

REFERENCE TITLE: aggravated assault; developmental disability; exception

State of Arizona
Senate
Fifty-sixth Legislature
Second Regular Session
2024

SB 1594

Introduced by
Senator Wadsack: Representative Hernandez C

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 worker while engaged in the health care worker's
2 work duties or a health care practitioner who is certified or licensed
3 pursuant to title 32, chapter 13, 14, 15, 17 or 25, or a person summoned
4 and directed by the licensed health care practitioner while engaged in the
5 person's professional duties. This subdivision does not apply if the
6 person who commits the assault does not have the ability to form the
7 culpable mental state because of a mental disability, **DEVELOPMENTAL**
8 **DISABILITY OR COGNITIVE DISABILITY** or because the person is seriously
9 mentally ill, as defined in section 36-550.

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

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

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

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

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

25 (k) An employee of a law enforcement agency, other than a peace
26 officer, while engaged in the execution of any official duties.

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

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

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

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

1 10. If the person meets both of the following conditions:
2 (a) Is imprisoned or otherwise subject to the custody of any of the
3 following:
4 (i) The state department of corrections.
5 (ii) The department of juvenile corrections.
6 (iii) A law enforcement agency.
7 (iv) A county or city jail or an adult or juvenile detention
8 facility of a city or county.
9 (v) Any other entity that is contracting with the state department
10 of corrections, the department of juvenile corrections, a law enforcement
11 agency, another state, any private correctional facility, a county, a city
12 or the federal bureau of prisons or other federal agency that has
13 responsibility for sentenced or unsentenced prisoners.
14 (b) Commits an assault knowing or having reason to know that the
15 victim is acting in an official capacity as an employee of any of the
16 entities listed in subdivision (a) of this paragraph.
17 11. If the person uses a simulated deadly weapon.
18 B. A person commits aggravated assault if the person commits
19 assault by either intentionally, knowingly or recklessly causing any
20 physical injury to another person, intentionally placing another person in
21 reasonable apprehension of imminent physical injury or knowingly touching
22 another person with the intent to injure the person, and both of the
23 following occur:
24 1. The person intentionally or knowingly impedes the normal
25 breathing or circulation of blood of another person by applying pressure
26 to the throat or neck or by obstructing the nose and mouth either manually
27 or through the use of an instrument.
28 2. Any of the circumstances exists that are set forth in section
29 13-3601, subsection A, paragraph 1, 2, 3, 4, 5 or 6.
30 C. A person who is convicted of intentionally or knowingly
31 committing aggravated assault on a peace officer pursuant to subsection A,
32 paragraph 1 or 2 of this section shall be sentenced to imprisonment for
33 not less than the presumptive sentence authorized under chapter 7 of this
34 title and is not eligible for suspension of sentence, commutation or
35 release on any basis until the sentence imposed is served.
36 D. If a person is convicted of committing aggravated assault on a
37 peace officer pursuant to this section and the trier of fact determines
38 that section 13-701, subsection D, paragraph 17 applies, the person shall
39 be sentenced to two years more than would otherwise be imposed for the
40 offense. The additional sentence imposed under this subsection is in
41 addition to any enhanced punishment that may be applicable under this
42 section or chapter 7 of this title. ~~and~~ THE PERSON is not eligible for
43 suspension of sentence, commutation or release from confinement on any
44 basis, except as specifically authorized by section 31-233, subsection A

1 or B, until the sentence imposed is served, the person is eligible for
2 release pursuant to section 41-1604.07 or the sentence is commuted.

3 E. It is not a defense to a prosecution for assaulting a peace
4 officer or a mitigating circumstance that the peace officer was not on
5 duty or engaged in the execution of any official duties.

6 F. Except pursuant to subsections G and H of this section,
7 aggravated assault pursuant to subsection A, paragraph 1 or 2, paragraph
8 9, subdivision (a) or paragraph 11 of this section is a class 3 felony
9 except if the aggravated assault is a violation of subsection A, paragraph
10 1 or 2 of this section and the victim is under fifteen years of age it is
11 a class 2 felony punishable pursuant to section 13-705. Aggravated
12 assault pursuant to subsection A, paragraph 3 or subsection B of this
13 section is a class 4 felony. Aggravated assault pursuant to subsection A,
14 paragraph 9, subdivision (b) or paragraph 10 of this section is a class 5
15 felony. Aggravated assault pursuant to subsection A, paragraph 4, 5, 6, 7
16 or 8 or paragraph 9, subdivision (c) of this section is a class 6 felony.

17 G. Aggravated assault pursuant to subsection A, paragraph 1 or 2 of
18 this section committed on a peace officer or an employee of a law
19 enforcement agency is a class 2 felony. Aggravated assault pursuant to
20 subsection A, paragraph 3 of this section committed on a peace officer or
21 an employee of a law enforcement agency is a class 3 felony. Aggravated
22 assault pursuant to subsection A, paragraph 8, subdivision (a) or (k) of
23 this section committed on a peace officer or an employee of a law
24 enforcement agency is a class 5 felony unless the assault results in any
25 physical injury to the peace officer or employee, in which case it is a
26 class 4 felony.

27 H. Aggravated assault pursuant to:

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

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

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

34 I. For the purposes of this section:

35 1. "Health care worker" means:

36 (a) A person who is employed by or contracted to work at a health
37 care institution that is licensed pursuant to title 36.

38 (b) A person who is employed or contracted to provide health care
39 or related services in a fieldwork setting, including:

40 (i) Home health care, home-based hospice and home-based social
41 work, unless the worker is employed or contracted by an individual who
42 privately employs, in the individual's residence, the worker to perform
43 covered services for the individual or a family member of the individual.

44 (ii) Any emergency services and transport, including the services
45 provided by firefighters and emergency responders.

1 2. "Judicial officer" means a justice of the supreme court, judge,
2 justice of the peace or magistrate or a commissioner or hearing officer of
3 a state, county or municipal court.

4 3. "Mental disability" means a disabling neurological condition, or
5 brain injury, or involuntary impairment as a result of a medication that
6 is administered by a health care provider or a medical procedure that is
7 performed at a health care treatment site.

8 4. "Prosecutor" means a county attorney, a municipal prosecutor or
9 the attorney general and includes an assistant or deputy county attorney,
10 municipal prosecutor or attorney general.