Conference Engrossed

FILED

JANICE K. BREWER
SECRETARY OF STATE

State of Arizona
Senate
Forty-seventh Legislature
Second Regular Session
2006

CHAPTER 295

SENATE BILL 1160

AN ACT

AMENDING TITLE 12, CHAPTER 7, ARIZONA REVISED STATUTES, BY ADDING ARTICLE 13; AMENDING SECTIONS 13-604.01 AND 13-1403, ARIZONA REVISED STATUTES; AMENDING TITLE 13, CHAPTER 14, ARIZONA REVISED STATUTES, BY ADDING SECTION 13-1411; RELATING TO ANIMAL WELFARE.

(TEXT OF BILL BEGINS ON NEXT PAGE)

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

Section 1. Title 12, chapter 7, Arizona Revised Statutes, is amended by adding article 13, to read:

ARTICLE 13. LIABILITY FOR ANIMAL RESCUE COSTS

12-1011. Liability for animal rescue costs

AN OWNER IS LIABLE TO THIS STATE OR A POLITICAL SUBDIVISION OF THIS STATE FOR THE EXPENSES INCURRED BY THIS STATE OR A POLITICAL SUBDIVISION OF THIS STATE IN RESCUING ANIMALS THAT BELONG TO THE OWNER IF THE ANIMALS HAVE BEEN CRUELLY TREATED OR NEGLECTED AND THE OWNER HAS BEEN CONVICTED OF A VIOLATION OF SECTION 13-2910.

Sec. 2. Section 13-604.01, Arizona Revised Statutes, is amended to read:

13-604.01. Dangerous crimes against children; sentences; definitions

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

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

C. Except as otherwise provided in this section, a person who is at least eighteen years of age or who has been tried as an adult and who stands convicted of a dangerous crime against children in the first degree involving attempted first degree murder of a minor who is twelve, thirteen or fourteen years of age, second degree murder of a minor who is twelve, thirteen or fourteen years of age, sexual assault of a minor who is twelve, thirteen or fourteen years of age, taking a child for the purpose of prostitution, child

prostitution, sexual conduct with a minor who is twelve, thirteen or fourteen years of age, continuous sexual abuse of a child, sex trafficking of a minor who is under fifteen years of age~~,~~ OR manufacturing methamphetamine under circumstances that cause physical injury to a minor who is twelve, thirteen or fourteen years of age or involving or using minors in drug offenses shall be sentenced to a presumptive term of imprisonment for twenty years. If the convicted person has been previously convicted of one predicate felony the person shall be sentenced to a presumptive term of imprisonment for thirty years.

D. Except as otherwise provided in this section, a person who is at least eighteen years of age or who has been tried as an adult and who stands convicted of a dangerous crime against children in the first degree involving aggravated assault, molestation of a child, commercial sexual exploitation of a minor, sexual exploitation of a minor, child abuse or kidnapping shall be sentenced to a presumptive term of imprisonment for seventeen years. If the convicted person has been previously convicted of one predicate felony the person shall be sentenced to a presumptive term of imprisonment for twenty-eight years.

E. Except as otherwise provided in this section, a person who is at least eighteen years of age or who has been tried as an adult and who stands convicted of a dangerous crime against children involving sexual abuse under section 13-1404 OR BESTIALITY UNDER SECTION 13-1411, SUBSECTION A, PARAGRAPH 2 is guilty of a class 3 felony and shall be sentenced to a presumptive term of imprisonment for five years, and unless the person has previously been convicted of a predicate felony, the presumptive term may be increased or decreased by up to two and one-half years pursuant to section 13-702, subsections B, C and D. If the person is sentenced to a term of imprisonment the person is not eligible for release from confinement on any basis except as specifically authorized by section 31-233, subsection A or B until the sentence imposed by the court has been served, the person is eligible for release pursuant to section 41-1604.07 or the sentence is commuted. If the convicted person has been previously convicted of one predicate felony the person shall be sentenced to a presumptive term of imprisonment for fifteen years and is not eligible for suspension of sentence, probation, pardon or release from confinement on any basis except as specifically authorized by section 31-233, subsection A or B until the sentence imposed by the court has been served, the person is eligible for release pursuant to section 41-1604.07 or the sentence is commuted.

F. The presumptive sentences prescribed in subsections B, C and D of this section or subsection E of this section if the person has previously been convicted of a predicate felony may be increased or decreased by up to seven years pursuant to the provisions of section 13-702, subsections B, C and D.

~~G.~~ Except as provided in subsection E of this section, a person sentenced for a dangerous crime against children in the first degree pursuant

to this section is not eligible for suspension of sentence, probation, pardon or release from confinement on any basis except as specifically authorized by section 31-233, subsection A or B until the sentence imposed by the court has been served or commuted.

H. A person who stands convicted of any dangerous crime against children in the first degree pursuant to subsection C or D of this section ~~having~~ AND WHO HAS been previously convicted of two or more predicate felonies shall be sentenced to life imprisonment and is not eligible for suspension of sentence, probation, pardon or release from confinement on any basis except as specifically authorized by section 31-233, subsection A or B until the person has served not fewer than thirty-five years or the sentence is commuted.

I. Notwithstanding chapter 10 of this title, a person who is at least eighteen years of age or who has been tried as an adult and who stands convicted of a dangerous crime against children in the second degree pursuant to subsection C or D of this section or luring a minor for sexual exploitation pursuant to section 13-3554 is guilty of a class 3 felony and shall be sentenced to a presumptive term of imprisonment for ten years. The presumptive term may be increased or decreased by up to five years pursuant to section 13-702, subsections B, C and D. If the person is sentenced to a term of imprisonment the person is not eligible for release from confinement on any basis except as specifically authorized by section 31-233, subsection A or B until the person has served the sentence imposed by the court, the person is eligible for release pursuant to section 41-1604.07 or the sentence is commuted. A person who is convicted of any dangerous crime against children in the second degree ~~having~~ AND WHO HAS been previously convicted of one or more predicate felonies is not eligible for suspension of sentence, probation, pardon or release from confinement on any basis except as specifically authorized by section 31-233, subsection A or B until the sentence imposed by the court has been served, the person is eligible for release pursuant to section 41-1604.07 or the sentence is commuted.

J. Section 13-604, subsections M and O apply to the determination of prior convictions.

K. The sentence imposed on a person by the court for a dangerous crime against children under subsection D of this section ~~involving~~ AND THAT INVOLVES child molestation or sexual abuse pursuant to subsection E of this section may be served concurrently with other sentences if the offense involved only one victim. The sentence imposed on a person for any other dangerous crime against children in the first or second degree shall be consecutive to any other sentence imposed on the person at any time, including child molestation and sexual abuse of the same victim.

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

M. For the purposes of this section:

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

(a) Second degree murder.

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

(c) Sexual assault.

(d) Molestation of a child.

(e) Sexual conduct with a minor.

(f) Commercial sexual exploitation of a minor.

(g) Sexual exploitation of a minor.

(h) Child abuse as prescribed in section 13-3623, subsection A, paragraph 1.

(i) Kidnapping.

(j) Sexual abuse.

(k) Taking a child for the purpose of prostitution as ~~defined~~ PRESCRIBED in section 13-3206.

(l) Child prostitution as ~~defined~~ PRESCRIBED in section 13-3212.

(m) Involving or using minors in drug offenses.

(n) Continuous sexual abuse of a child.

(o) Attempted first degree murder.

(p) Sex trafficking.

(q) Manufacturing methamphetamine under circumstances that cause physical injury to a minor.

(r) BESTIALITY AS PRESCRIBED IN SECTION 13-1411, SUBSECTION A, PARAGRAPH 2.

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

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

Sec. 3. Section 13-1403, Arizona Revised Statutes, is amended to read:

13-1403. <u>Public sexual indecency; public sexual indecency to a minor; classifications</u>

A. A person commits public sexual indecency by intentionally or knowingly engaging in any of the following acts, if another person is present, and the defendant is reckless about whether such other person, as a reasonable person, would be offended or alarmed by the act:

1. An act of sexual contact.

2. An act of oral sexual contact.

3. An act of sexual intercourse.

4. An act ~~involving contact between the person's mouth, vulva or genitals and the anus or genitals of an animal~~ OF BESTIALITY.

B. A person commits public sexual indecency to a minor if ~~he~~ THE PERSON intentionally or knowingly engages in any of the acts listed in subsection A and such person is reckless ABOUT whether a minor under the age of fifteen years is present.

C. Public sexual indecency is a class 1 misdemeanor. Public sexual indecency to a minor is a class 5 felony.

Sec. 4. Title 13, chapter 14, Arizona Revised Statutes, is amended by adding section 13-1411, to read:

13-1411. Bestiality; classification; definition

A. A PERSON COMMITS BESTIALITY BY KNOWINGLY DOING EITHER OF THE FOLLOWING:

1. ENGAGING IN ORAL SEXUAL CONTACT, SEXUAL CONTACT OR SEXUAL INTERCOURSE WITH AN ANIMAL.

2. CAUSING ANOTHER PERSON TO ENGAGE IN ORAL SEXUAL CONTACT, SEXUAL CONTACT OR SEXUAL INTERCOURSE WITH AN ANIMAL.

B. IN ADDITION TO ANY OTHER PENALTY IMPOSED FOR A VIOLATION OF SUBSECTION A OF THIS SECTION, THE COURT MAY ORDER THAT THE CONVICTED PERSON DO ANY OF THE FOLLOWING:

1. UNDERGO A PSYCHOLOGICAL ASSESSMENT AND PARTICIPATE IN APPROPRIATE COUNSELING AT THE CONVICTED PERSON'S OWN EXPENSE.

2. REIMBURSE AN ANIMAL SHELTER AS DEFINED IN SECTION 11-1022 FOR ANY REASONABLE COSTS INCURRED FOR THE CARE AND MAINTENANCE OF ANY ANIMAL THAT WAS TAKEN TO THE ANIMAL SHELTER AS A RESULT OF CONDUCT PROSCRIBED BY SUBSECTION A OF THIS SECTION.

C. THIS SECTION DOES NOT APPLY TO:

1. ACCEPTED VETERINARY MEDICAL PRACTICES PERFORMED BY A LICENSED VETERINARIAN OR VETERINARY TECHNICIAN.

2. INSEMINATION OF ANIMALS BY THE SAME SPECIES, BRED FOR COMMERCIAL PURPOSES.

3. ACCEPTED ANIMAL HUSBANDRY PRACTICES THAT PROVIDE NECESSARY CARE FOR ANIMALS BRED FOR COMMERCIAL PURPOSES.

D. BESTIALITY IS A CLASS 6 FELONY, EXCEPT THAT BESTIALITY PURSUANT TO SUBSECTION A, PARAGRAPH 2 OF THIS SECTION IS A CLASS 3 FELONY PUNISHABLE PURSUANT TO SECTION 13-604.01 IF THE OTHER PERSON IS A MINOR UNDER FIFTEEN YEARS OF AGE.

E. FOR THE PURPOSES OF THIS SECTION, "ANIMAL" MEANS A NONHUMAN MAMMAL, BIRD, REPTILE OR AMPHIBIAN, EITHER DEAD OR ALIVE.

APPROVED BY THE GOVERNOR MAY 24, 2006.

FILED IN THE OFFICE OF THE SECRETARY OF STATE MAY 24, 2006.