

REFERENCE TITLE: internet age misrepresentation

State of Arizona
House of Representatives
Forty-eighth Legislature
Second Regular Session
2008

HB 2129

Introduced by
Representative Robson

AN ACT

AMENDING SECTION 13-604.01, ARIZONA REVISED STATUTES; AMENDING TITLE 13, CHAPTER 35.1, ARIZONA REVISED STATUTES, BY ADDING SECTION 13-3560; RELATING TO SEXUAL EXPLOITATION OF CHILDREN.

(TEXT OF BILL BEGINS ON NEXT PAGE)

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

2 Section 1. Section 13-604.01, Arizona Revised Statutes, is amended to
3 read:

4 13-604.01. Dangerous crimes against children; sentences;
5 definitions

6 A. A person who is at least eighteen years of age and who stands
7 convicted of a dangerous crime against children in the first degree involving
8 sexual assault of a minor who is twelve years of age or younger or sexual
9 conduct with a minor who is twelve years of age or younger shall be sentenced
10 to life imprisonment and is not eligible for suspension of sentence,
11 probation, pardon or release from confinement on any basis except as
12 specifically authorized by section 31-233, subsection A or B until the person
13 has served thirty-five years or the sentence is commuted. This subsection
14 does not apply to masturbatory contact.

15 B. Except as otherwise provided in this section, a person who is at
16 least eighteen years of age or who has been tried as an adult and who stands
17 convicted of a dangerous crime against children in the first degree involving
18 attempted first degree murder of a minor who is under twelve years of age,
19 second degree murder of a minor who is under twelve years of age, sexual
20 assault of a minor who is under twelve years of age, sexual conduct with a
21 minor who is under twelve years of age or manufacturing methamphetamine under
22 circumstances that cause physical injury to a minor who is under twelve years
23 of age may be sentenced to life imprisonment and is not eligible for
24 suspension of sentence, probation, pardon or release from confinement on any
25 basis except as specifically authorized by section 31-233, subsection A or B
26 until the person has served thirty-five years or the sentence is commuted.
27 If a life sentence is not imposed pursuant to this subsection, the person
28 shall be sentenced to a presumptive term of imprisonment for twenty years.

29 C. Except as otherwise provided in this section, a person who is at
30 least eighteen years of age or who has been tried as an adult and who stands
31 convicted of a dangerous crime against children in the first degree involving
32 attempted first degree murder of a minor who is twelve, thirteen or fourteen
33 years of age, second degree murder of a minor who is twelve, thirteen or
34 fourteen years of age, sexual assault of a minor who is twelve, thirteen or
35 fourteen years of age, taking a child for the purpose of prostitution, child
36 prostitution, sexual conduct with a minor who is twelve, thirteen or fourteen
37 years of age, continuous sexual abuse of a child, sex trafficking of a minor
38 who is under fifteen years of age or manufacturing methamphetamine under
39 circumstances that cause physical injury to a minor who is twelve, thirteen
40 or fourteen years of age or involving or using minors in drug offenses shall
41 be sentenced to a presumptive term of imprisonment for twenty years. If the
42 convicted person has been previously convicted of one predicate felony the
43 person shall be sentenced to a presumptive term of imprisonment for thirty
44 years.

1 D. Except as otherwise provided in this section, a person who is at
2 least eighteen years of age or who has been tried as an adult and who stands
3 convicted of a dangerous crime against children in the first degree involving
4 aggravated assault, molestation of a child, commercial sexual exploitation of
5 a minor, sexual exploitation of a minor, child abuse or kidnapping shall be
6 sentenced to a presumptive term of imprisonment for seventeen years. If the
7 convicted person has been previously convicted of one predicate felony the
8 person shall be sentenced to a presumptive term of imprisonment for
9 twenty-eight years.

10 E. Except as otherwise provided in this section, a person who is at
11 least eighteen years of age or who has been tried as an adult and who stands
12 convicted of a dangerous crime against children involving luring a minor for
13 sexual exploitation pursuant to section 13-3554 OR INTERNET AGE
14 MISREPRESENTATION is guilty of a class 3 felony and shall be sentenced to a
15 presumptive term of imprisonment for ten years and, unless the person has
16 previously been convicted of a predicate felony, the presumptive term may be
17 increased or decreased by up to five years pursuant to section 13-702,
18 subsections B, C and D. If the person is sentenced to a term of imprisonment
19 the person is not eligible for release from confinement on any basis except
20 as specifically authorized by section 31-233, subsection A or B until the
21 sentence imposed by the court has been served, the person is eligible for
22 release pursuant to section 41-1604.07 or the sentence is commuted. If the
23 convicted person has been previously convicted of one predicate felony the
24 person shall be sentenced to a presumptive term of imprisonment for fifteen
25 years and is not eligible for suspension of sentence, probation, pardon or
26 release from confinement on any basis except as specifically authorized by
27 section 31-233, subsection A or B until the sentence imposed by the court has
28 been served, the person is eligible for release pursuant to section
29 41-1604.07 or the sentence is commuted.

30 F. Except as otherwise provided in this section, a person who is at
31 least eighteen years of age or who has been tried as an adult and who stands
32 convicted of a dangerous crime against children involving sexual abuse under
33 section 13-1404 or bestiality under section 13-1411, subsection A, paragraph
34 2 is guilty of a class 3 felony and shall be sentenced to a presumptive term
35 of imprisonment for five years, and unless the person has previously been
36 convicted of a predicate felony, the presumptive term may be increased or
37 decreased by up to two and one-half years pursuant to section 13-702,
38 subsections B, C and D. If the person is sentenced to a term of imprisonment
39 the person is not eligible for release from confinement on any basis except
40 as specifically authorized by section 31-233, subsection A or B until the
41 sentence imposed by the court has been served, the person is eligible for
42 release pursuant to section 41-1604.07 or the sentence is commuted. If the
43 convicted person has been previously convicted of one predicate felony the
44 person shall be sentenced to a presumptive term of imprisonment for fifteen
45 years and is not eligible for suspension of sentence, probation, pardon or

1 release from confinement on any basis except as specifically authorized by
2 section 31-233, subsection A or B until the sentence imposed by the court has
3 been served, the person is eligible for release pursuant to section
4 41-1604.07 or the sentence is commuted.

5 G. The presumptive sentences prescribed in subsections B, C and D of
6 this section or subsections E and F of this section if the person has
7 previously been convicted of a predicate felony may be increased or decreased
8 by up to seven years pursuant to the provisions of section 13-702,
9 subsections B, C and D.

10 H. Except as provided in subsection F of this section, a person
11 sentenced for a dangerous crime against children in the first degree pursuant
12 to this section is not eligible for suspension of sentence, probation, pardon
13 or release from confinement on any basis except as specifically authorized by
14 section 31-233, subsection A or B until the sentence imposed by the court has
15 been served or commuted.

16 I. A person who stands convicted of any dangerous crime against
17 children in the first degree pursuant to subsection C or D of this section
18 and who has been previously convicted of two or more predicate felonies 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 except
21 as specifically authorized by section 31-233, subsection A or B until the
22 person has served not fewer than thirty-five years or the sentence is
23 commuted.

24 J. Notwithstanding chapter 10 of this title, a person who is at least
25 eighteen years of age or who has been tried as an adult and who stands
26 convicted of a dangerous crime against children in the second degree pursuant
27 to subsection C or D of this section is guilty of a class 3 felony and shall
28 be sentenced to a presumptive term of imprisonment for ten years. The
29 presumptive term may be increased or decreased by up to five years pursuant
30 to section 13-702, subsections B, C and D. If the person is sentenced to a
31 term of imprisonment the person is not eligible for release from confinement
32 on any basis except as specifically authorized by section 31-233, subsection
33 A or B until the person has served the sentence imposed by the court, the
34 person is eligible for release pursuant to section 41-1604.07 or the sentence
35 is commuted. A person who is convicted of any dangerous crime against
36 children in the second degree and who has been previously convicted of one or
37 more predicate felonies is not eligible for suspension of sentence,
38 probation, pardon or release from confinement on any basis except as
39 specifically authorized by section 31-233, subsection A or B until the
40 sentence imposed by the court has been served, the person is eligible for
41 release pursuant to section 41-1604.07 or the sentence is commuted.

42 K. Section 13-604, subsections M and O apply to the determination of
43 prior convictions.

1 L. The sentence ~~that is~~ imposed on a person by the court for a
2 dangerous crime against children under subsection D of this section ~~and that~~
3 ~~involves~~ INVOLVING child molestation or sexual abuse pursuant to subsection F
4 of this section may be served concurrently with other sentences if the
5 offense involved only one victim. The sentence imposed on a person for any
6 other dangerous crime against children in the first or second degree shall be
7 consecutive to any other sentence imposed on the person at any time,
8 including child molestation and sexual abuse of the same victim.

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

11 N. For the purposes of this section:

12 1. "Dangerous crime against children" means any of the following that
13 is committed against a minor who is under fifteen years of age:

14 (a) Second degree murder.

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

18 (c) Sexual assault.

19 (d) Molestation of a child.

20 (e) Sexual conduct with a minor.

21 (f) Commercial sexual exploitation of a minor.

22 (g) Sexual exploitation of a minor.

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

25 (i) Kidnapping.

26 (j) Sexual abuse.

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

29 (l) Child prostitution as prescribed in section 13-3212.

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

31 (n) Continuous sexual abuse of a child.

32 (o) Attempted first degree murder.

33 (p) Sex trafficking.

34 (q) Manufacturing methamphetamine under circumstances that cause
35 physical injury to a minor.

36 (r) Bestiality as prescribed in section 13-1411, subsection A,
37 paragraph 2.

38 (s) Luring a minor for sexual exploitation.

39 (t) INTERNET AGE MISREPRESENTATION.

40 A dangerous crime against children is in the first degree if it is a
41 completed offense and is in the second degree if it is a preparatory offense,
42 except attempted first degree murder is a dangerous crime against children in
43 the first degree.

1 2. "Predicate felony" means any felony involving child abuse pursuant
2 to section 13-3623, subsection A, paragraph 1, a sexual offense, conduct
3 involving the intentional or knowing infliction of serious physical injury or
4 the discharge, use or threatening exhibition of a deadly weapon or dangerous
5 instrument, or a dangerous crime against children in the first or second
6 degree.

7 Sec. 2. Title 13, chapter 35.1, Arizona Revised Statutes, is amended
8 by adding section 13-3560, to read:

9 13-3560. Internet age misrepresentation; classification

10 A. IT IS UNLAWFUL FOR A PERSON WHO IS AT LEAST EIGHTEEN YEARS OF AGE
11 TO KNOWINGLY MISREPRESENT THAT PERSON'S AGE TO A MINOR THROUGH THE USE OF THE
12 INTERNET IN ORDER TO COMMIT ANY SEXUAL OFFENSE INVOLVING A MINOR THAT IS
13 LISTED IN SECTION 13-3821, SUBSECTION A.

14 B. IT IS NOT A DEFENSE TO A PROSECUTION FOR A VIOLATION OF THIS
15 SECTION THAT THE OTHER PERSON IS NOT A MINOR.

16 C. THIS SECTION DOES NOT APPLY TO PEACE OFFICERS WHO ACT IN THEIR
17 OFFICIAL CAPACITY WITHIN THE SCOPE OF THEIR AUTHORITY AND IN THE LINE OF
18 DUTY.

19 D. INTERNET AGE MISREPRESENTATION IS A CLASS 3 FELONY, AND IF THE
20 MINOR IS UNDER FIFTEEN YEARS OF AGE IT IS PUNISHABLE PURSUANT TO SECTION
21 13-604.01.