

1 State of Arkansas
2 88th General Assembly
3 Regular Session, 2011

A Bill

HOUSE BILL 2094

4
5 By: Representative Shepherd
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For An Act To Be Entitled

8 AN ACT TO AMEND THE DEFINITION OF "CHILD" IN CERTAIN
9 CHILD EXPLOITATION STATUTES; AND FOR OTHER PURPOSES.

Subtitle

12
13 TO AMEND THE DEFINITION OF "CHILD" IN
14 CERTAIN CHILD EXPLOITATION STATUTES.
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17 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:
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19 SECTION 1. Arkansas Code § 5-27-302(1), regarding the definition of a
20 "child", is amended to read as follows:

21 (1) "Child" means any person under ~~seventeen (17)~~ eighteen (18) years
22 of age;
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24 SECTION 2. Arkansas Code § 5-27-401(5), regarding the definition of a
25 "sexual performance", is amended to read as follows:

26 (5) "Sexual performance" means any performance or part of a
27 performance that includes sexual conduct by a child under ~~seventeen (17)~~
28 eighteen (18) years of age.
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30 SECTION 3. Arkansas Code § 5-27-402 is amended to read as follows:

31 5-27-402. Employing or consenting to the use of a child in a sexual
32 performance.

33 (a) It is unlawful for ~~any~~ a person, knowing the character and content
34 of the performance, to employ, authorize, or induce a child under ~~seventeen~~
35 ~~(17)~~ eighteen (18) years of age to engage in a sexual performance.

36 (b) It is also unlawful for a parent or legal guardian or custodian of



1 a child under ~~seventeen (17)~~ eighteen (18) years of age to consent to the
2 participation by the child in a sexual performance.

3 (c) ~~Any person violating~~ A person who violates this section upon
4 conviction is guilty of a:

5 (1) Class C felony for the first offense; and

6 (2) Class B felony for a subsequent offense.

7
8 SECTION 4. Arkansas Code § 5-27-403 is amended to read as follows:

9 5-27-403. Producing, directing, or promoting a sexual performance by a
10 child.

11 (a) It is unlawful for ~~any~~ a person, knowing the character and content
12 of the material, to produce, direct, or promote a performance that includes
13 sexual conduct by a child under ~~seventeen (17)~~ eighteen (18) years of age.

14 (b) ~~Any person violating~~ A person who violates this section upon
15 conviction is guilty of a Class B felony.

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17 SECTION 5. Arkansas Code § 5-27-404 is amended to read as follows:

18 5-27-404. Good faith defense.

19 It is an affirmative defense to a prosecution under this subchapter
20 that the defendant in good faith reasonably believed that the person who
21 engaged in the sexual conduct was ~~seventeen (17)~~ eighteen (18) years of age
22 or older.

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24 SECTION 6. Arkansas Code § 5-27-405 is amended to read as follows:

25 5-27-405. Determination of age of person.

26 When it becomes necessary for purposes of this subchapter to determine
27 whether a person who participated in sexual conduct was a child under
28 ~~seventeen (17)~~ eighteen (18) years of age, the court or jury may make this
29 determination by any of the following methods:

30 (1) Personal inspection of the person;

31 (2) Inspection of the photograph ~~or~~, motion picture, or other material
32 that shows the person engaging in the sexual performance;

33 (3) Oral testimony by a witness to the sexual performance as to the
34 age of the person based on the person's appearance at the time;

35 (4) Expert medical testimony based on the appearance of the person
36 engaged in the sexual performance; or

(5) Any other method authorized by law.

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