

State of Arizona
Senate
Fiftieth Legislature
First Regular Session
2011

SENATE BILL 1130

AN ACT

AMENDING TITLE 13, CHAPTER 14, ARIZONA REVISED STATUTES, BY ADDING SECTION 13-1409; AMENDING SECTION 13-1419, ARIZONA REVISED STATUTES; AMENDING TITLE 13, CHAPTER 29, ARIZONA REVISED STATUTES, BY ADDING SECTION 13-2907.04; RELATING TO UNLAWFUL SEXUAL CONDUCT.

(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 14, Arizona Revised Statutes, is amended
3 by adding section 13-1409, to read:

4 13-1409. Unlawful sexual conduct; adult probation department
5 employees; juvenile court employees; classification;
6 definitions

7 A. AN ADULT PROBATION DEPARTMENT EMPLOYEE OR JUVENILE COURT EMPLOYEE
8 COMMITS UNLAWFUL SEXUAL CONDUCT IF THE EMPLOYEE KNOWINGLY COERCES THE VICTIM
9 TO ENGAGE IN SEXUAL CONTACT, ORAL SEXUAL CONTACT OR SEXUAL INTERCOURSE BY
10 EITHER:

11 1. THREATENING TO NEGATIVELY INFLUENCE THE VICTIM'S SUPERVISION OR
12 RELEASE STATUS.

13 2. OFFERING TO POSITIVELY INFLUENCE THE VICTIM'S SUPERVISION OR
14 RELEASE STATUS.

15 B. UNLAWFUL SEXUAL CONDUCT WITH A VICTIM WHO IS UNDER FIFTEEN YEARS OF
16 AGE IS A CLASS 2 FELONY. UNLAWFUL SEXUAL CONDUCT WITH A VICTIM WHO IS AT
17 LEAST FIFTEEN YEARS OF AGE AND UNDER EIGHTEEN YEARS OF AGE IS A CLASS 3
18 FELONY. ALL OTHER UNLAWFUL SEXUAL CONDUCT IS A CLASS 5 FELONY.

19 C. FOR THE PURPOSES OF THIS SECTION:

20 1. "ADULT PROBATION DEPARTMENT EMPLOYEE OR JUVENILE COURT EMPLOYEE"
21 MEANS AN EMPLOYEE OF AN ADULT PROBATION DEPARTMENT OR THE JUVENILE COURT WHO
22 EITHER:

23 (a) THROUGH THE COURSE OF EMPLOYMENT, DIRECTLY PROVIDES TREATMENT,
24 CARE, CONTROL OR SUPERVISION TO A VICTIM.

25 (b) PROVIDES PRESENTENCE OR PREDISPOSITION REPORTS DIRECTLY TO A COURT
26 REGARDING THE VICTIM.

27 2. "VICTIM" MEANS A PERSON WHO IS EITHER OF THE FOLLOWING:

28 (a) SUBJECT TO CONDITIONS OF RELEASE OR SUPERVISION BY A COURT.

29 (b) A MINOR WHO HAS BEEN REFERRED TO THE JUVENILE COURT.

30 Sec. 2. Section 13-1419, Arizona Revised Statutes, is amended to read:

31 13-1419. Unlawful sexual conduct; correctional facilities;
32 classification; definition

33 A. A person commits unlawful sexual conduct by intentionally or
34 knowingly engaging in any act of a sexual nature with an offender who is in
35 the custody of the state department of corrections, the department of
36 juvenile corrections, a private prison facility, A JUVENILE DETENTION
37 FACILITY or a city or county jail or with an offender who is under the
38 supervision of either department or a city or county. For the purposes of
39 this subsection, "person" means a person who:

40 1. Is employed by the state department of corrections or the
41 department of juvenile corrections.

42 2. Is employed by a private prison facility, A JUVENILE DETENTION
43 FACILITY or a city or county jail.

1 3. Contracts to provide services with the state department of
2 corrections, the department of juvenile corrections, a private prison
3 facility, [A JUVENILE DETENTION FACILITY](#) or a city or county jail.

4 4. Is an official visitor, volunteer or agency representative of the
5 state department of corrections, the department of juvenile corrections, a
6 private prison facility, [A JUVENILE DETENTION FACILITY](#) or a city or county
7 jail.

8 B. This section does not apply to a person who is employed by the
9 state department of corrections, a private prison facility or a city or
10 county jail or who contracts to provide services with the state department of
11 corrections, a private prison facility or a city or county jail or an
12 offender who is on release status if the person was lawfully married to the
13 prisoner or offender on release status before the prisoner or offender was
14 sentenced to the state department of corrections or was incarcerated in a
15 city or county jail.

16 C. Unlawful sexual conduct with an offender who is under fifteen years
17 of age is a class 2 felony. Unlawful sexual conduct with an offender who is
18 between fifteen and seventeen years of age is a class 3 felony. All other
19 unlawful sexual conduct is a class 5 felony.

20 D. For the purposes of this section, "any act of a sexual nature":

21 1. Includes the following:

22 (a) Any completed, attempted, threatened or requested touching of the
23 genitalia, anus, groin, breast, inner thigh, pubic area or buttocks with the
24 intent to arouse or gratify sexual desire.

25 (b) Any act of exposing the genitalia, anus, groin, breast, inner
26 thigh, pubic area or buttocks with the intent to arouse or gratify sexual
27 desire.

28 (c) Any act of photographing, videotaping, filming, digitally
29 recording or otherwise viewing, with or without a device, a prisoner or
30 offender with the intent to arouse or gratify sexual desire, either:

31 (i) While the prisoner or offender is in a state of undress or partial
32 dress.

33 (ii) While the prisoner or offender is urinating or defecating.

34 2. Does not include an act done pursuant to a bona fide medical exam
35 or lawful internal search.

36 Sec. 3. Title 13, chapter 29, Arizona Revised Statutes, is amended by
37 adding section 13-2907.04, to read:

38 [13-2907.04. False reporting of an offense involving corrections](#)
39 [or probation; classification](#)

40 [A PERSON WHO INTENTIONALLY MAKES A FALSE REPORT OF AN OFFENSE LISTED IN](#)
41 [SECTION 13-1409 OR 13-1419 KNOWING THE REPORT IS FALSE OR A PERSON WHO](#)
42 [COERCES ANOTHER PERSON TO MAKE A FALSE REPORT OF AN OFFENSE LISTED IN SECTION](#)
43 [13-1409 OR 13-1419 KNOWING THE REPORT IS FALSE IS GUILTY OF A CLASS 1](#)
44 [MISDEMEANOR.](#)