

REFERENCE TITLE: drug offenses; homicide; sentencing

State of Arizona  
House of Representatives  
Fifty-fifth Legislature  
Second Regular Session  
2022

# HB 2021

Introduced by  
Representatives Nguyen: Biasiucci, Bowers

## AN ACT

AMENDING SECTIONS 13-705 AND 13-706, ARIZONA REVISED STATUTES; AMENDING TITLE 13, CHAPTER 11, ARIZONA REVISED STATUTES, BY ADDING SECTION 13-1106; RELATING TO DRUG OFFENSES.

(TEXT OF BILL BEGINS ON NEXT PAGE)

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

2 Section 1. Section 13-705, Arizona Revised Statutes, is amended to  
3 read:

4 13-705. Dangerous crimes against children; sentences;  
5 definitions

6 A. A person who is at least eighteen years of age and who is  
7 convicted of a dangerous crime against children in the first degree  
8 involving DRUG TRAFFICKING HOMICIDE, commercial sexual exploitation of a  
9 minor or child sex trafficking and the person has previously been  
10 convicted of a dangerous crime against children in the first degree shall  
11 be sentenced to imprisonment in the custody of the state department of  
12 corrections for natural life. A person who is sentenced to natural life  
13 is not eligible for commutation, parole, work furlough, work release or  
14 release from confinement on any basis for the remainder of the person's  
15 natural life.

16 B. A person who is at least eighteen years of age and who is  
17 convicted of a dangerous crime against children in the first degree  
18 involving DRUG TRAFFICKING HOMICIDE, sexual assault of a minor who is  
19 twelve years of age or younger or sexual conduct with a minor who is  
20 twelve years of age or younger shall be sentenced to life imprisonment and  
21 is not eligible for suspension of sentence, probation, pardon or release  
22 from confinement on any basis except as specifically authorized by section  
23 31-233, subsection A or B until the person has served thirty-five years or  
24 the sentence is commuted. This subsection does not apply to masturbatory  
25 contact.

26 C. Except as otherwise provided in this section, a person who is at  
27 least eighteen years of age or who has been tried as an adult and who is  
28 convicted of a dangerous crime against children in the first degree  
29 involving attempted first degree murder of a minor who is under twelve  
30 years of age, second degree murder of a minor who is under twelve years of  
31 age, sexual assault of a minor who is under twelve years of age, sexual  
32 conduct with a minor who is under twelve years of age or manufacturing  
33 methamphetamine under circumstances that cause physical injury to a minor  
34 who is under twelve years of age may be sentenced to life imprisonment and  
35 is not eligible for suspension of sentence, probation, pardon or release  
36 from confinement on any basis except as specifically authorized by section  
37 31-233, subsection A or B until the person has served thirty-five years or  
38 the sentence is commuted. If a life sentence is not imposed pursuant to  
39 this subsection, the person shall be sentenced to a term of imprisonment  
40 as follows:

<u>Minimum</u>	<u>Presumptive</u>	<u>Maximum</u>
13 years	20 years	27 years

43 D. Except as otherwise provided in this section, a person who is at  
44 least eighteen years of age or who has been tried as an adult and who is  
45 convicted of a dangerous crime against children in the first degree

1 involving attempted first degree murder of a minor who is twelve, thirteen  
2 or fourteen years of age, second degree murder of a minor who is twelve,  
3 thirteen or fourteen years of age, sexual assault of a minor who is  
4 twelve, thirteen or fourteen years of age, taking a child for the purpose  
5 of prostitution, child sex trafficking, commercial sexual exploitation of  
6 a minor, sexual conduct with a minor who is twelve, thirteen or fourteen  
7 years of age, continuous sexual abuse of a child or manufacturing  
8 methamphetamine under circumstances that cause physical injury to a minor  
9 who is twelve, thirteen or fourteen years of age or involving or using  
10 minors in drug offenses shall be sentenced to a term of imprisonment as  
11 follows:

<u>Minimum</u>	<u>Presumptive</u>	<u>Maximum</u>
13 years	20 years	27 years

14 A person who has been previously convicted of one predicate felony shall  
15 be sentenced to a term of imprisonment as follows:

<u>Minimum</u>	<u>Presumptive</u>	<u>Maximum</u>
23 years	30 years	37 years

18 E. Except as otherwise provided in this section, a person who is at  
19 least eighteen years of age or who has been tried as an adult and who is  
20 convicted of a dangerous crime against children in the first degree  
21 involving aggravated assault, unlawful mutilation, molestation of a child,  
22 sexual exploitation of a minor, aggravated luring a minor for sexual  
23 exploitation, child abuse or kidnapping shall be sentenced to a term of  
24 imprisonment as follows:

<u>Minimum</u>	<u>Presumptive</u>	<u>Maximum</u>
10 years	17 years	24 years

27 A person who has been previously convicted of one predicate felony shall  
28 be sentenced to a term of imprisonment as follows:

<u>Minimum</u>	<u>Presumptive</u>	<u>Maximum</u>
21 years	28 years	35 years

31 F. Except as otherwise provided in this section, if a person is at  
32 least eighteen years of age or has been tried as an adult and is convicted  
33 of a dangerous crime against children involving luring a minor for sexual  
34 exploitation, sexual extortion or unlawful age misrepresentation and is  
35 sentenced to a term of imprisonment, the term of imprisonment is as  
36 follows and the person is not eligible for release from confinement on any  
37 basis except as specifically authorized by section 31-233, subsection A or  
38 B until the sentence imposed by the court has been served, the person is  
39 eligible for release pursuant to section 41-1604.07 or the sentence is  
40 commuted:

<u>Minimum</u>	<u>Presumptive</u>	<u>Maximum</u>
5 years	10 years	15 years

43 A person who has been previously convicted of one predicate felony shall  
44 be sentenced to a term of imprisonment as follows and the person is not  
45 eligible for suspension of sentence, probation, pardon or release from

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

5	<u>Minimum</u>	<u>Presumptive</u>	<u>Maximum</u>
6	8 years	15 years	22 years

7 G. Except as otherwise provided in this section, if a person is at  
8 least eighteen years of age or has been tried as an adult and is convicted  
9 of a dangerous crime against children involving sexual abuse or bestiality  
10 under section 13-1411, subsection A, paragraph 2 and is sentenced to a  
11 term of imprisonment, the term of imprisonment is as follows and the  
12 person is not eligible for release from confinement on any basis except as  
13 specifically authorized by section 31-233, subsection A or B until the  
14 sentence imposed by the court has been served, the person is eligible for  
15 release pursuant to section 41-1604.07 or the sentence is commuted:

16	<u>Minimum</u>	<u>Presumptive</u>	<u>Maximum</u>
17	2.5 years	5 years	7.5 years

18 A person who has been previously convicted of one predicate felony shall  
19 be sentenced to a term of imprisonment as follows and the person is not  
20 eligible for suspension of sentence, probation, pardon or release from  
21 confinement on any basis except as specifically authorized by section  
22 31-233, subsection A or B until the sentence imposed by the court has been  
23 served, the person is eligible for release pursuant to section 41-1604.07  
24 or the sentence is commuted:

25	<u>Minimum</u>	<u>Presumptive</u>	<u>Maximum</u>
26	8 years	15 years	22 years

27 H. The presumptive sentences prescribed in subsections C, D and E  
28 of this section or subsections F and G of this section if the person has  
29 previously been convicted of a predicate felony may be increased or  
30 decreased pursuant to section 13-701, subsections C, D and E.

31 I. Except as provided in subsection G of this section, a person who  
32 is sentenced for a dangerous crime against children in the first degree  
33 pursuant to this section is not eligible for suspension of sentence,  
34 probation, pardon or release from confinement on any basis except as  
35 specifically authorized by section 31-233, subsection A or B until the  
36 sentence imposed by the court has been served or commuted.

37 J. A person who is convicted of any dangerous crime against  
38 children in the first degree pursuant to subsection C, D or E of this  
39 section and who has been previously convicted of two or more predicate  
40 felonies shall be sentenced to life imprisonment and is not eligible for  
41 suspension of sentence, probation, pardon or release from confinement on  
42 any basis except as specifically authorized by section 31-233, subsection  
43 A or B until the person has served not fewer than thirty-five years or the  
44 sentence is commuted.

1 K. Notwithstanding chapter 10 of this title, a person who is at  
2 least eighteen years of age or who has been tried as an adult and who is  
3 convicted of a dangerous crime against children in the second degree  
4 pursuant to subsection B, C, D or E of this section is guilty of a class 3  
5 felony and if the person is sentenced to a term of imprisonment, the term  
6 of imprisonment is as follows and the person is not eligible for release  
7 from confinement on any basis except as specifically authorized by section  
8 31-233, subsection A or B until the person has served the sentence imposed  
9 by the court, the person is eligible for release pursuant to section  
10 41-1604.07 or the sentence is commuted:

<u>Minimum</u>	<u>Presumptive</u>	<u>Maximum</u>
5 years	10 years	15 years

13 L. A person who is convicted of any dangerous crime against  
14 children in the second degree and who has been previously convicted of one  
15 or more predicate felonies is not eligible for suspension of sentence,  
16 probation, pardon or release from confinement on any basis except as  
17 specifically authorized by section 31-233, subsection A or B until the  
18 sentence imposed by the court has been served, the person is eligible for  
19 release pursuant to section 41-1604.07 or the sentence is commuted.

20 M. Section 13-704, subsection J and section 13-707, subsection B  
21 apply to the determination of prior convictions.

22 N. The sentence imposed on a person by the court for a dangerous  
23 crime against children under subsection G of this section involving sexual  
24 abuse may be served concurrently with other sentences if the offense  
25 involved only one victim. The sentence imposed on a person for any other  
26 dangerous crime against children in the first or second degree shall be  
27 consecutive to any other sentence imposed on the person at any time,  
28 including sexual abuse of the same victim.

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

31 P. A dangerous crime against children is in the first degree if it  
32 is a completed offense and is in the second degree if it is a preparatory  
33 offense, except attempted first degree murder is a dangerous crime against  
34 children in the first degree.

35 Q. It is not a defense to a dangerous crime against children that  
36 the minor is a person posing as a minor or is otherwise fictitious if the  
37 defendant knew or had reason to know the purported minor was under fifteen  
38 years of age.

39 R. For the purposes of this section:

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

42 (a) Second degree murder.

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

- 1 (c) Sexual assault.
- 2 (d) Molestation of a child.
- 3 (e) Sexual conduct with a minor.
- 4 (f) Commercial sexual exploitation of a minor.
- 5 (g) Sexual exploitation of a minor.
- 6 (h) Child abuse as prescribed in section 13-3623, subsection A,
- 7 paragraph 1.
- 8 (i) Kidnapping.
- 9 (j) Sexual abuse.
- 10 (k) Taking a child for the purpose of prostitution as prescribed in
- 11 section 13-3206.
- 12 (l) Child sex trafficking as prescribed in section 13-3212.
- 13 (m) Involving or using minors in drug offenses.
- 14 (n) Continuous sexual abuse of a child.
- 15 (o) Attempted first degree murder.
- 16 (p) Sex trafficking.
- 17 (q) Manufacturing methamphetamine under circumstances that cause
- 18 physical injury to a minor.
- 19 (r) Bestiality as prescribed in section 13-1411, subsection A,
- 20 paragraph 2.
- 21 (s) Luring a minor for sexual exploitation.
- 22 (t) Aggravated luring a minor for sexual exploitation.
- 23 (u) Unlawful age misrepresentation.
- 24 (v) Unlawful mutilation.
- 25 (w) Sexual extortion as prescribed in section 13-1428.
- 26 (x) DRUG TRAFFICKING HOMICIDE.

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

33 Sec. 2. Section 13-706, Arizona Revised Statutes, is amended to  
34 read:

35 13-706. Serious, violent or aggravated offenders; sentencing;  
36 life imprisonment; definitions

37 A. A person who is at least eighteen years of age or who has been  
38 tried as an adult and who is convicted of a serious offense except a drug  
39 offense, first degree murder or any dangerous crime against children as  
40 defined in section 13-705, whether a completed or preparatory offense, and  
41 who has previously been convicted of two or more serious offenses not  
42 committed on the same occasion shall be sentenced to life imprisonment and  
43 is not eligible for suspension of sentence, probation, pardon or release  
44 from confinement on any basis, except as specifically authorized by

1 section 31-233, subsection A or B, until the person has served at least  
2 twenty-five years or the sentence is commuted.

3 B. Unless a longer term of imprisonment or death is the prescribed  
4 penalty and notwithstanding any provision that establishes a shorter term  
5 of imprisonment, a person who has been convicted of committing or  
6 attempting or conspiring to commit any violent or aggravated felony and  
7 who has previously been convicted on separate occasions of two or more  
8 violent or aggravated felonies not committed on the same occasion shall be  
9 sentenced to imprisonment for life and is not eligible for suspension of  
10 sentence, probation, pardon or release on any basis except that the person  
11 may be eligible for commutation after the person has served at least  
12 thirty-five years.

13 C. In order for the penalty under subsection B of this section to  
14 apply, both of the following must occur:

15 1. The aggravated or violent felonies that comprise the prior  
16 convictions shall have been entered within fifteen years of the conviction  
17 for the third offense, not including time spent in custody or on probation  
18 for an offense or while the person is an absconder.

19 2. The sentence for the first aggravated or violent felony  
20 conviction shall have been imposed before the conduct occurred that gave  
21 rise to the second conviction, and the sentence for the second aggravated  
22 or violent felony conviction shall have been imposed before the conduct  
23 occurred that gave rise to the third conviction.

24 D. Chapter 3 of this title applies to all offenses under this  
25 section.

26 E. For the purposes of this section, if a person has been convicted  
27 of an offense committed in another jurisdiction that if committed in this  
28 state would be a violation or attempted violation of any of the offenses  
29 listed in this section and that has the same elements of an offense listed  
30 in this section, the offense committed in another jurisdiction is  
31 considered an offense committed in this state.

32 F. For the purposes of this section:

33 1. "Serious offense" means any of the following offenses if  
34 committed in this state or any offense committed outside this state that  
35 if committed in this state would constitute one of the following offenses:

36 (a) First degree murder.

37 (b) Second degree murder.

38 (c) Manslaughter.

39 (d) Aggravated assault resulting in serious physical injury or  
40 involving the discharge, use or threatening exhibition of a deadly weapon  
41 or dangerous instrument.

42 (e) Sexual assault.

43 (f) Any dangerous crime against children.

44 (g) Arson of an occupied structure.

- 1 (h) Armed robbery.
- 2 (i) Burglary in the first degree.
- 3 (j) Kidnapping.
- 4 (k) Sexual conduct with a minor under fifteen years of age.
- 5 (l) Child sex trafficking.
- 6 (m) DRUG TRAFFICKING HOMICIDE.
- 7 2. "Violent or aggravated felony" means any of the following
- 8 offenses:
- 9 (a) First degree murder.
- 10 (b) Second degree murder.
- 11 (c) Aggravated assault resulting in serious physical injury or
- 12 involving the discharge, use or threatening exhibition of a deadly weapon
- 13 or dangerous instrument.
- 14 (d) Dangerous or deadly assault by prisoner.
- 15 (e) Committing assault with intent to incite to riot or participate
- 16 in riot.
- 17 (f) Drive by shooting.
- 18 (g) Discharging a firearm at a residential structure if the
- 19 structure is occupied.
- 20 (h) Kidnapping.
- 21 (i) Sexual conduct with a minor that is a class 2 felony.
- 22 (j) Sexual assault.
- 23 (k) Molestation of a child.
- 24 (l) Continuous sexual abuse of a child.
- 25 (m) Violent sexual assault.
- 26 (n) Burglary in the first degree committed in a residential
- 27 structure if the structure is occupied.
- 28 (o) Arson of an occupied structure.
- 29 (p) Arson of an occupied jail or prison facility.
- 30 (q) Armed robbery.
- 31 (r) Participating in or assisting a criminal syndicate or leading
- 32 or participating in a criminal street gang.
- 33 (s) Terrorism.
- 34 (t) Taking a child for the purpose of prostitution.
- 35 (u) Child sex trafficking.
- 36 (v) Commercial sexual exploitation of a minor.
- 37 (w) Sexual exploitation of a minor.
- 38 (x) Unlawful introduction of disease or parasite as prescribed by
- 39 section 13-2912, subsection A, paragraph 2 or 3.
- 40 (y) DRUG TRAFFICKING HOMICIDE.
- 41 Sec. 3. Title 13, chapter 11, Arizona Revised Statutes, is amended
- 42 by adding section 13-1106, to read:
- 43 13-1106. Drug trafficking homicide; classification
- 44 A. A PERSON COMMITS DRUG TRAFFICKING HOMICIDE IF BOTH OF THE
- 45 FOLLOWING APPLY:



1 1. THE PERSON TRANSFERS A DANGEROUS DRUG IN VIOLATION OF SECTION  
2 13-3407 OR A NARCOTIC DRUG IN VIOLATION OF SECTION 13-3408 AND INJECTING,  
3 INHALING, ABSORBING OR INGESTING THE DANGEROUS DRUG OR NARCOTIC DRUG  
4 CAUSES ANOTHER PERSON'S DEATH.

5 2. TRANSFERRING THE DANGEROUS DRUG OR NARCOTIC DRUG TO THE OTHER  
6 PERSON WAS A CONTRIBUTING CAUSE OF THE OTHER PERSON'S DEATH AND THE DEATH  
7 DID NOT RESULT FROM A CAUSE THAT IS NOT CONNECTED TO THE DEFENDANT. FOR  
8 THE PURPOSES OF THIS PARAGRAPH, THE STATE IS NOT REQUIRED TO PROVE THAT  
9 THE TRANSFER OF THE DANGEROUS DRUG OR NARCOTIC DRUG WAS THE SOLE AND  
10 IMMEDIATE CAUSE OF THE OTHER PERSON'S DEATH.

11 B. FOR THE PURPOSES OF THIS SECTION, IT IS A REBUTTABLE PRESUMPTION  
12 THAT THE DANGEROUS DRUG OR NARCOTIC DRUG THAT THE PERSON TRANSFERRED TO  
13 THE VICTIM WAS THE SAME DANGEROUS DRUG OR NARCOTIC DRUG THAT CAUSED THE  
14 VICTIM'S DEATH IF THE STATE PROVES BOTH OF THE FOLLOWING BEYOND A  
15 REASONABLE DOUBT:

16 1. THE PERSON TRANSFERRED A DANGEROUS DRUG OR NARCOTIC DRUG TO THE  
17 VICTIM WITHIN TWENTY-FOUR HOURS BEFORE THE VICTIM INJECTED, INHALED,  
18 ABSORBED OR INGESTED THE DANGEROUS DRUG OR NARCOTIC DRUG.

19 2. THE VICTIM'S DEATH WAS CAUSED BY THE SAME TYPE OF DANGEROUS DRUG  
20 OR NARCOTIC DRUG THAT THE PERSON TRANSFERRED AS PRESCRIBED IN PARAGRAPH 1  
21 OF THIS SUBSECTION.

22 C. DRUG TRAFFICKING HOMICIDE IS A CLASS 1 FELONY AND IS PUNISHABLE  
23 AS FOLLOWS:

<u>MINIMUM</u>	<u>PRESUMPTIVE</u>	<u>MAXIMUM</u>
10 CALENDAR YEARS	16 CALENDAR YEARS	25 CALENDAR YEARS

26 D. EXCEPT AS PROVIDED IN SECTION 13-704, A PERSON WHO IS CONVICTED  
27 OF DRUG TRAFFICKING HOMICIDE AND WHO HAS PREVIOUSLY BEEN CONVICTED OF DRUG  
28 TRAFFICKING HOMICIDE OR A CLASS 2 OR 3 FELONY INVOLVING A DANGEROUS  
29 OFFENSE SHALL BE SENTENCED AS FOLLOWS:

<u>MINIMUM</u>	<u>PRESUMPTIVE</u>	<u>MAXIMUM</u>
15 CALENDAR YEARS	20 CALENDAR YEARS	29 CALENDAR YEARS

32 E. THE PRESUMPTIVE TERM IMPOSED PURSUANT TO SUBSECTIONS C AND D OF  
33 THIS SECTION MAY BE MITIGATED OR AGGRAVATED PURSUANT TO SECTION 13-701,  
34 SUBSECTIONS D AND E.

35 F. NOTWITHSTANDING SUBSECTION C OR D OF THIS SECTION, IF THE VICTIM  
36 IS UNDER FIFTEEN YEARS OF AGE, DRUG TRAFFICKING HOMICIDE IS PUNISHABLE  
37 PURSUANT TO SECTION 13-705.

38 Sec. 4. Short title  
39 This act may be cited as the "Ashley Dunn Act".