

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

As Engrossed: H2/26/97 S3/4/97

A Bill

HOUSE BILL 1719

4
5 By: Representative Lynn
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For An Act To Be Entitled

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9 "AN ACT TO AMEND ARKANSAS CODE ANNOTATED §§ 5-14-103 AND
10 5-14-108 TO PROTECT FROM RAPE AND SEXUAL ABUSE THOSE
11 PERSONS WHO ARE INSTITUTIONALIZED AND WHO ARE INCAPABLE OF
12 CONSENT BECAUSE THEY ARE MENTALLY DEFECTIVE OR MENTALLY
13 INCAPACITATED; AND FOR OTHER PURPOSES."
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Subtitle

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16 "TO PROTECT FROM RAPE AND SEXUAL ABUSE
17 THOSE PERSONS WHO ARE INSTITUTIONALIZED
18 AND WHO ARE INCAPABLE OF CONSENT"
19

20 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:
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22 SECTION 1. Arkansas Code Annotated § 5-14-103 is amended to read as
23 follows:

24 "5-14-103. Rape.

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

27 (1) By forcible compulsion; or

28 (2) Not his spouse, who is a patient or resident of a hospital,
29 nursing home, human development center, or other similar facility, and who is
30 incapable of consent because he is mentally defective or mentally
31 incapacitated; or

32 ~~_____ (2)(3)~~ Who is incapable of consent because he is physically
33 helpless; or

34 ~~_____ (3)(4)~~ Who is less than fourteen (14) years of age. It is an
35 affirmative defense to prosecution under this subdivision that the actor was
36 not more than two (2) years older than the victim; or

1 _____(4)(5) Not his spouse who is less than sixteen (16) years of age
2 and who is incapable of consent because he is mentally defective or mentally
3 incapacitated.

4 (b) Rape is a Class Y felony."
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6 SECTION 2. Arkansas Code Annotated 5-14-108 is amended to read as
7 follows:

8 "5-14-108. Sexual abuse in the first degree.

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

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

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

14 (3) He engages in sexual contact with another person, not his
15 spouse, who is a patient or resident of a hospital, nursing home, human
16 development center, or other similar facility, and who is incapable of consent
17 because he is mentally defective or mentally incapacitated; or

18 _____(3)(4) Being eighteen (18) years old or older, he engages in
19 sexual contact with a person not his spouse who is less than fourteen (14)
20 years old; or

21 _____(4)(5) He engages in sexual contact with a person who is less
22 than sixteen (16) years of age and who is incapable of consent because he is
23 mentally defective or mentally incapacitated.

24 (b) Sexual abuse in the first degree is a Class C felony."
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26 SECTION 3. All provisions of this act of a general and permanent nature
27 are amendatory to the Arkansas Code of 1987 Annotated and the Arkansas Code
28 Revision Commission shall incorporate the same in the Code.
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30 SECTION 4. If any provision of this act or the application thereof to
31 any person or circumstance is held invalid, such invalidity shall not affect
32 other provisions or applications of the act which can be given effect without
33 the invalid provision or application, and to this end the provisions of this
34 act are declared to be severable.
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36 SECTION 5. All laws and parts of laws in conflict with this act are

1 hereby repealed.

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3 SECTION 6. EMERGENCY. It is found and determined by the General
4 Assembly of the State of Arkansas that those persons who are institutionalized
5 in hospitals and human development centers and who are incapable of consent
6 are not adequately protected by current rape and sexual abuse statutes.
7 Therefore an emergency is declared to exist and this act being immediately
8 necessary for the preservation of the public peace, health and safety shall
9 become effective on the date of its approval by the Governor. If the bill is
10 neither approved nor vetoed by the Governor, it shall become effective on the
11 expiration of the period of time during which the Governor may veto the bill.
12 If the bill is vetoed by the Governor and the veto is overridden, it shall
13 become effective on the date the last house overrides the veto.

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/s/Rep. Lynn

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