

Stricken language would be deleted from present law. Underlined language would be added to present law.

1 State of Arkansas
2 81st General Assembly
3 Regular Session, 1997

A Bill

HOUSE BILL 1515

4
5 By: Representatives Ingram and Thomas
6 By: Senator Webb

For An Act To Be Entitled

9 "AN ACT TO AMEND ARKANSAS CODE ANNOTATED §§ 16-93-303,
10 16-90-901, AND 5-4-311 TO PROVIDE THAT CERTAIN INDIVIDUALS
11 SHALL NOT BE ELIGIBLE TO HAVE CRIMINAL RECORDS EXPUNGED
12 WHEN THE OFFENSE WAS SEXUAL IN NATURE AND THE VICTIM WAS
13 UNDER THE AGE OF EIGHTEEN (18) YEARS; AND FOR OTHER
14 PURPOSES."

Subtitle

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17 "TO PROVIDE THAT CERTAIN INDIVIDUALS
18 SHALL NOT BE ELIGIBLE TO HAVE CRIMINAL
19 RECORDS EXPUNGED WHEN THE OFFENSE IS
20 SEXUAL IN NATURE AND THE VICTIM WAS
21 UNDER THE AGE OF 18."

22
23 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:

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25 SECTION 1. Arkansas Code Annotated § 16-93-303(a) is amended to read as
26 follows:

27 "16-93-303. Procedure.

28 (a)(1) Whenever an accused enters a plea of guilty or nolo contendere
29 prior to an adjudication of guilt, the judge of the circuit or municipal
30 court, criminal or traffic division, in the case of a defendant who has not
31 been previously convicted of a felony, without entering a judgment of guilt
32 and with the consent of the defendant, may defer further proceedings and place
33 the defendant on probation for a period of not less than one (1) year, under
34 such terms and conditions as may be set by the court; provided, however, that
35 no person accused of a sexual offense where the victim was under the age of
36 eighteen (18) shall be eligible for probation and expungement of the record

1 under this subchapter.

2 (2) Upon violation of a term or condition, the court may enter an
3 adjudication of guilt and proceed as otherwise provided.

4 (3) Nothing in this subsection shall require or compel any court
5 of this state to establish first offender procedures as provided in
6 §§ 16-93-301 - 16-93-303, nor shall any defendant be availed the benefit of
7 §§ 16-93-301 - 16-93-303 as a matter of right."

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9 SECTION 2. Arkansas Code Annotated § 5-4-311 is amended to read as
10 follows:

11 "5-4-311. Discharge and dismissal.

12 (a) If a judgment of conviction was not entered by the court at the
13 time of suspension or probation and the defendant fully complies with the
14 conditions of suspension or probation for the period of suspension or
15 probation, the court shall discharge the defendant and dismiss all proceedings
16 against him.

17 (b)(1) Subject to the provisions of §§ 5-4-501 - 5-4-505, a person
18 against whom such proceedings are discharged or dismissed may seek to have the
19 criminal records sealed, consistent with the procedures established in
20 § 16-90-901 et seq.

21 (2) This subsection shall not apply when the person was charged
22 with a sexual offense and the victim was under the age of eighteen (18)."

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24 SECTION 3. Arkansas Code Annotated § 16-90-901 is amended to read as
25 follows:

26 "16-90-901. Definition.

27 (a) As used in §§ 5-64-407, 5-4-311, 16-90-601, 16-90-602, 16-90-605,
28 16-93-301 - 16-93-303, and 16-93-1207, expunge shall mean that the record or
29 records in question shall be sealed, sequestered, and treated as confidential
30 in accordance with the procedures established by this subchapter.

31 (b) Unless otherwise provided by this subchapter, expunge shall not
32 mean the physical destruction of any records.

33 (c) No person who pleads guilty or nolo contendere or is found guilty
34 of a sexual offense and the victim was under the age of eighteen (18) shall be
35 eligible to have the offense expunged under the procedures set forth in this
36 subchapter."

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SECTION 4. All provisions of this act of a general and permanent nature are amendatory to the Arkansas Code of 1987 Annotated and the Arkansas Code Revision Commission shall incorporate the same in the Code.

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

SECTION 6. All laws and parts of laws in conflict with this act are hereby repealed.