

REFERENCE TITLE: **sentencing; mandatory minimum; exception**

State of Arizona
Senate
Fifty-fifth Legislature
Second Regular Session
2022

SB 1648

Introduced by
Senators Terán: Alston, Contreras, Gabaldon, Gonzales, Hatathlie, Otondo,
Quezada, Rios, Stahl Hamilton; Representatives Hernandez M, Solorio

AN ACT

AMENDING TITLE 13, CHAPTER 7, ARIZONA REVISED STATUTES, BY ADDING SECTION 13-719; RELATING TO SENTENCING.

(TEXT OF BILL BEGINS ON NEXT PAGE)

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

2 Section 1. Title 13, chapter 7, Arizona Revised Statutes, is
3 amended by adding section 13-719, to read:

4 13-719. Mandatory minimum sentence exception; factors to
5 consider; sentencing record

6 A. NOTWITHSTANDING ANY OTHER LAW, THE COURT MAY IMPOSE A SENTENCE
7 THAT IS BELOW A MANDATORY MINIMUM SENTENCE IF THE COURT FINDS THAT IT IS
8 NECESSARY IN ORDER TO COMPLY WITH SUBSECTION B OF THIS SECTION.

9 B. THE COURT SHALL IMPOSE A SENTENCE THAT IS SUFFICIENT, BUT NOT
10 GREATER THAN NECESSARY, TO COMPLY WITH THE PURPOSES LISTED IN PARAGRAPH 2
11 OF THIS SUBSECTION. THE COURT SHALL CONSIDER ALL OF THE FOLLOWING TO
12 DETERMINE THE PARTICULAR SENTENCE TO IMPOSE:

13 1. THE NATURE AND CIRCUMSTANCES OF THE OFFENSE AND THE HISTORY AND
14 CHARACTERISTICS OF THE DEFENDANT.

15 2. THE NEED FOR THE SENTENCE IMPOSED TO DO ALL OF THE FOLLOWING:

16 (a) REFLECT THE SERIOUSNESS OF THE OFFENSE, TO PROMOTE RESPECT FOR
17 THE LAW AND TO PROVIDE JUST PUNISHMENT FOR THE OFFENSE.

18 (b) AFFORD ADEQUATE DETERRENCE TO CRIMINAL CONDUCT.

19 (c) PROTECT THE PUBLIC FROM THE DEFENDANT COMMITTING FURTHER CRIME.

20 (d) PROVIDE THE DEFENDANT WITH NEEDED EDUCATION OR VOCATIONAL
21 TRAINING, MEDICAL CARE OR OTHER CORRECTIONAL TREATMENT IN THE MOST
22 EFFECTIVE MANNER.

23 3. THE KINDS OF SENTENCES THAT ARE AVAILABLE.

24 4. THE KINDS OF SENTENCE AND THE SENTENCING RANGES THAT ARE
25 ESTABLISHED FOR THE APPLICABLE CATEGORY OF OFFENSE COMMITTED BY THE
26 APPLICABLE CATEGORY OF DEFENDANT AS SET FORTH IN STATUTE.

27 5. THE NEED TO AVOID UNWARRANTED SENTENCE DISPARITIES AMONG
28 DEFENDANTS WHO HAVE SIMILAR CRIMINAL HISTORY RECORDS AND WHO HAVE BEEN
29 FOUND GUILTY OF SIMILAR CONDUCT.

30 6. THE NEED TO PROVIDE RESTITUTION TO ANY VICTIM OF THE OFFENSE.

31 C. BEFORE IMPOSING A SENTENCE THAT IS BELOW THE MANDATORY MINIMUM,
32 THE COURT SHALL PROVIDE THE PARTIES NOTICE OF THE COURT'S INTENT TO DO SO
33 AND AN OPPORTUNITY TO RESPOND. THE COURT SHALL INCLUDE IN THE DEFENDANT'S
34 SENTENCING RECORD THE REASONS THAT THE SPECIFIC FACTORS LISTED IN
35 SUBSECTION B OF THIS SECTION REQUIRE THE IMPOSITION OF A SENTENCE THAT IS
36 BELOW THE STATUTORY MINIMUM.

37 D. THIS SECTION DOES NOT LIMIT ANY OF THE DEFENDANT'S APPEAL
38 RIGHTS.