

Stricken language would be deleted from and underlined language would be added to law as it existed prior to the 82nd General Assembly.

1 State of Arkansas
2 82nd General Assembly
3 Regular Session, 1999
4

As Engrossed: H3/19/99 S4/6/99

A Bill

HOUSE BILL 2141

5 By: Representative T. Thomas
6 By: Senators Bradford, Webb
7
8

For An Act To Be Entitled

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

Subtitle

17
18 "TO PROVIDE THAT CERTAIN INDIVIDUALS
19 SHALL NOT BE ELIGIBLE TO HAVE CRIMINAL
20 RECORDS EXPUNGED WHEN THE OFFENSE IS
21 SEXUAL IN NATURE AND THE VICTIM WAS
22 UNDER THE AGE OF 18. "
23
24

25 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:
26

27 SECTION 1. Arkansas Code 16-93-303(a) is amended to read as follows:

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 who pleads guilty, nolo contendere, or is found guilty of a sexual
36 offense as defined by Chapter 5, Title 14, Arkansas Code of 1987 Annotated

1 where the victim was under the age of eighteen (18) years shall be eligible
2 for expungement of the record under this subchapter.

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

5 (3) Nothing in this subsection shall require or compel any court
6 of this state to establish first offender procedures as provided in §§ 16-93-
7 301 - 16-93-303, nor shall any defendant be availed the benefit of §§ 16-93-
8 301 - 16-93-303 as a matter of right."

9
10 SECTION 2. Arkansas Code 5-4-311 is amended to read as 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 - 5-4-504, 5-4-505
18 [repealed], a person against whom such proceedings are discharged or dismissed
19 may seek to have the criminal records sealed, consistent with the procedures
20 established in § 16-90-901 et seq.

21 (2) This subsection shall not apply when the person applying for
22 discharge has been convicted of a sexual offense as defined by Chapter 5,
23 Title 14, Arkansas Code of 1987 Annotated and the victim was under the age of
24 eighteen (18) years."

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

27 "16-90-901. Definition.

28 (a)(1) As used in §§ 5-64-407, 5-4-311, 16-90-601, 16-90-602, 16-90-
29 605, 16-93-301 - 16-93-303, and 16-93-1207, 'expunge' shall mean that the
30 record or records in question shall be sealed, sequestered, and treated as
31 confidential in accordance with the procedures established by this subchapter.

32 ~~(b)(2)~~ Unless otherwise provided by this subchapter, 'expunge'
33 shall not mean the physical destruction of any records.

34 (3) No person who pleads guilty or nolo contendere or is found
35 guilty of a sexual offense as defined in this section and the victim was under
36 the age of eighteen (18) years shall be eligible to have the offense expunged

1 under the procedures set forth in this subchapter.

2 (b) For purposes of this Act 'sexual offense' shall be defined as
3 conducted prohibited by § 5-14-103, 5-14-108, 5-14-110, 5-14-120, and 5-14-
4 121."

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

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

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

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/s/ T. Thomas