

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 2021

4
5 By: Representatives Judy Smith, Northcutt, Jones, Brown, Ferrell, Madison, Bennett, Ingram, Roberts, Bush, Ammons, Horn, and
6 Wilkins
7 By: Senator Walker

For An Act To Be Entitled

8
9
10 "AN ACT TO AMEND ARKANSAS CODE 5-14-102, 5-14-103,
11 5-14-104, 5-14-106, 5-14-107, 5-14-108 AND 5-14-109 TO
12 RAISE THE AGE OF CONSENT TO SIXTEEN OR SEVENTEEN YEARS OF
13 AGE FOR CERTAIN SEXUAL OFFENSES; AND FOR OTHER PURPOSES."

Subtitle

14
15
16 "TO RAISE THE AGE OF CONSENT TO SIXTEEN
17 OR SEVENTEEN YEARS OF AGE FOR CERTAIN
18 SEXUAL OFFENSES"

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

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

23 "5-14-102. In general.

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

26 (b) When the criminality of conduct depends on a child being ~~below the~~
27 ~~age of fourteen (14)~~ sixteen (16) years of age or less, it is no defense that
28 the actor did not know the age of the child, or reasonably believed the child
29 to be ~~fourteen (14)~~ sixteen (16) years of age or older.

30 (c) When criminality of conduct depends on a child being below a
31 critical age older than ~~fourteen (14)~~ sixteen (16) years, it is an affirmative
32 defense that the actor reasonably believed the child to be of the critical age
33 or above. The actor may be guilty, however, of the lesser offense defined by
34 the age that he reasonably believed the child to be.

35 (d) When criminality of conduct depends on a victim being incapable of
36 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."

3

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 fourteen (14)~~ sixteen (16) years of age or
 12 less. It is an affirmative defense to prosecution under this subdivision that
 13 the actor was not more than two (2) years older than the victim; or

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

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

18

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 ~~under~~
 22 ~~the age of eighteen (18) years~~ eighteen (18) years or older, he engages in
 23 sexual intercourse or deviate sexual activity with another person not his
 24 spouse who is ~~less than fourteen (14) years old~~ sixteen years of age or less.
 25 It is an affirmative defense to prosecution under this subsection that the
 26 actor was not more than two (2) years older than the victim.

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

28

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 ~~twenty~~
 32 ~~(20)~~ 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 ~~sixteen (16) years old~~ seventeen (17) years of age or less.

35 (b) Carnal abuse in the third degree is a Class D felony."

36

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

2 "5-14-107. Sexual misconduct.

3 (a) A person commits sexual misconduct if he engages in sexual
4 intercourse or deviate sexual activity with another person not his spouse who
5 is ~~less than sixteen (16) years old~~ seventeen (17) years of age or less.

6 (b) Sexual misconduct is a Class B misdemeanor."
7

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

9 "5-14-108. Sexual abuse in the first degree.

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

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

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

15 (3) Being ~~eighteen (18)~~ twenty-one (21) years old or older, he
16 engages in sexual contact with a person not his spouse who is ~~less than~~
17 ~~fourteen (14) years old~~ sixteen (16) years of age or less; or

18 (4) He engages in sexual contact with a person who is ~~less than~~
19 ~~sixteen (16)~~ seventeen (17) years of age or less and who is incapable of
20 consent because he is mentally defective or mentally incapacitated.

21 (b) Sexual abuse in the first degree is a Class C felony."
22

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

24 "5-14-109. Sexual abuse in the second degree.

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

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

29 (2) Being less than ~~eighteen (18)~~ twenty-one (21) years old, he
30 or she engages in sexual contact with a person not his or her spouse who is
31 ~~less than fourteen (14) years old~~ sixteen (16) years of age or less. It is an
32 affirmative defense to prosecution under this subdivision (a)(2) that the
33 actor was not more than two (2) years older than the victim; or

34 (3) He or she, being employed directly or through contract with
35 the Department of Correction or the Department of Community Punishment,
36 engages in sexual contact for the purpose of sexual gratification with any

1 person in the custody of the Department of Correction or the Department of
2 Community Punishment, the consent of the person in custody notwithstanding.

3 (b) Sexual abuse in the second degree is a Class A misdemeanor."
4

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

9 SECTION 9. If any provision of this act or the application thereof to
10 any person or circumstance is held invalid, such invalidity shall not affect
11 other provisions or applications of the act which can be given effect without
12 the invalid provision or application, and to this end the provisions of this
13 act are declared to be severable.
14

15 SECTION 10. All laws and parts of laws in conflict with this act are
16 hereby repealed.
17
18
19
20
21
22
23
24
25
26
27
28
29
30
31
32
33
34
35