



ARIZONA HOUSE OF REPRESENTATIVES

Fifty-sixth Legislature
Second Regular Session

House: JUD DP 5-3-1-0

HB 2835: observing nude minor; sexual gratification

Sponsor: Representative Nguyen, LD 1

House Engrossed

Overview

Establishes knowingly observing a nude minor for the purpose of engaging in sexual conduct for a person's sexual gratification as a form of criminal sexual exploitation of a minor. Makes an existing defense applicable in prosecutions for this new offense if certain circumstances are met.

History

Under current law, a person commits sexual exploitation of a minor by knowingly:

- 1) recording, filming, photographing, developing or duplicating any visual depiction in which a minor is engaged in exploitive exhibition or other sexual conduct;
- 2) distributing, transporting, exhibiting, receiving, selling, purchasing, electronically transmitting, possessing or exchanging any visual depiction in which a minor is engaged in exploitive exhibition or other sexual conduct; or
- 3) possessing, manufacturing, distributing, advertising, ordering, offering to sell, selling or purchasing a child sex doll that uses the face, image or likeness of a real infant or minor under the age of 12 with the intent to replicate the physical features of the real infant or minor.

Sexual exploitation of a minor is a class 2 felony and is punishable as a dangerous crime against children (DCAC) if the minor is under 15 years of age ([A.R.S. § 13-3553](#)). DCACs are a category of criminal offenses that may be treated differently when they involve a defendant who is at least 18 years old (or tried as an adult) and a victim who is below 15 years old (or an unborn child). Statute specifies numerous offenses that may be punishable as a DCAC, meaning that they can be subject to increased prison sentences and special provisions regarding the defendant's eligibility for probation or early release ([A.R.S. § 13-705](#)).

The terms *exploitive exhibition*, *minor*, *producing*, *sexual conduct*, *simulated* and *visual depiction* are defined in [A.R.S. § 13-3551](#). The *culpable mental states*, including *knowingly*, are defined in [A.R.S. § 13-105](#).

Under [A.R.S. § 13-1407](#), subsection E (commonly referred to as the *Romeo and Juliet Law*), it is a defense to a prosecution for certain offenses involving sexual conduct with a minor if all of the following are met:

- 1) the victim is 15, 16 or 17 years old;
- 2) the defendant is under 19 years old or attending high school and no more than 24 months older than the victim;
- 3) the conduct is consensual.

Provisions

1. Adds that a person commits sexual exploitation of a minor by knowingly observing a nude minor for the purpose of engaging in sexual conduct for the person's sexual gratification. (Sec. 2)
2. Makes the *Romeo and Juliet Law* applicable in prosecutions for this new form of sexual exploitation of a minor. (Sec. 1)

Prop 105 (45 votes) Prop 108 (40 votes) Emergency (40 votes) Fiscal Note