

House Engrossed

observing nude minor; sexual gratification

State of Arizona  
House of Representatives  
Fifty-sixth Legislature  
Second Regular Session  
2024

# HOUSE BILL 2835

AN ACT

AMENDING SECTIONS 13-1407 AND 13-3553, ARIZONA REVISED STATUTES; RELATING  
TO SEXUAL EXPLOITATION OF CHILDREN.

(TEXT OF BILL BEGINS ON NEXT PAGE)

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

2 Section 1. Section 13-1407, Arizona Revised Statutes, is amended to  
3 read:

4 13-1407. Defenses

5 A. It is a defense to a prosecution pursuant to sections 13-1404  
6 and 13-1405 involving a minor if the act was done in furtherance of lawful  
7 medical practice.

8 B. It is a defense to a prosecution pursuant to sections 13-1404  
9 and 13-1405 in which the victim's lack of consent is based on incapacity  
10 to consent because the victim was fifteen, sixteen or seventeen years of  
11 age if at the time the defendant engaged in the conduct constituting the  
12 offense the defendant did not know and could not reasonably have known the  
13 age of the victim.

14 C. It is a defense to a prosecution pursuant to section 13-1402,  
15 13-1404, 13-1405 or 13-1406 if the act was done by a duly licensed  
16 physician or registered nurse or a person acting under the physician's or  
17 nurse's direction, or any other person who renders emergency care at the  
18 scene of an emergency occurrence, the act consisted of administering a  
19 recognized and lawful form of treatment that was reasonably adapted to  
20 promoting the physical or mental health of the patient and the treatment  
21 was administered in an emergency when the duly licensed physician or  
22 registered nurse or a person acting under the physician's or nurse's  
23 direction, or any other person rendering emergency care at the scene of an  
24 emergency occurrence, reasonably believed that no one competent to consent  
25 could be consulted and that a reasonable person, wishing to safeguard the  
26 welfare of the patient, would consent.

27 D. It is a defense to a prosecution pursuant to section 13-1404 or  
28 13-1405 that the person was the spouse of the other person at the time of  
29 commission of the act. It is not a defense to a prosecution pursuant to  
30 section 13-1406 that the defendant was the spouse of the victim at the  
31 time of commission of the act.

32 E. It is a defense to a prosecution pursuant to sections 13-1405,  
33 13-3553, SUBSECTION A, PARAGRAPH 4 and 13-3560 if the victim is fifteen,  
34 sixteen or seventeen years of age, the defendant is under nineteen years  
35 of age or attending high school and is no more than twenty-four months  
36 older than the victim and the conduct is consensual.

37 Sec. 2. Section 13-3553, Arizona Revised Statutes, is amended to  
38 read:

39 13-3553. Sexual exploitation of a minor; evidence;  
40 classification; definition

41 A. A person commits sexual exploitation of a minor by knowingly:

42 1. Recording, filming, photographing, developing or duplicating any  
43 visual depiction in which a minor is engaged in exploitive exhibition or  
44 other sexual conduct.

1           2. Distributing, transporting, exhibiting, receiving, selling,  
2 purchasing, electronically transmitting, possessing or exchanging any  
3 visual depiction in which a minor is engaged in exploitive exhibition or  
4 other sexual conduct.

5           3. Possessing, manufacturing, distributing, advertising, ordering,  
6 offering to sell, selling or purchasing a child sex doll that uses the  
7 face, image or likeness of a real infant or minor who is under twelve  
8 years of age with the intent to replicate the physical features of ~~the~~  
9 ~~THAT~~ real infant or minor who is under twelve years of age.

10           4. OBSERVING A NUDE MINOR FOR THE PURPOSE OF ENGAGING IN SEXUAL  
11 CONDUCT FOR THE PERSON'S SEXUAL GRATIFICATION.

12           B. If any visual depiction of sexual exploitation of a minor is  
13 admitted into evidence, the court shall seal that evidence at the  
14 conclusion of any grand jury proceeding, hearing or trial.

15           C. Sexual exploitation of a minor is a class 2 felony and if the  
16 minor is under fifteen years of age it is punishable pursuant to section  
17 13-705.

18           D. For the purposes of this section, "child sex doll" has the same  
19 meaning prescribed in section 13-1429.