

HOUSE FLOOR AMENDMENT EXPLANATION



Bill Number: **HB 2115**

Garcia Floor Amendment

-
- Specifies that this Act's additional form of *sexual exploitation of a minor* does not apply to consensual conduct between two minors who are both between 15-17 years old.

GARCIA SUBSTITUTE FLOOR AMENDMENT
HOUSE OF REPRESENTATIVES AMENDMENTS TO H.B. 2115

I move the following SUBSTITUTE amendment to the JUDICIARY Committee Amendment to HOUSE BILL 2115 (Reference to printed bill)

Amendment instruction key:
[GREEN UNDERLINING IN BRACKETS] indicates text added to statute or previously enacted session law.
[Green underlining in brackets] indicates text added to new session law or text restoring existing law.
~~[GREEN STRIKEOUT IN BRACKETS]~~ indicates new text removed from statute or previously enacted session law.
~~[Green strikeout in brackets]~~ indicates text removed from existing statute, previously enacted session law or new session law.
<<Green carets>> indicate a section added to the bill.
~~<<Green strikeout in carets>>~~ indicates a section removed from the bill.

1 The bill as proposed to be amended is reprinted as follows:

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.

1 E. It is a defense to a prosecution pursuant to sections 13-1405,
2 13-1430, 13-3553, SUBSECTION A, PARAGRAPH 4 and 13-3560 if the victim is
3 fifteen, sixteen or seventeen years of age, the defendant is under
4 nineteen years of age or attending high school and is no more than
5 twenty-four months older than the victim and the conduct is consensual.

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

8 13-3553. Sexual exploitation of a minor: evidence:
9 classification; definition

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

11 1. Recording, filming, photographing, developing or duplicating any
12 visual depiction in which a minor is engaged in exploitive exhibition or
13 other sexual conduct.

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

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

23 4. OBSERVING A NUDE MINOR FOR THE PURPOSE OF ENGAGING IN SEXUAL
24 CONDUCT FOR THE PERSON'S SEXUAL GRATIFICATION. [THIS PARAGRAPH DOES NOT
25 APPLY TO CONSENSUAL CONDUCT BETWEEN MINORS WHO ARE AT LEAST FIFTEEN,
26 SIXTEEN OR SEVENTEEN YEARS OF AGE.]

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

30 C. Sexual exploitation of a minor is a class 2 felony and if the
31 minor is under fifteen years of age it is punishable pursuant to section
32 13-705.

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

35 Enroll and engross to conform

36 Amend title to conform

BRIAN GARCIA

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01/30/2025

10:22 AM

H: SC