

House Engrossed

child sex trafficking; facilitating prostitution

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

CHAPTER 255
HOUSE BILL 2665

AN ACT

AMENDING SECTIONS 12-116.07, 13-909, 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 13-909, Arizona Revised Statutes, is amended to
15 read:

16 13-909. Vacating the conviction of a sex trafficking victim;
17 requirements

18 A. A person who was convicted of a violation of section 13-3214 or
19 a city or town ordinance that has the same or substantially similar
20 elements as section 13-3214 ~~committed before July 24, 2014~~ may apply to
21 the court that pronounced sentence to vacate the person's conviction. The
22 court shall grant the application and vacate the conviction if the court
23 finds by clear and convincing evidence that the person's participation in
24 the offense was a direct result of being a victim of sex trafficking
25 pursuant to section 13-1307.

26 B. If the prosecutor does not oppose the application, the court may
27 grant the application and vacate the conviction without a hearing.

28 C. If the prosecutor opposes the application, the court shall hold
29 a hearing on the application.

30 D. On vacating the conviction, the court shall:

31 1. Release the applicant from all penalties and disabilities
32 resulting from the conviction.

33 2. Enter an order that a notation be made in the court file and in
34 law enforcement and prosecution records that the conviction has been
35 vacated and the person was the victim of a crime.

36 3. Transmit the order vacating the conviction to the arresting
37 agency, the prosecutor and the department of public safety.

38 E. A conviction vacated pursuant to this section does not qualify
39 as a historical prior felony conviction and cannot be alleged for any
40 purpose pursuant to section 13-703 or 13-707.

41 F. Except on an application for employment that requires a
42 fingerprint clearance card pursuant to title 41, chapter 12, article 3.1,
43 a person whose conviction is vacated under this section may in all
44 instances state that the person has never been arrested for, charged with

1 or convicted of the crime that is the subject of the conviction, including
2 in response to questions on employment, housing, financial aid or loan
3 applications.

4 Sec. 3. Section 13-1421, Arizona Revised Statutes, is amended to
5 read:

6 13-1421. Evidence relating to victim's chastity; pretrial
7 hearing

8 A. Evidence relating to a victim's reputation for chastity and
9 opinion evidence relating to a victim's chastity are not admissible in any
10 prosecution for any offense in this chapter, SECTION 13-3212 OR CHAPTER
11 35.1 OF THIS TITLE. Evidence of specific instances of the victim's prior
12 sexual conduct may be admitted only if a judge finds the evidence is
13 relevant and is material to a fact in issue in the case and that the
14 inflammatory or prejudicial nature of the evidence does not outweigh the
15 probative value of the evidence, and if the evidence is one of the
16 following:

- 17 1. Evidence of the victim's past sexual conduct with the defendant.
- 18 2. Evidence of specific instances of sexual activity showing the
19 source or origin of semen, pregnancy, disease or trauma.
- 20 3. Evidence that supports a claim that the victim has a motive in
21 accusing the defendant of the crime.
- 22 4. Evidence offered for the purpose of impeachment when the
23 prosecutor puts the victim's prior sexual conduct in issue.
- 24 5. Evidence of false allegations of sexual misconduct made by the
25 victim against others.

26 B. Evidence described in subsection A OF THIS SECTION shall not be
27 referred to in any statements to a jury or introduced at trial without a
28 court order after a hearing on written motions is held to determine the
29 admissibility of the evidence. If new information is discovered during
30 the course of the trial that may make the evidence described in subsection
31 A OF THIS SECTION admissible, the court may hold a hearing to determine
32 the admissibility of the evidence under subsection A OF THIS SECTION. The
33 standard for admissibility of evidence under subsection A OF THIS SECTION
34 is by clear and convincing evidence.

35 Sec. 4. Section 13-3212, Arizona Revised Statutes, is amended to
36 read:

37 13-3212. Child sex trafficking; classification; increased
38 punishment; definition

- 39 A. A person commits child sex trafficking by knowingly:
- 40 1. Causing any minor to engage in prostitution.
 - 41 2. Using any minor for the purposes of prostitution.
 - 42 3. Permitting a minor who is under the person's custody or control
43 to engage in prostitution.

- 1 4. Receiving any benefit for or on account of procuring or placing
2 a minor in any place or in the charge or custody of any person for the
3 purpose of prostitution.
- 4 5. Receiving any benefit pursuant to an agreement to participate in
5 the proceeds of prostitution of a minor.
- 6 6. Financing, managing, supervising, controlling or owning, either
7 alone or in association with others, prostitution activity involving a
8 minor.
- 9 7. Transporting or financing the transportation of any minor with
10 the intent that the minor engage in prostitution.
- 11 8. Providing a means by which a minor engages in prostitution.
- 12 9. Enticing, recruiting, harboring, providing, transporting, making
13 available to another or otherwise obtaining a minor with the intent to
14 cause the minor to engage in prostitution or any sexually explicit
15 performance.
- 16 10. Enticing, recruiting, harboring, providing, transporting,
17 making available to another or otherwise obtaining a minor with the
18 knowledge that the minor will engage in prostitution or any sexually
19 explicit performance.
- 20 B. A person who is at least eighteen years of age commits child sex
21 trafficking by knowingly:
- 22 1. Engaging in prostitution with a minor who is under fifteen years
23 of age OR ENGAGING IN PROSTITUTION WITH A PERSON FOR THE PURPOSE OF
24 FACILITATING THE PROSTITUTION OF A MINOR UNDER FIFTEEN YEARS OF AGE.
- 25 2. Engaging in prostitution with a minor who the person knows or
26 should have known is fifteen, sixteen or seventeen years of age OR
27 ENGAGING IN PROSTITUTION WITH A PERSON FOR THE PURPOSE OF FACILITATING THE
28 PROSTITUTION OF A MINOR WHO THE PERSON KNOWS OR SHOULD HAVE KNOWN IS
29 FIFTEEN, SIXTEEN OR SEVENTEEN YEARS OF AGE.
- 30 3. Engaging in prostitution with a minor who is fifteen, sixteen or
31 seventeen years of age.
- 32 C. It is not a defense to a prosecution under subsection A and
33 subsection B, paragraphs 1 and 2 of this section that the other person is
34 a peace officer posing as a minor, ~~OR~~ a person assisting a peace officer
35 posing as a minor OR A PEACE OFFICER POSING AS A PERSON FACILITATING THE
36 PROSTITUTION OF A MINOR.
- 37 D. Notwithstanding any other law, a sentence imposed on a person
38 for a violation of this section shall be consecutive to any other sentence
39 imposed on the person at any time.
- 40 E. Child sex trafficking pursuant to subsection A of this section
41 is a class 2 felony if the minor is under fifteen years of age and is
42 punishable pursuant to section 13-705.

1 F. Child sex trafficking pursuant to subsection B, paragraph 1 of
2 this section is a class 2 felony and is punishable pursuant to section
3 13-705.

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

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

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

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

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

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

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

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

34 I. If the minor is fifteen, sixteen or seventeen years of age,
35 child sex trafficking pursuant to subsection B, paragraph 2 of this
36 section is a class 2 felony, the person convicted shall be sentenced
37 pursuant to this section and the person is not eligible for suspension of
38 sentence, probation, pardon or release from confinement on any basis
39 except as specifically authorized by section 31-233, subsection A or B
40 until the sentence imposed by the court has been served or commuted. The
41 presumptive term may be aggravated or mitigated within the range under
42 this section pursuant to section 13-701, subsections C, D and E. The
43 terms are as follows:

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

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

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

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

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

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

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

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

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

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

36 Sec. 5. Section 13-3967, Arizona Revised Statutes, is amended to
37 read:

38 13-3967. Release on bailable offenses before trial;
39 definition

40 A. At his appearance before a judicial officer, any person who is
41 charged with a public offense that is bailable as a matter of right shall
42 be ordered released pending trial on his own recognizance or on the
43 execution of bail in an amount specified by the judicial officer.

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

- 4 1. The views of the victim.
- 5 2. The nature and circumstances of the offense charged.
- 6 3. Whether the accused has a prior arrest or conviction for a
7 serious offense or violent or aggravated felony as defined in section
8 13-706 or an offense in another state that would be a serious offense or
9 violent or aggravated felony as defined in section 13-706 if committed in
10 this state.
- 11 4. Evidence that the accused poses a danger to others in the
12 community.
- 13 5. The results of a risk or lethality assessment in a domestic
14 violence charge that is presented to the court.
- 15 6. The weight of evidence against the accused.
- 16 7. The accused's family ties, employment, financial resources,
17 character and mental condition.
- 18 8. The results of any drug test submitted to the court.
- 19 9. Whether the accused is using any substance if its possession or
20 use is illegal pursuant to chapter 34 of this title.
- 21 10. Whether the accused violated section 13-3407, subsection A,
22 paragraph 2, 3, 4 or 7 involving methamphetamine or section 13-3407.01.
- 23 11. The length of residence in the community.
- 24 12. The accused's record of arrests and convictions.
- 25 13. The accused's record of appearance at court proceedings or of
26 flight to avoid prosecution or failure to appear at court proceedings.
- 27 14. Whether the accused has entered or remained in the United
28 States illegally.
- 29 15. Whether the accused's residence is in this state, in another
30 state or outside the United States.

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

38 D. After providing notice to the victim pursuant to section
39 13-4406, a judicial officer may impose any of the following conditions on
40 a person who is released on his own recognizance or on bail:

- 41 1. Place the person in the custody of a designated person or
42 organization agreeing to supervise him.
- 43 2. Place restrictions on the person's travel, associates or place
44 of abode during the period of release.

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

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

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

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

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

17 1. Electronic monitoring where available.

18 2. A condition prohibiting the person from having any contact with
19 the victim.

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

22 1. Issue an appropriate order containing statements of the
23 conditions imposed.

24 2. Inform the person of the penalties that apply to any violation
25 of the conditions of release.

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

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

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

1 imposed them or by the court in which the prosecution is pending.
2 Reasonable notice of the application shall be given to the county attorney
3 and the victim.

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

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

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

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

APPROVED BY THE GOVERNOR JUNE 21, 2024.

FILED IN THE OFFICE OF THE SECRETARY OF STATE JUNE 21, 2024.