

GOWAN FLOOR AMENDMENT
SENATE AMENDMENTS TO H.B. 2678
(Reference to House engrossed bill)

Amendment instruction key:
[GREEN UNDERLINING IN BRACKETS] indicates text added to statute or previously enacted session law.
[Green underlining in brackets] indicates text added to new session law or text restoring existing law.
[GREEN STRIKEOUT IN BRACKETS] indicates new text removed from statute or previously enacted session law.
[Green strikeout in brackets] indicates text removed from existing statute, previously enacted session law or new session law.
<<Green carets>> indicate a section added to the bill.
<<Green strikeout in carets>> indicates a section removed from the bill.

1 The bill as proposed to be amended is reprinted as follows:

2 <<Sec. 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 commuted.
23 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, sexual assault of a minor who is under twelve years of age,
29 sexual conduct with a minor who is under twelve years of age or

1 manufacturing methamphetamine under circumstances that cause physical
2 injury to a minor who is under twelve years of age may be sentenced to
3 life imprisonment and is not eligible for suspension of sentence,
4 probation, pardon or release from confinement on any basis except as
5 specifically authorized by section 31-233, subsection A or B until the
6 person has served thirty-five years or the sentence is commuted. If a
7 life sentence is not imposed pursuant to this subsection, the person shall
8 be sentenced to a term of imprisonment as follows:

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

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

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

23 E. Except as otherwise provided in this section, a person who is
24 at least eighteen years of age or who has been tried as an adult and who
25 is convicted of a dangerous crime against children in the first degree
26 involving attempted first degree murder of a minor who is twelve, thirteen
27 or fourteen years of age, sexual assault of a minor who is twelve,
28 thirteen or fourteen years of age, taking a child for the purpose of
29 prostitution, child sex trafficking, commercial sexual exploitation of a
30 minor, sexual conduct with a minor who is twelve, thirteen or fourteen
31 years of age or manufacturing methamphetamine under circumstances that
32 cause physical injury to a minor who is twelve, thirteen or fourteen years
33 of age or involving or using minors in drug offenses shall be sentenced to
34 a term of imprisonment as follows:

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

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

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

41 F. 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 aggravated assault, unlawful mutilation, molestation of a child,
45 sexual exploitation of a minor, aggravated luring a minor for sexual
46 exploitation, child abuse or kidnapping shall be sentenced to a term of
47 imprisonment as follows:

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

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

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

G. Except as otherwise provided in this section, if a person is at least eighteen years of age or has been tried as an adult and is convicted of a dangerous crime against children involving luring a minor for sexual exploitation, sexual extortion or unlawful age misrepresentation and is sentenced to a term of imprisonment, the term of imprisonment is as follows and the person is not eligible for 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 is commuted, except that if the person is convicted of unlawful age misrepresentation the person is eligible for release pursuant to section 41-1604.07:

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

A person who has been previously convicted of one predicate felony shall be sentenced to a term of imprisonment as follows and the person is not eligible for suspension of 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 is commuted, except that if the person is convicted of unlawful age misrepresentation the person is eligible for release pursuant to section 41-1604.07:

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

H. Except as otherwise provided in this section, if a person is at least eighteen years of age or has been tried as an adult and is convicted of a dangerous crime against children involving sexual abuse or bestiality under section 13-1411, subsection A, paragraph 2 and is sentenced to a term of imprisonment, the term of imprisonment is as follows and the person is not eligible for 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, the person is eligible for release pursuant to section 41-1604.07 or the sentence is commuted:

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

A person who has been previously convicted of one predicate felony shall be sentenced to a term of imprisonment as follows and the person is not eligible for suspension of 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, the person is eligible for release pursuant to section 41-1604.07 or the sentence is commuted:

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

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

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

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

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

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

K. Except as provided in subsections G, H, M and N of this section, a person who is sentenced for a dangerous crime against children in the first degree pursuant to this section is not eligible for suspension of 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.

L. A person who is convicted of any dangerous crime against children in the first degree pursuant to subsection C, D, E, ~~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 suspension of sentence, probation, pardon or release from confinement on any basis except as specifically authorized by section 31-233, subsection A or B until the person has served not fewer than thirty-five years or the sentence is commuted.

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

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

N. A person who is convicted of any dangerous crime against children in the second degree and who has been previously convicted of one or more predicate felonies is not eligible for suspension of sentence, probation, pardon or release from confinement on any basis except as

1 specifically authorized by section 31-233, subsection A or B until the
2 sentence imposed by the court has been served, the person is eligible for
3 release pursuant to section 41-1604.07 or the sentence is commuted.

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

6 P. The sentence imposed on a person by the court for a dangerous
7 crime against children under subsection H of this section involving sexual
8 abuse may be served concurrently with other sentences if the offense
9 involved only one victim. The sentence imposed on a person for any other
10 dangerous crime against children in the first or second degree shall be
11 consecutive to any other sentence imposed on the person at any time,
12 including sexual abuse of the same victim.

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

15 R. A dangerous crime against children is in the first degree if it
16 is a completed offense and is in the second degree if it is a preparatory
17 offense, except attempted first degree murder is a dangerous crime against
18 children in the first degree.

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

23 T. For the purposes of this section:

24 1. "Dangerous crime against children" means any of the following
25 that is committed against a minor who is under fifteen years of age [OR
26 FOR THE PURPOSES OF SUBDIVISIONS (f) AND (g) OF THIS PARAGRAPH, A
27 DANGEROUS CRIME AGAINST CHILDREN SHALL INCLUDE A VISUAL DEPICTION THAT IS
28 INDISTINGUISHABLE FROM AN ACTUAL MINOR THAT IS UNDER 15 YEARS OF AGE]:

29 (a) Second degree murder.

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

33 (c) Sexual assault.

34 (d) Molestation of a child.

35 (e) Sexual conduct with a minor.

36 (f) Commercial sexual exploitation of a minor.

37 (g) Sexual exploitation of a minor.

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

40 (i) Kidnapping.

41 (j) Sexual abuse.

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

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

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

46 (n) Continuous sexual abuse of a child.

47 (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 2. "Predicate felony" means any felony involving child abuse
12 pursuant to section 13-3623, subsection A, paragraph 1, a sexual offense,
13 conduct involving the intentional or knowing infliction of serious
14 physical injury or the discharge, use or threatening exhibition of a
15 deadly weapon or dangerous instrument, or a dangerous crime against
16 children in the first or second degree. >>
17 Sec. 2. Section 13-3551, Arizona Revised Statutes, is amended to
18 read:
19 13-3551. Definitions
20 In this chapter, unless the context otherwise requires:
21 1. "Advertising" or "advertisement" means any message in any medium
22 that offers or solicits any person to engage in sexual conduct in this
23 state.
24 2. "Communication service provider" has the same meaning prescribed
25 in section 13-3001.
26 3. "Computer" has the same meaning prescribed in section 13-2301,
27 subsection E.
28 4. "Computer system" has the same meaning prescribed in section
29 13-2301, subsection E.
30 5. "Exploitive exhibition" means the actual or simulated exhibition
31 of the genitals or pubic or rectal areas of any person for the purpose of
32 sexual stimulation of the viewer.
33 6. "INDISTINGUISHABLE" MEANS A VISUAL DEPICTION SUCH THAT A PERSON
34 VIEWING THE DEPICTION WOULD REASONABLY CONCLUDE THAT THE DEPICTION IS OF
35 AN ACTUAL MINOR.
36 ~~6-~~ 7. "Minor":
37 (a) Means a person or persons who were under eighteen years of age
38 at the time a visual depiction was created, adapted or modified.
39 (b) INCLUDES A VISUAL DEPICTION THAT IS INDISTINGUISHABLE FROM AN
40 ACTUAL MINOR.
41 ~~7-~~ 8. "Network" has the same meaning prescribed in section
42 13-2301, subsection E.
43 ~~8-~~ 9. "Producing" means financing, directing, manufacturing,
44 issuing, publishing or advertising for pecuniary gain.
45 ~~9-~~ 10. "Remote computing service" has the same meaning prescribed
46 in section 13-3001.
47 ~~10-~~ 11. "Sexual conduct" means actual or simulated:

1 (a) Sexual intercourse, including genital-genital, oral-genital,
2 anal-genital or oral-anal, whether between persons of the same or opposite
3 sex.

4 (b) Penetration of the vagina or rectum by any object except when
5 done as part of a recognized medical procedure.

6 (c) Sexual bestiality.

7 (d) Masturbation, for the purpose of sexual stimulation of the
8 viewer.

9 (e) Sadomasochistic abuse for the purpose of sexual stimulation of
10 the viewer.

11 (f) Defecation or urination for the purpose of sexual stimulation
12 of the viewer.

13 ~~11.~~ 12. "Simulated" means any depicting of the genitals or rectal
14 areas that gives the appearance of sexual conduct or incipient sexual
15 conduct.

16 ~~12.~~ 13. "Visual depiction" includes each visual image that is
17 contained in an undeveloped film, videotape or photograph or data stored
18 in any form, **REGARDLESS OF WHETHER THE IMAGE IS CREATED OR MODIFIED BY**
19 **MEANS OF COMPUTER SOFTWARE, ARTIFICIAL INTELLIGENCE OR OTHER DIGITAL**
20 **EDITING TOOLS**, and that is capable of conversion into a visual image.

21 Enroll and engross to conform

22 Amend title to conform

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