



ARIZONA HOUSE OF REPRESENTATIVES

Fifty-sixth Legislature
Second Regular Session

House: JUD DP 7-0-0-2 | 3rd Read DP 57-0-2-0-1

Senate: JUD DP 7-0-0-0 | 3rd Read DPA 26-1-3-0-0

Final Pass: 57-0-3-0-0

HB 2623: vacate conviction; sex trafficking; victims

Sponsor: Representative Gress, LD 4

Transmitted to the Governor

Overview

Removes the requirement that a prostitution offense be committed by a person before July 24, 2014 in order for the person to apply to have the conviction vacated due to the person's status as a sex trafficking victim.

History

Under [A.R.S. § 13-909](#), which is sometimes referred to as the *vacatur law*, a person who was convicted of prostitution under [A.R.S. § 13-3214](#) (or a city or town ordinance with the same or substantially similar elements) that was committed before July 24, 2014 may apply to the court that sentenced the person to have the conviction and sentence vacated.

The court is required to grant the application and vacate the conviction if the court finds by clear and convincing evidence that the person's participation in the offense was a direct result of being a victim of sex trafficking pursuant to [A.R.S. § 13-1307](#). The court is required to hold a hearing on the application if the prosecutor opposes it but may grant the application without a hearing if the prosecutor does not oppose it. If the court vacates the conviction, the court is required to do all of the following:

- 1) release the applicant from all penalties and disabilities resulting from the conviction;
- 2) order that a notation be made in the court file and in law enforcement and prosecution records that the conviction has been vacated and the person was the victim of a crime;
- 3) transmit the order vacating the conviction to the arresting agency, the prosecutor and the Department of Public Safety.

A conviction that is vacated pursuant to the vacatur law does not qualify as a historical prior felony conviction and cannot be alleged for sentence enhancement purposes under A.R.S. §§ [13-703](#) and [13-707](#). Moreover, except on an application for employment that requests a fingerprint clearance card under [A.R.S. title 41](#), chapter 12, article 3.1, a person whose conviction is vacated is permitted to state, in all instances, that the person has never been arrested for, charged with or convicted of the subject offense, including in response to questions on employment, housing, financial aid or loan applications.

Provisions

1. Amends the vacatur law by removing the requirement that the person's underlying prostitution offense be committed before July 24, 2014 in order for the person to apply to have the conviction vacated due to the person's status as a sex trafficking victim. (Sec. 1)

<input type="checkbox"/> Prop 105 (45 votes)	<input type="checkbox"/> Prop 108 (40 votes)	<input type="checkbox"/> Emergency (40 votes)	<input type="checkbox"/> Fiscal Note
--	--	---	--------------------------------------

2. Allows a person who was a victim of child sex trafficking under [A.R.S. § 13-3212](#), in addition to sex trafficking under [A.R.S. § 13-1307](#), to apply to have their prostitution offense vacated under the vacatur law. (Sec. 1)