

Stricken language would be deleted from and underlined language would be added to present law.

1 State of Arkansas *As Engrossed: H1/23/23 H3/1/23*

2 94th General Assembly

A Bill

3 Regular Session, 2023

HOUSE BILL 1141

4

5 By: Representatives Lundstrum, Barker, Bentley, K. Brown, Burkes, Crawford, Duke, C. Fite, D. Garner,
6 Haak, D. Hodges, McAlindon, McGrew, Unger, Vaught

7 By: Senators C. Penzo, J. Dotson, Irvin, G. Leding, G. Stubblefield, *M. McKee*

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For An Act To Be Entitled

10 AN ACT TO DEFINE THE TERM "CONSENT" REGARDING SEXUAL
11 OFFENSES WITHIN THE ARKANSAS CRIMINAL CODE; AND FOR
12 OTHER PURPOSES.

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Subtitle

16

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

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

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23 SECTION 1. Arkansas Code § 5-14-101, concerning definitions regarding
24 sexual offenses under the Arkansas Criminal Code, is amended to add an
25 additional subdivision to read as follows:

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(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.

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SECTION 2. Arkansas Code § 5-14-101(3), concerning the definition of
"forcible compulsion" regarding sexual offenses, is amended to read as
follows:

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

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

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(B) Any threat, express or implied, of death or physical



1 injury to or kidnapping of any person; or
2 (C) Any other behavior that results in a sexual act
3 against the will of the person upon whom the sexual act is committed;
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5 SECTION 3. Arkansas Code § 5-14-101(6), concerning the definition of
6 "mentally incapacitated" regarding sexual offenses, is amended to read as
7 follows:

8 (6) "Mentally incapacitated" means that a person is temporarily
9 incapable of appreciating or controlling the person's conduct as a result of
10 the influence of a controlled or intoxicating substance+

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

13 ~~(B) That renders the person unaware a sexual act is~~
14 ~~occurring;~~
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16 SECTION 4. Arkansas Code § 5-14-125(a)(6), concerning sexual assault
17 in the second degree, is amended to read as follows:

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

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

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

25 (B) It is no defense to a prosecution under subdivision
26 (a)(6)(A) of this section that the victim consented to the conduct.
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28 SECTION 5. Arkansas Code § 5-14-127(a)(2), concerning sexual assault
29 in the fourth degree, is amended to read as follows:

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

36 (B) It is no defense to a prosecution under subdivision

1 (a)(2)(A) of this section that the victim consented to the conduct.

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3 SECTION 6. Arkansas Code § 5-26-202, concerning the offense of incest,
4 is amended to add an additional subsection to read as follows:

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

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8 /s/Lundstrum

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