

13-705. Dangerous crimes against children; sentences; definitions

A. A person who is at least eighteen years of age and who is convicted of a dangerous crime against children in the first degree involving commercial sexual exploitation of a minor or child sex trafficking and the person has previously been convicted of a dangerous crime against children in the first degree shall be sentenced to imprisonment in the custody of the state department of corrections for natural life. A person who is sentenced to natural life is not eligible for commutation, parole, work furlough, work release or release from confinement on any basis for the remainder of the person's natural life.

B. A person who is at least eighteen years of age and who is 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.

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 is 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, 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 term of imprisonment as follows:

Minimum Presumptive Maximum

13 years 20 years 27 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 is convicted of a dangerous crime against children in the first degree involving second degree murder of a minor who is under fifteen 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 term of imprisonment as follows:

Minimum Presumptive Maximum

25 years 30 years 35 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 is 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, sexual assault of a minor who is twelve, thirteen or fourteen years of age, taking a child for the purpose of prostitution, child sex trafficking, commercial sexual exploitation of a minor, sexual conduct with a minor who is twelve, thirteen or fourteen 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 term of imprisonment as follows:

Minimum Presumptive Maximum

13 years 20 years 27 years

A person who has been previously convicted of one predicate felony shall be sentenced to a term of imprisonment as follows:

Minimum Presumptive Maximum

23 years 30 years 37 years

F. 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 is convicted of a dangerous crime against children in the first degree involving aggravated assault, unlawful mutilation, molestation of a child, sexual exploitation of a minor, aggravated luring a minor for sexual exploitation, child abuse or kidnapping shall be sentenced to a term of imprisonment as follows:

Minimum Presumptive Maximum

10 years 17 years 24 years

A person who has been previously convicted of one predicate felony shall be sentenced to a term of imprisonment as follows:

Minimum Presumptive Maximum

21 years 28 years 35 years

G. Except as otherwise provided in this section, if a person is at least eighteen years of age or has been tried as an adult and is convicted of a dangerous crime against children involving luring a minor for sexual exploitation, sexual extortion or unlawful age misrepresentation and is sentenced to a term of imprisonment, the term of imprisonment is as follows and 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 or is commuted, except that if the person is convicted of unlawful age misrepresentation the person is eligible for release pursuant to section 41-1604.07:

Minimum Presumptive Maximum

5 years 10 years 15 years

A person who has been previously convicted of one predicate felony shall be sentenced to a term of imprisonment as follows and the person 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 is commuted, except that if the person is convicted of unlawful age misrepresentation the person is eligible for release pursuant to section 41-1604.07:

Minimum Presumptive Maximum

8 years 15 years 22 years

H. Except as otherwise provided in this section, if a person is at least eighteen years of age or has been tried as an adult and is convicted of a dangerous crime against children involving sexual

abuse or bestiality under section 13-1411, subsection A, paragraph 2 and is sentenced to a term of imprisonment, the term of imprisonment is as follows and 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:

Minimum Presumptive Maximum

2.5 years 5 years 7.5 years

A person who has been previously convicted of one predicate felony shall be sentenced to a term of imprisonment as follows and the person 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:

Minimum Presumptive Maximum

8 years 15 years 22 years

I. 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 is convicted of a dangerous crime against children in the first degree involving continuous sexual abuse of a child shall be sentenced to a term of imprisonment as follows:

Minimum Presumptive Maximum

39 years 60 years 81 years

A person who has been previously convicted of one predicate felony shall be sentenced to a term of imprisonment as follows:

Minimum Presumptive Maximum

69 years 90 years 111 years

J. The presumptive sentences prescribed in subsections C, D, E and F and I of this section or subsections G and H of this section if the person has previously been convicted of a predicate felony may be increased or decreased pursuant to section 13-701, subsections C, D and E.

K. Except as provided in subsections G, H, M and N of this section, a person who is 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.

L. A person who is convicted of any dangerous crime against children in the first degree pursuant to subsection C, D, E or F or I of this section 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.

M. 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 is convicted of a dangerous crime against children in the second degree pursuant to subsection B, C, E or F or I of this section is guilty of a class 3 felony and

if the person is sentenced to a term of imprisonment, the term of imprisonment is as follows and 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:

Minimum	Presumptive	Maximum
5 years	10 years	15 years

N. A person who is convicted of any dangerous crime against children in the second degree 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.

O. Section 13-704, subsection J and section 13-707, subsection B apply to the determination of prior convictions.

P. The sentence imposed on a person by the court for a dangerous crime against children under subsection H of this section involving sexual abuse 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 sexual abuse of the same victim.

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

R. 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.

S. It is not a defense to a dangerous crime against children that the minor is a person posing as a minor or is otherwise fictitious if the defendant knew or had reason to know the purported minor was under fifteen years of age.

T. 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 prescribed in section 13-3206.
- (l) Child sex trafficking as 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.
- (s) Luring a minor for sexual exploitation.
- (t) Aggravated luring a minor for sexual exploitation.
- (u) Unlawful age misrepresentation.
- (v) Unlawful mutilation.
- (w) Sexual extortion as prescribed in section 13-1428.

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.