

ARKANSAS SENATE
84th General Assembly - Regular Session, 2003
Amendment Form

Subtitle of House Bill No. 1935

"AN ACT TO EXPAND THE OFFENSE OF SEXUAL ASSAULT IN THE SECOND DEGREE
TO INCLUDE A PERSON LESS THAN EIGHTEEN (18) YEARS OLD WHO ENGAGES IN
SEXUAL CONTACT WITH A PERSON NOT THE PERSON'S SPOUSE WHO IS LESS
THAN FOURTEEN (14) YEARS OLD."

Amendment No. 1 to House Bill No. 1935.

Amend House Bill No. 1935 as originally introduced:

Page 2, delete lines 19 through 21 and substitute:

“(B)(i) It is an affirmative defense to prosecution
under this section that the person was not more than three (3) years older
than the victim if the victim is less than twelve(12) years of age.
(ii) It is an affirmative defense to prosecution
under this section that the person was not more than four (4) years older
than the victim if the victim is twelve (12) years of age or older.”

AND

Page 2, line 27 add the following new section:

“SECTION 2. Arkansas Code § 5-14-102 is amended to read as follows:
5-14-102. In general.

(a) The definition of an offense excluding conduct with a spouse shall not be construed to preclude accomplice liability of a spouse.

(b) When the criminality of conduct depends on a child being below the age of fourteen (14) years and the actor is twenty (20) years of age or older, it is no defense that the actor did not know the age of the child, or reasonably believed the child to be fourteen (14) years of age or older.

(c) When criminality of conduct depends on a child being below a critical age older than the age of fourteen (14) years and the actor is under the age of twenty (20) years, it is an affirmative defense that the actor reasonably believed the child to be of the critical age or above. The actor may be guilty, however, of the lesser offense defined by the age that he reasonably believed the child to be.

(d) When criminality of conduct depends on a child being below a critical age older than fourteen (14) years, it is an affirmative defense that the actor reasonably believed the child to be of the critical age or above. The actor may be guilty, however, of the lesser offense defined by



the age that he reasonably believed the child to be.

~~(d)~~(e) When criminality of conduct depends on a victim being incapable of consent because he is mentally defective or mentally incapacitated, it is an affirmative defense that the actor reasonably believed that the victim was capable of consent.

The Amendment was read the first time, rules suspended and read the second time and _____

By: Senator Luker
PBB/RCK - 032120030930
RCK778

Secretary