

1 State of Arkansas  
2 91st General Assembly  
3 Regular Session, 2017  
4

# A Bill

HOUSE BILL 1658

5 By: Representatives Tucker, Gazaway  
6

## For An Act To Be Entitled

8 AN ACT CONCERNING THE OFFENSE OF SEXUAL ASSAULT IN  
9 THE THIRD DEGREE; AND FOR OTHER PURPOSES.  
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### Subtitle

11 CONCERNING THE OFFENSE OF SEXUAL ASSAULT  
12 IN THE THIRD DEGREE.  
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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 § 5-14-126 is amended to read as follows:  
20 5-14-126. Sexual assault in the third degree.

21 (a) A person commits sexual assault in the third degree if the person:

22 (1) Engages in sexual intercourse or deviate sexual activity  
23 with another person who is not the actor's spouse, and the actor is:

24 (A) Employed with the Department of Correction, Department  
25 of Community Correction, Department of Human Services, or any city or county  
26 jail, ~~and~~ the victim is in the custody of the Department of Correction,  
27 Department of Community Correction, Department of Human Services, or any city  
28 or county jail, and the actor is in a position of trust or authority over the  
29 victim and uses the position of trust or authority to engage in sexual  
30 intercourse or deviate sexual activity;

31 (B) Employed or contracted with or otherwise providing  
32 services, supplies, or supervision to an agency maintaining custody of  
33 inmates, detainees, or juveniles, ~~and~~ the victim is in the custody of the  
34 Department of Correction, Department of Community Correction, Department of  
35 Human Services, or any city or county jail, and the actor is in a position of  
36 trust or authority over the victim and uses the position of trust or



1 authority to engage in sexual intercourse or deviate sexual activity; or

2 (C) A mandated reporter under § 12-18-402(b) or a member  
3 of the clergy and is in a position of trust or authority over the victim and  
4 uses the position of trust or authority to engage in sexual intercourse or  
5 deviate sexual activity; or

6 (2)(A) Being a minor, engages in sexual intercourse or deviate  
7 sexual activity with another person who is:

- 8 (i) Less than fourteen (14) years of age; and
- 9 (ii) Not the person's spouse.

10 (B) It is an affirmative defense under this subdivision  
11 (a)(2) that the actor was not more than three (3) years older than the  
12 victim.

13 (b) It is no defense to a prosecution under this section that the  
14 victim consented to the conduct.

15 (c) Sexual assault in the third degree is a Class C felony.

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18 **APPROVED: 03/27/2017**  
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