

As Engrossed: 4/2/93

1 **State of Arkansas**
2 **79th General Assembly**
3 **Regular Session, 1993**

A Bill

ACT 935 OF 1993
HOUSE BILL 1372

4 **By: Reps. Pollan, Owens, Riable, Molinaro, Smith**

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For An Act To Be Entitled

8 "AN ACT TO AMEND VARIOUS SECTIONS OF ARKANSAS CODE TITLE
9 5, CHAPTER 14 CONCERNING SEXUAL OFFENSES; AND FOR OTHER
10 PURPOSES."

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Subtitle

12
13 "AN ACT CONCERNING SEXUAL OFFENSES AND THE RAPE SHIELD
14 LAW."

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16 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:

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18 SECTION 1. Arkansas Code 5-14-103 is amended to read as follows:

19 "5-14-103. Rape.

20 (a) A person commits rape if he engages in sexual intercourse or
21 deviate sexual activity with another person:

22 (1) By forcible compulsion; or

23 (2) Who is incapable of consent because he is physically
24 helpless; or

25 (3) Who is less than fourteen (14) years of age. It is an
26 affirmative defense to prosecution under this subdivision that the actor was
27 not more than two (2) years older than the victim; or

28 (4) Not his spouse who is less than sixteen (16) years of age and
29 who is incapable of consent because he is mentally defective or mentally
30 incapacitated.

31 (b) Rape is a Class Y felony."

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33 SECTION 2. Arkansas Code 5-14-104 is amended to read as follows:

34 "5-14-104. Carnal abuse in the first degree.

35 (a) A person commits carnal abuse in the first degree if, being under
36 the age of eighteen (18) years , he engages in sexual intercourse or deviate

1 sexual activity with another person not his spouse who is less than fourteen
2 (14) years old. It is an affirmative defense to prosecution under this
3 subdivision that the actor was not more than two (2) years older than the
4 victim.

5 (b) Carnal abuse in the first degree is a Class B felony."
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7 SECTION 3. Arkansas Code 5-14-108 is amended to read as follows:

8 "5-14-108. Sexual abuse in the first degree.

9 (a) A person commits sexual abuse in the first degree if:

10 (1) He engages in sexual contact with another person by forcible
11 compulsion; or

12 (2) He engages in sexual contact with another person who is
13 incapable of consent because he is physically helpless; or

14 (3) Being eighteen (18) years old or older, he engages in sexual
15 contact with a person not his spouse who is less than fourteen (14) years old;
16 or

17 (4) He engages in sexual contact with a person who is less than
18 sixteen (16) years of age and who is incapable of consent because he is
19 mentally defective or mentally incapacitated.

20 (b) Sexual abuse in the first degree is a Class C felony."
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22 SECTION 4. Arkansas Code 5-14-109 is amended to read as follows:

23 "5-14-109. Sexual abuse in the second degree.

24 (a) A person commits sexual abuse in the second degree if:

25 (1) He engages in sexual contact with another person not his
26 spouse who is incapable of consent because he is mentally defective or
27 mentally incapacitated;

28 (2) Being less than eighteen (18) years old, he engages in sexual
29 contact with a person not his spouse who is less than fourteen (14) years old.

30 It is an affirmative defense to prosecution under this subdivision that the
31 actor was not more than two (2) years older than the victim.

32 (b) Sexual abuse in the second degree is a *Class A misdemeanor*."
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34 SECTION 5. All provisions of this act of a general and permanent nature
35 are amendatory to the Arkansas Code of 1987 Annotated and the Arkansas Code

1 Revision Commission shall incorporate the same in the Code.

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3 SECTION 6. If any provision of this act or the application thereof to
4 any person or circumstance is held invalid, such invalidity shall not affect
5 other provisions or applications of the act which can be given effect without
6 the invalid provision or application, and to this end the provisions of this
7 act are declared to be severable.

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9 SECTION 7. All laws and parts of laws in conflict with this act are
10 hereby repealed.

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/s/Rep. Pollan, et al

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APPROVED: 4/7/93

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