

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

A Bill

HOUSE BILL 2094

4
5 By: Representative Shepherd

For An Act To Be Entitled

6
7
8 AN ACT TO AMEND THE DEFINITION OF "CHILD" IN CERTAIN
9 CHILD EXPLOITATION STATUTES; AND FOR OTHER PURPOSES.

Subtitle

10
11
12
13 TO AMEND THE DEFINITION OF "CHILD" IN
14 CERTAIN CHILD EXPLOITATION STATUTES.

15
16
17 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:

18
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;

23
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.

29
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~~ 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.

16
 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.

23
 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

1 (5) Any other method authorized by law.
2
3

4 **APPROVED: 04/04/2011**
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28
29
30
31
32
33
34
35
36