

REFERENCE TITLE: aggravated assault; biting; bodily fluid

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

HB 2249

Introduced by
Representatives Finchem: Barton

AN ACT

AMENDING SECTION 13-1204, ARIZONA REVISED STATUTES; RELATING TO AGGRAVATED ASSAULT.

(TEXT OF BILL BEGINS ON NEXT PAGE)

1 Be it enacted by the Legislature of the State of Arizona:
2 Section 1. Section 13-1204, Arizona Revised Statutes, is amended to
3 read:
4 13-1204. Aggravated assault; classification; definitions
5 A. A person commits aggravated assault if the person commits
6 assault as prescribed by section 13-1203 under any of the following
7 circumstances:
8 1. If the person causes serious physical injury to another.
9 2. If the person uses a deadly weapon or dangerous instrument.
10 3. If the person commits the assault by any means of force that
11 causes temporary but substantial disfigurement, temporary but substantial
12 loss or impairment of any body organ or part or a fracture of any body
13 part.
14 4. If the person commits the assault while the victim is bound or
15 otherwise physically restrained or while the victim's capacity to resist
16 is substantially impaired.
17 5. If the person commits the assault after entering the private
18 home of another with the intent to commit the assault.
19 6. If the person is eighteen years of age or older and commits the
20 assault on a minor under fifteen years of age.
21 7. If the person commits assault as prescribed by section 13-1203,
22 subsection A, paragraph 1 or 3 and the person is in violation of an order
23 of protection issued against the person pursuant to section 13-3602 or
24 13-3624.
25 8. If the person commits the assault knowing or having reason to
26 know that the victim is any of the following:
27 (a) A peace officer or a person summoned and directed by the
28 officer.
29 (b) A constable or a person summoned and directed by the constable
30 while engaged in the execution of any official duties or if the assault
31 results from the execution of the constable's official duties.
32 (c) A firefighter, fire investigator, fire inspector, emergency
33 medical technician or paramedic engaged in the execution of any official
34 duties or a person summoned and directed by such individual while engaged
35 in the execution of any official duties or if the assault results from the
36 execution of the official duties of the firefighter, fire investigator,
37 fire inspector, emergency medical technician or paramedic.
38 (d) A teacher or other person employed by any school and the
39 teacher or other employee is on the grounds of a school or grounds
40 adjacent to the school or is in any part of a building or vehicle used for
41 school purposes, any teacher or school nurse visiting a private home in
42 the course of the teacher's or nurse's professional duties or any teacher
43 engaged in any authorized and organized classroom activity held on other
44 than school grounds.

1 (e) A health ~~care practitioner who is certified or licensed~~
2 ~~pursuant to title 32, chapter 13, 15, 17 or 25,~~ PROFESSIONAL or a person
3 summoned and directed by the ~~licensed~~ health ~~care practitioner~~
4 PROFESSIONAL while engaged in the person's professional duties. This
5 subdivision does not apply if the person who commits the assault is
6 seriously mentally ill, as defined in section 36-550, or is afflicted with
7 alzheimer's disease or related dementia.

8 (f) A prosecutor while engaged in the execution of any official
9 duties or if the assault results from the execution of the prosecutor's
10 official duties.

11 (g) A code enforcement officer as defined in section 39-123 while
12 engaged in the execution of any official duties or if the assault results
13 from the execution of the code enforcement officer's official duties.

14 (h) A state or municipal park ranger while engaged in the execution
15 of any official duties or if the assault results from the execution of the
16 park ranger's official duties.

17 (i) A public defender while engaged in the execution of any
18 official duties or if the assault results from the execution of the public
19 defender's official duties.

20 (j) A judicial officer while engaged in the execution of any
21 official duties or if the assault results from the execution of the
22 judicial officer's official duties.

23 9. If the person knowingly takes or attempts to exercise control
24 over any of the following:

25 (a) A peace officer's or other officer's firearm and the person
26 knows or has reason to know that the victim is a peace officer or other
27 officer employed by one of the agencies listed in paragraph 10,
28 subdivision (a), item (i), (ii), (iii), (iv) or (v) of this subsection.

29 (b) Any weapon other than a firearm that is being used by a peace
30 officer or other officer or that the officer is attempting to use, and the
31 person knows or has reason to know that the victim is a peace officer or
32 other officer employed by one of the agencies listed in paragraph 10,
33 subdivision (a), item (i), (ii), (iii), (iv) or (v) of this subsection.

34 (c) Any implement that is being used by a peace officer or other
35 officer or that the officer is attempting to use, and the person knows or
36 has reason to know that the victim is a peace officer or other officer
37 employed by one of the agencies listed in paragraph 10, subdivision (a),
38 item (i), (ii), (iii), (iv) or (v) of this subsection. For the purposes
39 of this subdivision, "implement" means an object that is designed for or
40 that is capable of restraining or injuring an individual. Implement does
41 not include handcuffs.

42 10. If the person meets both of the following conditions:

43 (a) Is imprisoned or otherwise subject to the custody of any of the
44 following:

45 (i) The state department of corrections.

1 (ii) The department of juvenile corrections.

2 (iii) A law enforcement agency.

3 (iv) A county or city jail or an adult or juvenile detention
4 facility of a city or county.

5 (v) Any other entity that is contracting with the state department
6 of corrections, the department of juvenile corrections, a law enforcement
7 agency, another state, any private correctional facility, a county, a city
8 or the federal bureau of prisons or other federal agency that has
9 responsibility for sentenced or unsentenced prisoners.

10 (b) Commits an assault knowing or having reason to know that the
11 victim is acting in an official capacity as an employee of any of the
12 entities listed in subdivision (a) of this paragraph.

13 11. If the person uses a simulated deadly weapon.

14 12. IF THE PERSON COMMITS THE ASSAULT BY BITING ANOTHER PERSON OR
15 THROWING OR PROJECTING BODILY FLUIDS ON OR AT ANOTHER PERSON.

16 B. A person commits aggravated assault if the person commits
17 assault by either intentionally, knowingly or recklessly causing any
18 physical injury to another person, intentionally placing another person in
19 reasonable apprehension of imminent physical injury or knowingly touching
20 another person with the intent to injure the person, and both of the
21 following occur:

22 1. The person intentionally or knowingly impedes the normal
23 breathing or circulation of blood of another person by applying pressure
24 to the throat or neck or by obstructing the nose and mouth either manually
25 or through the use of an instrument.

26 2. Any of the circumstances exists that are set forth in section
27 13-3601, subsection A, paragraph 1, 2, 3, 4, 5 or 6.

28 C. A person who is convicted of intentionally or knowingly
29 committing aggravated assault on a peace officer pursuant to subsection A,
30 paragraph 1 or 2 of this section shall be sentenced to imprisonment for
31 not less than the presumptive sentence authorized under chapter 7 of this
32 title and is not eligible for suspension of sentence, commutation or
33 release on any basis until the sentence imposed is served.

34 D. It is not a defense to a prosecution for assaulting a peace
35 officer or a mitigating circumstance that the peace officer was not on
36 duty or engaged in the execution of any official duties.

37 E. Except pursuant to subsections F and G of this section,
38 aggravated assault pursuant to subsection A, paragraph 1 or 2, paragraph
39 9, subdivision (a) or paragraph 11 of this section is a class 3 felony
40 except if the aggravated assault is a violation of subsection A, paragraph
41 1 or 2 of this section and the victim is under fifteen years of age it is
42 a class 2 felony punishable pursuant to section 13-705. Aggravated
43 assault pursuant to subsection A, paragraph 3 or subsection B of this
44 section is a class 4 felony. Aggravated assault pursuant to subsection A,
45 paragraph 9, subdivision (b) or paragraph 10 of this section is a class 5

1 felony. Aggravated assault pursuant to subsection A, paragraph 4, 5, 6, 7,
2 ~~8~~ 8 OR 12 or paragraph 9, subdivision (c) of this section is a class 6
3 felony.

4 F. Aggravated assault pursuant to subsection A, paragraph 1 or 2 of
5 this section committed on a peace officer is a class 2 felony. Aggravated
6 assault pursuant to subsection A, paragraph 3 of this section committed on
7 a peace officer is a class 3 felony. Aggravated assault pursuant to
8 subsection A, paragraph 8, subdivision (a) of this section committed on a
9 peace officer is a class 5 felony unless the assault results in any
10 physical injury to the peace officer, in which case it is a class 4
11 felony.

12 G. Aggravated assault pursuant to:

13 1. Subsection A, paragraph 1 or 2 of this section is a class 2
14 felony if committed on a prosecutor.

15 2. Subsection A, paragraph 3 of this section is a class 3 felony if
16 committed on a prosecutor.

17 3. Subsection A, paragraph 8, subdivision (f) of this section is a
18 class 5 felony if the assault results in physical injury to a prosecutor.

19 H. For the purposes of this section:

20 1. "BODILY FLUIDS" MEANS SALIVA, BLOOD, SEMINAL FLUID, URINE OR
21 FECES.

22 2. "HEALTH PROFESSIONAL" HAS THE SAME MEANING PRESCRIBED IN SECTION
23 32-3201.

24 ~~3.~~ 3. "Judicial officer" means a justice of the supreme court,
25 judge, justice of the peace or magistrate or a commissioner or hearing
26 officer of a state, county or municipal court.

27 ~~4.~~ 4. "Prosecutor" means a county attorney, a municipal prosecutor
28 or the attorney general and includes an assistant or deputy county
29 attorney, municipal prosecutor or attorney general.