

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

*As Engrossed: H3/3/17*

# A Bill

HOUSE BILL 1173

5 By: Representative Tucker  
6 By: Senator J. Hutchinson  
7

## For An Act To Be Entitled

9 AN ACT TO AMEND AND MAKE CONSISTENT THE OFFENSES OF  
10 SEXUAL INDECENCY WITH A CHILD AND SEXUAL ASSAULT IN  
11 *THE FOURTH DEGREE; AND FOR OTHER PURPOSES.*  
12  
13

## Subtitle

15 *TO AMEND AND MAKE CONSISTENT THE OFFENSES*  
16 *OF SEXUAL INDECENCY WITH A CHILD AND*  
17 *SEXUAL ASSAULT IN THE FOURTH DEGREE.*  
18  
19

20 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:  
21

22 *SECTION 1. Arkansas Code § 5-14-110 is amended to read as follows:*  
23 *5-14-110. Sexual indecency with a child.*

24 *(a) A person commits sexual indecency with a child if:*

25 *(1) Being twenty (20) years of age or older, the person solicits*  
26 *another person who is less than fifteen (15) years of age or who is*  
27 *represented to be less than fifteen (15) years of age to engage in:*

28 *(A) Sexual intercourse;*

29 *(B) Deviate sexual activity; or*

30 *(C) Sexual contact;*

31 *(2) Being twenty (20) years of age or older, the person solicits*  
32 *another person who is less than sixteen (16) years of age or who is*  
33 *represented to be less than sixteen (16) years of age to engage in:*

34 *(A) Sexual intercourse; or*

35 *(B) Deviate sexual activity;*

36 *(3) Being twenty (20) years of age or older, the person solicits*



1 another person who is less than sixteen (16) years of age or who is  
2 represented to be less than sixteen (16) years of age to only engage in  
3 sexual contact;

4 ~~(1)(4)~~ Being eighteen (18) years of age or older, the person  
5 solicits another person who is less than fifteen (15) years of age or who is  
6 represented to be less than fifteen (15) years of age to engage in:

7 (A) Sexual intercourse; or

8 (B) Deviate sexual activity; ~~or~~

9 ~~(C) Sexual contact;~~

10 ~~(2)(A)(5)(A)~~ With the purpose to arouse or gratify a sexual  
11 desire of himself or herself or a sexual desire of another person, the person  
12 purposely exposes his or her sex organs to another person who is less than  
13 fifteen (15) years of age.

14 (B) It is an affirmative defense to a prosecution under  
15 subdivision ~~(a)(2)(A)(a)(5)(A)~~ of this section if the person is within three  
16 (3) years of age of the victim;

17 ~~(3)(6)~~ With the purpose to arouse or gratify a sexual desire of  
18 himself or herself or a sexual desire of another person, the person purposely  
19 exposes his or her sex organs to a minor, and the actor is:

20 (A) Employed with the Department of Correction, Department  
21 of Community Correction, any city or county jail, or any juvenile detention  
22 facility, and the minor is in custody at a facility operated by the agency or  
23 contractor employing the actor;

24 (B) A mandated reporter under § 12-18-402(b) and is in a  
25 position of trust or authority over the minor; or

26 (C) The minor's parent or guardian, an employee in the  
27 minor's school or school district, a temporary caretaker, or a person in a  
28 position of trust and authority over the minor;

29 ~~(4)(7)~~ With the purpose to arouse or gratify his or her sexual  
30 desire or a sexual desire of another person, the person, being eighteen (18)  
31 years of age or older causes or coerces a minor to expose his or her sex  
32 organs to the actor or another person, and the actor is:

33 (A) Employed with the Department of Correction, the  
34 Department of Community Correction, any city or county jail, or any juvenile  
35 detention facility, and the minor is in custody at a facility operated by the  
36 agency or contractor employing the actor;

1 (B) A mandated reporter under § 12-18-402(b) and is in a  
2 position of trust or authority over the minor; or

3 (C) The minor’s parent or guardian, an employee in the  
4 minor’s school or school district, a temporary caretaker, or a person in a  
5 position of trust or authority over the minor; ~~or~~

6 ~~(5)(8)~~ Being eighteen (18) years of age or older, the person  
7 causes or coerces another person who is less than fourteen (14) years of age  
8 to expose his or her sex organs or the breast of a female with the purpose to  
9 arouse or gratify a sexual desire of the actor or another person; or

10 (9) Being eighteen (18) years of age or older, the person  
11 solicits another person who is less than fifteen (15) years of age or who is  
12 represented to be less than fifteen (15) years of age to only engage in  
13 sexual contact.

14 (b) Sexual indecency with a child is a:

15 (1) Class C felony under subdivision (a)(1) of this section;

16 (2) Class D felony under subdivision (a)(2) of this section, and  
17 subdivisions (a)(4)-(8) of this section; and

18 (3) Class A misdemeanor under subdivisions (a)(3) and (a)(9) of  
19 this section.

20  
21 SECTION 2. Arkansas Code § 5-14-127 is amended to read as follows:

22 5-14-127. Sexual assault in the fourth degree.

23 (a) A person commits sexual assault in the fourth degree if the  
24 person:

25 (1) Being twenty (20) years of age or older, engages in sexual  
26 intercourse, deviate sexual activity, or sexual contact with another person  
27 who is:

28 (A) Less than fifteen (15) years of age; and

29 (B) Not the person’s spouse;

30 ~~(1)(2)~~ Being twenty (20) years of age or older;

31 ~~(A)~~ Engages engages in sexual intercourse or deviate  
32 sexual activity with another person who is:

33 ~~(i)~~ (A) Less than sixteen (16) years of age; and

34 ~~(ii)~~ (B) Not the person’s spouse; ~~or~~

35 ~~(B)~~ Engages in sexual contact with another person who is;

36 ~~(i)~~ Less than sixteen (16) years of age; and

1                                   ~~(ii) Not the person's spouse; or~~  
2                                   (3) Being twenty (20) years of age or older only engages in  
3 sexual contact with another person who is:  
4                                   (A) Less than sixteen (16) years of age; and  
5                                   (B) Not the person's spouse;  
6                                   (4) Being eighteen (18) years of age or older, engages in sexual  
7 intercourse or deviate sexual activity with another person who is:  
8                                   (A) Less than fifteen (15) years of age; and  
9                                   (B) Not the person's spouse;  
10                                   (5) Being eighteen (18) years of age or older, only engages in  
11 sexual contact with another person who is:  
12                                   (A) Less than fifteen (15) years of age; and  
13                                   (B) Not the person's spouse; or  
14                                   ~~(2)(6)~~ Engages in sexual contact with another person who is not  
15 the actor's spouse, ~~and~~ the actor is employed with the Department of  
16 Correction, Department of Community Correction, Department of Human Services,  
17 or any city or county jail, the actor is in a position of trust or authority  
18 over the victim and uses the position of trust or authority to engage in  
19 sexual contact, and the victim is in the custody of the Department of  
20 Correction, Department of Community Correction, Department of Human Services,  
21 or a city or county jail.  
22                                   ~~(b)(1) Sexual assault in the fourth degree under subdivisions~~  
23 ~~(a)(1)(A) and (a)(2) of this section is a Class D felony,~~  
24                                   ~~(2) Sexual assault in the fourth degree under subdivision~~  
25 ~~(a)(1)(B) of this section is a Class A misdemeanor if the person engages only~~  
26 ~~in sexual contact with another person as described in subdivision (a)(1)(B)~~  
27 ~~of this section, is a:~~  
28                                   (1) Class C felony under subdivision (a)(1) of this section;  
29                                   (2) Class D felony under subdivisions (a)(2), (a)(4), and (a)(6)  
30 of this section; and  
31                                   (3) Class A misdemeanor under subdivisions (a)(3) and (a)(5) of  
32 this section.

/s/Tucker