

1 State of Arkansas  
2 90th General Assembly  
3 Third Extraordinary Session, 2016  
4

# A Bill

Call Item 12  
HOUSE BILL 1011

5 By: Representative Shepherd  
6 By: Senator J. Hutchinson  
7

## For An Act To Be Entitled

9 AN ACT CONCERNING THE CRIMINAL OFFENSE OF SEXUAL  
10 INDECENCY WITH A CHILD; TO DECLARE AN EMERGENCY; AND  
11 FOR OTHER PURPOSES.  
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## Subtitle

15 CONCERNING THE CRIMINAL OFFENSE OF SEXUAL  
16 INDECENCY WITH A CHILD; AND TO DECLARE AN  
17 EMERGENCY.  
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20 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:  
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22 SECTION 1. Arkansas Code § 5-14-110 is amended to read as follows:  
23 5-14-110. Sexual indecency with a child.

24 (a) A person commits sexual indecency with a child if:

25 (1) Being eighteen (18) years of age or older, the person  
26 solicits another person who is less than fifteen (15) years of age or who is  
27 represented to be less than fifteen (15) years of age to engage in:

- 28 (A) Sexual intercourse;
- 29 (B) Deviate sexual activity; or
- 30 (C) Sexual contact;

31 (2)(A) With the purpose to arouse or gratify a sexual desire of  
32 himself or herself or a sexual desire of ~~any other~~ another person, the person  
33 purposely exposes his or her sex organs to another person who is less than  
34 fifteen (15) years of age.

35 (B) It is an affirmative defense to a prosecution under  
36 subdivision (a)(2)(A) of this section if the person is within three (3) years



1 of age of the victim; ~~or~~

2 (3) With the purpose to arouse or gratify a sexual desire of  
 3 himself or herself or a sexual desire of ~~any other~~ another person, the person  
 4 purposely exposes his or her sex organs to a minor, and the actor is:

5 (A) Employed with the Department of Correction, Department  
 6 of Community Correction, any city or county jail, or any juvenile detention  
 7 facility, and the minor is in custody at a facility operated by the agency or  
 8 contractor employing the actor;

9 (B) A mandated reporter under § 12-18-402(b) and is in a  
 10 position of trust or authority over the minor; or

11 (C) The minor's parent or guardian, an employee in the  
 12 minor's school or school district, a temporary caretaker, or a person in a  
 13 position of trust and authority over the minor;

14 (4) With the purpose to arouse or gratify his or her sexual  
 15 desire or a sexual desire of another person, ~~a person who is~~ the person,  
 16 being eighteen (18) years of age or older, causes or coerces a minor to  
 17 expose his or her sex organs to the actor or another person, and the actor  
 18 is:

19 (A) Employed with the Department of Correction, the  
 20 Department of Community Correction, any city or county jail, or any juvenile  
 21 detention facility, and the minor is in custody at a facility operated by the  
 22 agency or contractor employing the actor;

23 (B) A mandated reporter under § 12-18-402(b) and is in a  
 24 position of trust or authority over the minor; or

25 (C) The minor's parent or guardian, an employee in the  
 26 minor's school or school district, a temporary caretaker, or a person in a  
 27 position of trust or authority over the minor; or

28 (5) Being eighteen (18) years of age or older, the person causes  
 29 or coerces another person who is less than fourteen (14) years of age to  
 30 expose his or her sex organs or the breast of a female with the purpose to  
 31 arouse or gratify a sexual desire of ~~himself, herself,~~ the actor or another  
 32 person.

33 (b) Sexual indecency with a child is a Class D felony.

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 35 SECTION 2. EMERGENCY CLAUSE. It is found and determined by the  
 36 General Assembly of the State of Arkansas that protection of our children

1 from sexual predators is of paramount importance; that on March 17, 2016, the  
2 Supreme Court held in State v. Coble that the language in the current  
3 criminal statute of sexual indecency with a child, § 5-14-110, technically  
4 did not prescribe criminal liability for at least one (1) act of sexual  
5 predation; and that this act is immediately necessary to prohibit acts of  
6 sexual predation. Therefore, an emergency is declared to exist, and this act  
7 being immediately necessary for the preservation of the public peace, health,  
8 and safety shall become effective on:

9 (1) The date of its approval by the Governor;

10 (2) If the bill is neither approved nor vetoed by the Governor,  
11 the expiration of the period of time during which the Governor may veto the  
12 bill; or

13 (3) If the bill is vetoed by the Governor and the veto is  
14 overridden, the date the last house overrides the veto.

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