

REFERENCE TITLE: sexual offenses; defense

State of Arizona  
Senate  
Forty-eighth Legislature  
First Regular Session  
2007

# **SB 1425**

Introduced by  
Senator Johnson

AN ACT

AMENDING SECTION 13-1407, ARIZONA REVISED STATUTES; RELATING TO SEXUAL OFFENSES.

(TEXT OF BILL BEGINS ON NEXT PAGE)

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

2 Section 1. Section 13-1407, Arizona Revised Statutes, is amended to  
3 read:

4 13-1407. Defenses

5 A. It is a defense to a prosecution pursuant to sections 13-1404 and  
6 13-1405 involving a minor if the act was done in furtherance of lawful  
7 medical practice.

8 B. It is a defense to a prosecution pursuant to sections 13-1404 and  
9 13-1405 in which the victim's lack of consent is based on incapacity to  
10 consent because the victim was fifteen, sixteen or seventeen years of age if  
11 at the time the defendant engaged in the conduct constituting the offense the  
12 defendant did not know and could not reasonably have known the age of the  
13 victim.

14 C. It is a defense to a prosecution pursuant to section 13-1402,  
15 13-1404, 13-1405 or 13-1406 if the act was done by a duly licensed physician  
16 or registered nurse or a person acting under the physician's or nurse's  
17 direction, or any other person who renders emergency care at the scene of an  
18 emergency occurrence, the act consisted of administering a recognized and  
19 lawful form of treatment that was reasonably adapted to promoting the  
20 physical or mental health of the patient and the treatment was administered  
21 in an emergency when the duly licensed physician or registered nurse or a  
22 person acting under the physician's or nurse's direction, or any other person  
23 rendering emergency care at the scene of an emergency occurrence, reasonably  
24 believed that no one competent to consent could be consulted and that a  
25 reasonable person, wishing to safeguard the welfare of the patient, would  
26 consent.

27 D. It is a defense to a prosecution pursuant to section 13-1404 or  
28 13-1405 that the person was the spouse of the other person at the time of  
29 commission of the act. It is not a defense to a prosecution pursuant to  
30 section 13-1406 that the defendant was the spouse of the victim at the time  
31 of commission of the act.

32 E. It is a defense to a prosecution pursuant to section 13-1404 or  
33 13-1410 that the defendant was not motivated by a sexual interest. It is a  
34 defense to a prosecution pursuant to section 13-1404 involving a victim under  
35 fifteen years of age that the defendant was not motivated by a sexual  
36 interest.

37 F. It is a defense to a prosecution pursuant to section 13-1405 OR  
38 13-1410 if the victim is ~~fifteen, sixteen or seventeen~~ THIRTEEN OR FOURTEEN  
39 years of age, the defendant is ~~under nineteen years of age or attending high~~  
40 ~~school and is~~ no more than twenty-four months older than the victim and the  
41 conduct is consensual OR IF THE VICTIM IS FIFTEEN, SIXTEEN OR SEVENTEEN YEARS  
42 OF AGE, THE DEFENDANT IS NO MORE THAN THIRTY-SIX MONTHS OLDER THAN THE VICTIM  
43 AND THE CONDUCT IS CONSensual.