

**Hall of the House of Representatives**  
94th General Assembly - Regular Session, 2023  
**Amendment Form**

---

**Subtitle of House Bill No. 1141**

TO DEFINE THE TERM "CONSENT" REGARDING SEXUAL OFFENSES WITHIN THE ARKANSAS  
CRIMINAL CODE.

---

**Amendment No. 2 to House Bill 1141**

Amend House Bill No. 1141 as engrossed H1/23/23 (version: 1/23/2023 9:24:41 AM):

Page 1, delete lines 26 through 34, and substitute the following:

"(16) "Consent" means a freely given, knowledgeable, and informed agreement by a person who is not physically helpless, mentally defective, mentally incapacitated, or under the legal age to consent.

SECTION 2. Arkansas Code § 5-14-101(1), concerning the definition of "deviate sexual activity" regarding sexual offenses, is amended to read as follows:

(1) "Deviate sexual activity" means any act of sexual gratification involving:

(A) The penetration, however slight, of the anus, vagina, labia majora, or mouth of a person by the penis of another person; or

(B) The penetration, however slight, of the labia majora, vagina, or anus of a person by any body member or foreign instrument manipulated by another person;

SECTION 3. Arkansas Code § 5-14-101(3), concerning the definition of "forcible compulsion" regarding sexual offenses, is amended to read as follows:

(3) "Forcible compulsion" means ~~physical force or a~~

(A) Any bodily impact, restraint, confinement, or threat of bodily impact, restraint, or confinement, whether express or implied;

(B) Any threat, express or implied, of death or physical injury to or kidnapping of any person; or

(C) Any other behavior that results in a sexual act against the will of the person upon whom the sexual act is committed;

SECTION 4. Arkansas Code § 5-14-101(6), concerning the definition of "mentally incapacitated" regarding sexual offenses, is amended to read as follows:

(6) "Mentally incapacitated" means that a person is temporarily



incapable of appreciating or controlling the person's conduct as a result of the influence of a controlled or intoxicating substance+

~~(A) Administered to the person without the person's consent; or~~

~~(B) That renders the person unaware a sexual act is occurring;~~

SECTION 5. Arkansas Code § 5-14-125(a)(6), concerning sexual assault in the second degree, is amended to read as follows:

(6)(A) Is a teacher, principal, athletic coach, or counselor in a public or private school in a grade kindergarten through twelve (K-12), in a position of trust or authority, and uses his or her position of trust or authority over the victim to engage in sexual contact with a victim who is:

~~(A)(i) A student enrolled in the public or private school;~~  
and

~~(B)(ii) Less than twenty-one (21) years of age.~~

(B) It is no defense to a prosecution under subdivision (a)(6)(A) of this section that the victim consented to the conduct.

SECTION 6. Arkansas Code § 5-14-127(a)(2), concerning sexual assault in the fourth degree, is amended to read as follows:

(2)(A) Engages in sexual contact with another person who is not the actor's spouse, and the actor is employed with the Division of Correction, Division of Community Correction, Department of Human Services, or any city or county jail, and the victim is in the custody of the Division of Correction, Division of Community Correction, Department of Human Services, or a city or county jail.

(B) It is no defense to a prosecution under subdivision (a)(2)(A) of this section that the victim consented to the conduct.

SECTION 7. Arkansas Code § 5-26-202, concerning the offense of incest, is amended to add an additional subsection to read as follows:

(d) It is no defense to a prosecution under this section that the victim consented to the conduct."

The Amendment was read \_\_\_\_\_  
By: Representative Lundstrum  
JMB/JMB - 02-23-2023 09:05:58  
JMB237

\_\_\_\_\_  
Chief Clerk