

ARIZONA STATE SENATE

RESEARCH STAFF



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JUDICIARY COMMITTEE

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TO: MEMBERS OF THE SENATE
JUDICIARY COMMITTEE

DATE: March 16, 2021

SUBJECT: Strike everything amendment to H.B. 2889, relating to sentencing; sexual offenses; children.

Purpose

Increases sentencing guidelines for specified offenses related to commercial sexual exploitation of a minor and child sex trafficking.

Background

A person commits *commercial sexual exploitation of a minor* by knowingly: 1) using, employing, persuading, enticing, inducing or coercing a minor to engage in or assist others to engage in exploitive exhibition or other sexual conduct for the purpose of producing any visual depiction or live act depicting such conduct; 2) using, employing, persuading, enticing, inducing or coercing a minor to expose specified body parts for financial or commercial gain; 3) permitting a minor under the person's custody or control to engage in or assist others to engage in exploitive exhibition or other sexual conduct for the purpose of producing any visual depiction or live act depicting such conduct; 4) transporting or financing the transportation of any minor through or across the state with the intent that the minor engage in prostitution, exploitive exhibition or other sexual conduct for the purpose of producing a visual depiction or live act depicting such conduct; or 5) using an advertisement for prostitution that contains a visual depiction of a minor. Commercial sexual exploitation of a minor is a class 2 felony and if the minor is under 15 years old, the offense is punishable as a dangerous crime against children ([A.R.S. § 13-3552](#)).

A person commits *child sex trafficking* by knowingly: 1) causing any minor to engage in prostitution; 2) using any minor for the purposes of prostitution; 3) permitting a minor who is under the person's custody or control to engage in prostitution; 4) receiving any benefit for or on account of procuring or placing a minor in any place or in the charge or custody of any person for the purpose of prostitution; 5) receiving any benefit pursuant to an agreement to participate in the proceeds of prostitution of a minor; 6) financing, managing, supervising, controlling or owning, either alone or in association with others, prostitution activity involving a minor; 7) transporting or financing the transportation of any minor with the intent that the minor engage in prostitution; 8) providing a means by which a minor engages in prostitution; 9) enticing, recruiting, harboring, providing, transporting, making available to another or otherwise obtaining a minor with the intent to cause the minor to engage in prostitution or any sexually explicit performance; or 10) enticing, recruiting, harboring, providing, transporting, making available to another or otherwise obtaining a minor with the knowledge that the minor will engage in prostitution or any sexually explicit performance. Most forms of child sex trafficking are a class 2 felony ([A.R.S. § 13-3212](#)).

There is no anticipated fiscal impact to the state General Fund associated with this legislation.

Provisions

1. Requires a person who is at least 18 years old and who is convicted of a dangerous crime against children (DCAC) in the first degree involving commercial sexual exploitation of a minor or child sex trafficking to be sentenced to natural life in prison if the person has previously been convicted of a DCAC in the first degree.
2. Provides that the person sentenced to natural life is not eligible for commutation, parole, work furlough, work release or release from confinement on any basis for the remainder of the person's natural life.
3. Increases the sentencing range for commercial sexual exploitation of a minor to a 13-year minimum, 20-year presumptive and 27-year maximum sentence.
4. Increases the sentencing range for a person convicted of commercial sexual exploitation of a minor who has previously been convicted of one predicate felony to a 23-year minimum, 30-year presumptive and 37-year maximum sentence.
5. Prohibits a person convicted of sex trafficking from being eligible for suspension of sentence, probation, pardon or release from confinement on any basis except as specifically authorized in statute until the sentence imposed by the court has been served or commuted.
6. Requires all sentences for child sex trafficking, rather than only those currently designated in statute, to be consecutive to any other sentence imposed on a person.
7. Increases the sentencing ranges for child sex trafficking as follows:
 - a) for a first offense:
 - i. 10 to 13 years for the minimum sentence;
 - ii. 13.5 to 20 years for the presumptive sentence; and
 - iii. 24 to 27 years for the maximum sentence;
 - b) for a defendant with one historical prior felony conviction:
 - i. 17 to 25 years for the minimum sentence;
 - ii. 24 to 35 years for the presumptive sentence; and
 - iii. 31 to 45 years for the maximum sentence; and
 - c) for a defendant who has two or more historical prior felony convictions:
 - i. 24 to 30 years for the minimum sentence;
 - ii. 31 to 40 years for the presumptive sentence; and
 - iii. 38 to 50 years for the maximum sentence.
8. Specifies that a person previously convicted of child sex trafficking involving a minor who is 15, 16 or 17 years old and who is convicted of any subsequent child sex trafficking offense commits a class 2 felony and requires the person to be sentenced to natural life in prison.
9. Increases, from a class 6 felony to a class 5 felony, engaging in prostitution with a minor who is 15, 16 or 17 years old, unless the person has previously been convicted of child sex trafficking or attempted child sex trafficking, in which case it is a class 2 felony.

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10. Stipulates that commercial sexual exploitation of a minor who is 15, 16 or 17 years old is a class 2 felony and a convicted person is not eligible for suspension of sentence, probation, pardon or release from confinement on any basis until authorized by statute and until the sentence imposed by the court has been served or commuted.
11. Establishes a mandatory sentencing range for commercial sexual exploitation of a minor.
12. Requires specified sentences for child molestation to be served consecutively rather than concurrently.
13. Makes technical and conforming changes.
14. Becomes effective on the general effective date.