

1 State of Arkansas
2 80th General Assembly
3 Regular Session, 1995

A Bill

HOUSE BILL 1950

4 By: Representative J. Smith, *Northcutt, Jones, Brown, Ferrell, Bennett,*
5 *Owens, Roberts, Bush, Ammons, Horn and Madison*

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For An Act To Be Entitled

9 "AN ACT TO AMEND ARKANSAS CODE 5-14-102, 5-14-103, 5-14-
10 104, 5-14-106, 5-14-107, 5-14-108 AND 5-14-109 TO RAISE
11 THE AGE OF CONSENT TO SIXTEEN OR SEVENTEEN YEARS OF AGE
12 FOR CERTAIN SEXUAL OFFENSES; AND FOR OTHER PURPOSES."

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Subtitle

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15 "TO RAISE THE AGE OF CONSENT TO SIXTEEN
16 OR SEVENTEEN YEARS OF AGE FOR CERTAIN
17 SEXUAL OFFENSES."

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

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21 SECTION 1. Arkansas Code 5-14-102 is amended to read as follows:

22 "5-14-102. In general.

23 (a) The definition of an offense excluding conduct with a spouse shall
24 not be construed to preclude accomplice liability of a spouse.

25 (b) When the criminality of conduct depends on a child being below the
26 age of sixteen (16) years, it is no defense that the actor did not know the
27 age of the child, or reasonably believed the child to be sixteen (16) years
28 of age or older.

29 (c) When criminality of conduct depends on a child being below a
30 critical age older than sixteen (16) years, it is an affirmative defense that
31 the actor reasonably believed the child to be of the critical age or above.
32 The actor may be guilty, however, of the lesser offense defined by the age
33 that he reasonably believed the child to be.

34 (d) When criminality of conduct depends on a victim being incapable of
35 consent because he is mentally defective or mentally incapacitated, it is an

1 affirmative defense that the actor reasonably believed that the victim was
2 capable of consent."

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4 SECTION 2. Arkansas Code 5-14-103 is amended to read as follows:

5 "5-14-103. Rape.

6 (a) A person commits rape if he engages in sexual intercourse or
7 deviate sexual activity with another person:

8 (1) By forcible compulsion; or

9 (2) Who is incapable of consent because he is physically
10 helpless; or

11 (3) Who is less than sixteen (16) years of age. It is an
12 affirmative defense to prosecution under this subdivision that the actor was
13 not more than two (2) years older than the victim; or

14 (4) Not his spouse who is less than seventeen (17) years of age
15 and who is incapable of consent because he is mentally defective or mentally
16 incapacitated.

17 (b) Rape is a Class Y felony."

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19 SECTION 3. Arkansas Code 5-14-104 is amended to read as follows:

20 "5-14-104. Carnal abuse in the first degree.

21 (a) A person commits carnal abuse in the first degree if, being
22 eighteen (18) years or older, he engages in sexual intercourse or deviate
23 sexual activity with another person not his spouse who is less than sixteen
24 (16) years old. It is an affirmative defense to prosecution under this
25 subsection that the actor was not more than two (2) years older than the
26 victim.

27 (b) Carnal abuse in the first degree is a Class B felony."

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29 SECTION 4. Arkansas Code 5-14-106 is amended to read as follows:

30 "5-14-106. Carnal abuse in the third degree.

31 (a) A person commits carnal abuse in the third degree if, being
32 *twenty-one (21)* years old or older, he engages in sexual intercourse or
33 deviate sexual activity with another person not his spouse who is less than
34 seventeen (17) years old.

35 (b) Carnal abuse in the third degree is a Class A misdemeanor."

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SECTION 5. Arkansas Code 5-14-107 is amended to read as follows:

"5-14-107. Sexual misconduct.

(a) A person commits sexual misconduct if he engages in sexual intercourse or deviate sexual activity with another person not his spouse who is less than seventeen (17) years old.

(b) Sexual misconduct is a Class B misdemeanor."

SECTION 6. Arkansas Code 5-14-108 is amended to read as follows:

"5-14-108. Sexual abuse in the first degree.

(a) A person commits sexual abuse in the first degree if:

(1) He engages in sexual contact with another person by forcible compulsion; or

(2) He engages in sexual contact with another person who is incapable of consent because he is physically helpless; or

(3) Being *twenty-one (21)* years old or older, he engages in sexual contact with a person not his spouse who is less than sixteen (16) years old; or

(4) He engages in sexual contact with a person who is less than seventeen (17) years of age and who is incapable of consent because he is mentally defective or mentally incapacitated.

(b) Sexual abuse in the first degree is a Class C felony."

SECTION 7. Arkansas Code 5-14-109 is amended to read as follows:

"5-14-109. Sexual abuse in the second degree.

(a) A person commits sexual abuse in the second degree if:

(1) He engages in sexual contact with another person not his spouse who is incapable of consent because he is mentally defective or mentally incapacitated;

(2) Being less than *twenty-one (21)* years old, he engages in sexual contact with a person not his spouse who is less than sixteen (16) years old. It is an affirmative defense to prosecution under this subdivision that the actor was not more than two (2) years older than the victim.

(b) Sexual abuse in the second degree is a Class A misdemeanor."

1 SECTION 8. All provisions of this act of a general and permanent
2 nature are amendatory to the Arkansas Code of 1987 Annotated and the Arkansas
3 Code Revision Commission shall incorporate the same in the Code.

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5 SECTION 9. If any provision of this act or the application thereof to
6 any person or circumstance is held invalid, such invalidity shall not affect
7 other provisions or applications of the act which can be given effect without
8 the invalid provision or application, and to this end the provisions of this
9 act are declared to be severable.

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11 SECTION 10. All laws and parts of laws in conflict with this act are
12 hereby repealed.

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/s/Rep. J. Smith, et al

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