the United  
30 States illegally.

31 15. Whether the accused's residence is in this state, in another  
32 state or outside the United States.

33 C. If a judicial officer orders the release of a defendant who is  
34 charged with a felony either on his own recognizance or on bail, the  
35 judicial officer shall condition the defendant's release on the  
36 defendant's good behavior while so released. On a showing of probable  
37 cause that the defendant committed any offense during the period of  
38 release, a judicial officer may revoke the defendant's release pursuant to  
39 section 13-3968.

40 D. After providing notice to the victim pursuant to section  
41 13-4406, a judicial officer may impose any of the following conditions on  
42 a person who is released on his own recognizance or on bail:

43 1. Place the person in the custody of a designated person or  
44 organization agreeing to supervise him.

1           2. Place restrictions on the person's travel, associates or place  
2 of abode during the period of release.

3           3. Require the deposit with the clerk of the court of cash or other  
4 security, such deposit to be returned on the performance of the conditions  
5 of release.

6           4. Prohibit the person from possessing any deadly weapon or  
7 engaging in certain described activities or indulging in intoxicating  
8 liquors or certain drugs.

9           5. Require the person to report regularly to and remain under the  
10 supervision of an officer of the court.

11          6. Impose any other conditions deemed reasonably necessary to  
12 assure appearance as required including a condition requiring that the  
13 person return to custody after specified hours.

14          E. In addition to any of the conditions a judicial officer may  
15 impose pursuant to subsection D of this section, the judicial officer  
16 shall impose both of the following conditions on a person who is charged  
17 with a felony violation of chapter 14 or 35.1 of this title **OR SECTION**  
18 **13-3212** and who is released on his own recognizance or on bail:

19           1. Electronic monitoring where available.

20           2. A condition prohibiting the person from having any contact with  
21 the victim.

22          F. The judicial officer who authorizes the release of the person  
23 charged on his own recognizance or on bail shall do all of the following:

24           1. Issue an appropriate order containing statements of the  
25 conditions imposed.

26           2. Inform the person of the penalties that apply to any violation  
27 of the conditions of release.

28           3. Advise the person that a warrant for his arrest may be issued  
29 immediately on any violation of the conditions of release, including the  
30 failure to submit to deoxyribonucleic acid testing ordered pursuant to  
31 paragraph 4 of this subsection.

32           4. If the person is charged with a felony or misdemeanor offense  
33 listed in section 13-610, subsection 0, paragraph 3 and is summoned to  
34 appear, order the person to report within five days to the law enforcement  
35 agency that arrested the person or to the agency's designee and submit a  
36 sufficient sample of buccal cells or other bodily substances for  
37 deoxyribonucleic acid testing and extraction. If a person does not comply  
38 with an order issued pursuant to this paragraph, the court shall revoke  
39 the person's release.

40          G. At any time after providing notice to the victim pursuant to  
41 section 13-4406, the judicial officer who orders the release of a person  
42 on any condition specified in this section or the court in which a  
43 prosecution is pending may amend the order to employ additional or  
44 different conditions of release, including either an increase or reduction  
45 in the amount of bail. On application, the defendant shall be entitled to

1 have the conditions of release reviewed by the judicial officer who  
2 imposed them or by the court in which the prosecution is pending.  
3 Reasonable notice of the application shall be given to the county attorney  
4 and the victim.

5 H. Any information that is stated or offered in connection with any  
6 order pursuant to this section need not conform to the rules pertaining to  
7 admissibility of evidence in a court of law.

8 I. This section does not prevent the disposition of any case or  
9 class of cases by forfeiture of bail or collateral security if such  
10 disposition is authorized by the court.

11 J. A judicial officer who orders the release of a juvenile who is  
12 enrolled in a school and who has been transferred to the criminal division  
13 of the superior court pursuant to section 8-327 or who has been charged as  
14 an adult pursuant to section 13-501 shall notify the appropriate school on  
15 the release of the juvenile from custody.

16 K. For the purposes of this section and section 13-3968, "judicial  
17 officer" means any person or court authorized pursuant to the constitution  
18 or laws of this state to bail or otherwise release a person before trial  
19 or sentencing or pending appeal.