

1 State of Arkansas
2 92nd General Assembly
3 Regular Session, 2019
4

As Engrossed: S1/30/19

A Bill

SENATE BILL 8

5 By: Senator T. Garner
6 By: Representatives Pilkington, Petty
7

For An Act To Be Entitled

9 AN ACT TO PROHIBIT A REGISTERED SEX OFFENDER FROM
10 RECORDING A PERSON UNDER FOURTEEN (14) YEARS OF AGE
11 IN CERTAIN CIRCUMSTANCES; TO PROHIBIT THE UNLAWFUL
12 USE OF A RECORDING OF A PERSON UNDER FOURTEEN (14)
13 YEARS OF AGE ONLINE; AND FOR OTHER PURPOSES.
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Subtitle

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17 TO PROHIBIT A REGISTERED SEX OFFENDER
18 FROM RECORDING A PERSON UNDER FOURTEEN
19 (14) YEARS OF AGE IN CERTAIN
20 CIRCUMSTANCES; AND TO PROHIBIT THE
21 UNLAWFUL USE OF A RECORDING OF A PERSON
22 UNDER FOURTEEN (14) YEARS OF AGE ONLINE.
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25 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:
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27 *SECTION 1. Arkansas Code Title 5, Chapter 4, Subchapter 1, is amended*
28 *to add an additional section to read as follows:*

29 *5-4-109. Sentencing for sex offense.*

30 *A person who is convicted of an offense for which he or she is required*
31 *to register as a sex offender under the Sex Offender Registration Act of*
32 *1997, § 12-12-901 et seq., shall be notified at his or her sentencing by the*
33 *court that he or she is prohibited from recording a person under fourteen*
34 *(14) years of age under § 5-14-135 if he or she is assessed as a Level 3 or*
35 *Level 4 offender.*
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2 SECTION 2. Arkansas Code Title 5, Chapter 14, Subchapter 1, is amended
3 to add an additional section to read as follows:

4 5-14-135. Registered offender prohibited from recording person under
5 14 years of age – Unlawful use of recording online.

6 (a) As used in this section, "record" means to photograph, make,
7 capture, generate, or save a print, negative, slide, motion picture, computer
8 data file, videotape, or other mechanically, electronically, or chemically
9 reproduced visual image or material.

10 (b) It is unlawful for a person who is required to register under the
11 Sex Offender Registration Act of 1997, § 12-12-901 et seq., and who has been
12 assessed as a Level 3 or Level 4 offender to knowingly:

13 (1) Record a person under fourteen (14) years of age and post
14 the recording of the person on an online social media platform or other
15 internet website that allows the using or posting of a recording in any form
16 after the person has previously been warned of his or her possible criminal
17 exposure by a judge at the person's sentencing for the offense for which the
18 person is required to register as a sex offender, or by his or her parole or
19 probation officer that recording a person under fourteen (14) years of age is
20 a violation of his or her terms and conditions of his or her probation or
21 parole; or

22 (2) Record a person under fourteen (14) years of age and post
23 the recording of the person on an online social media platform or other
24 internet website that allows the using or posting of a recording in any form
25 in a manner that would suggest to a reasonable person that the person
26 recording and posting the recording was doing so to unlawfully incite the
27 prurient interest of himself, herself, or another person.

28 (c) A violation of this section is a Class D felony.

29 (d) It is a defense to prosecution under this section that:

30 (1) The person received permission from the parent or guardian
31 of the person under fourteen (14) years of age to record the person under
32 fourteen (14) years of age or to use or post a recording of the person under
33 fourteen (14) years of age on an online social media platform or other
34 internet website that allows the using or posting of a recording;

35 (2) The person who recorded or whose recording was used or
36 posted on an online social media platform or other internet website that

1 allows the using or posting of a recording was the parent or guardian of the
2 person under fourteen (14) years of age;

3 (3) The person under fourteen (14) years of age who was recorded
4 was not the subject of the recording or was in the background of the
5 recording;

6 (4) A reasonable person would believe the appearance of the
7 person under fourteen (14) years of age was ancillary to the main subject of
8 the recording; or

9 (5) The recording of the person under fourteen (14) years of age
10 was used or posted by a news organization.

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12 SECTION 3. Arkansas Code Title 12, Chapter 12, Subchapter 9, is
13 amended to add an additional section to read as follows:

14 12-12-928. Prohibition against recording a person under 14 years of
15 age – Notification.

16 A person required to register as a sex offender under this subchapter
17 and who has been assessed as a Level 3 or Level 4 sex offender shall be
18 notified at his or her assessment that he or she is prohibited from recording
19 a person under fourteen (14) years of age under § 5-14-135.

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21 SECTION 4. Arkansas Code Title 16, Chapter 93, Subchapter 1, is
22 amended to add an additional section to read as follows:

23 16-93-111. Parole or probation prohibitions for sex offenses.

24 A person required to register as a sex offender under the Sex Offender
25 Registration Act of 1997, § 12-12-901 et seq., who is under felony probation
26 or released on parole shall have as a term and condition of his or her
27 probation or parole a prohibition against recording a person under fourteen
28 (14) years of age under § 5-14-135 if he or she is assessed as a Level 3 or
29 Level 4 offender.

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32 /s/T. Garner
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