

1 State of Arkansas
2 91st General Assembly
3 Regular Session, 2017
4

A Bill

HOUSE BILL 1173

5 By: Representative Tucker
6 By: Senator J. Hutchinson
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For An Act To Be Entitled

9 AN ACT TO AMEND AND MAKE CONSISTENT THE OFFENSES OF
10 SEXUAL INDECENCY WITH A CHILD AND SEXUAL ASSAULT IN
11 THE FOURTH DEGREE; TO AMEND THE DEFINITION OF "SEXUAL
12 ABUSE" UNDER THE CHILD MALTREATMENT ACT; AND FOR
13 OTHER PURPOSES.
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Subtitle

16 TO AMEND AND MAKE CONSISTENT THE OFFENSES
17 OF SEXUAL INDECENCY WITH A CHILD AND
18 SEXUAL ASSAULT IN THE FOURTH DEGREE; AND
19 TO AMEND THE DEFINITION OF "SEXUAL ABUSE"
20 UNDER THE CHILD MALTREATMENT ACT.
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24 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:
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26 SECTION 1. Arkansas Code § 5-14-110 is amended to read as follows:

27 5-14-110. Sexual indecency with a child.

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

29 (1) (A) Being eighteen (18) years of age or older, the person
30 solicits another person who is less than ~~fifteen (15)~~ sixteen (16) years of
31 age or who is represented to be less than ~~fifteen (15)~~ sixteen (16) years of
32 age to engage in:

33 ~~(A)(i)~~ Sexual intercourse;

34 ~~(B)(ii)~~ Deviate sexual activity; or

35 ~~(C)(iii)~~ Sexual contact~~+~~.

36 (B) It is an affirmative defense to a prosecution under



1 subdivision (a)(1)(A) of this section if the person is within three (3) years
2 of age of the victim;

3 (2)(A) With the purpose to arouse or gratify a sexual desire of
4 himself or herself or a sexual desire of any other person, the person
5 purposely exposes his or her sex organs to another person who is less than
6 ~~fifteen (15)~~ sixteen (16) years of age.

7 (B) It is an affirmative defense to a prosecution under
8 subdivision (a)(2)(A) of this section if the person is within three (3) years
9 of age of the victim;

10 (3) With the purpose to arouse or gratify a sexual desire of
11 himself or herself or a sexual desire of another person, the person purposely
12 exposes his or her sex organs to a minor, and the actor is:

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

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

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

22 (4) With the purpose to arouse or gratify his or her sexual
23 desire or a sexual desire of another person, the person, being eighteen (18)
24 years of age or older causes or coerces a minor to expose his or her sex
25 organs to the actor or another person, and the actor is:

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

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

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

35 (5) Being eighteen (18) years of age or older, the person causes
36 or coerces another person who is less than fourteen (14) years of age to

1 expose his or her sex organs or the breast of a female with the purpose to
 2 arouse or gratify a sexual desire of the actor or another person.

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

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 5 SECTION 2. Arkansas Code § 5-14-127 is amended to read as follows:

6 5-14-127. Sexual assault in the fourth degree.

7 (a) A person commits sexual assault in the fourth degree if the
 8 person:

9 (1) Being ~~twenty (20)~~ eighteen (18) years of age or older:

10 (A) Engages in sexual intercourse or deviate sexual
 11 activity with another person who is:

12 (i) Less than sixteen (16) years of age; and

13 (ii) Not the person's spouse; or

14 (B) Engages in sexual contact with another person who is:

15 (i) Less than sixteen (16) years of age; and

16 (ii) Not the person's spouse; or

17 (2) Engages in sexual contact with another person who is not the
 18 actor's spouse, and the actor is employed with the Department of Correction,
 19 Department of Community Correction, Department of Human Services, or any city
 20 or county jail, and the victim is in the custody of the Department of
 21 Correction, Department of Community Correction, Department of Human Services,
 22 or a city or county jail.

23 (b)(1) Sexual assault in the fourth degree under subdivisions
 24 (a)(1)(A) and (a)(2) of this section is a Class D felony.

25 (2) Sexual assault in the fourth degree under subdivision
 26 (a)(1)(B) of this section is a Class A misdemeanor if the person engages only
 27 in sexual contact with another person as described in subdivision (a)(1)(B)
 28 of this section.

29 (c) It is an affirmative defense to a prosecution under subdivision
 30 (a)(1) of this section if the person is within three (3) years of age of the
 31 victim.

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 33 SECTION 3. Arkansas Code § 12-18-103(20), concerning the definition of
 34 "sexual abuse" under the Child Maltreatment Act, is amended to read as
 35 follows:

36 (20) "Sexual abuse" means:

1 (A) By a person fourteen (14) years of age or older to a
2 person younger than eighteen (18) years of age:

3 (i) Sexual intercourse, deviate sexual activity, or
4 sexual contact by forcible compulsion;

5 (ii) Attempted sexual intercourse, deviate sexual
6 activity, or sexual contact by forcible compulsion;

7 (iii) Indecent exposure; or

8 (iv) Forcing the watching of pornography or live
9 sexual activity;

10 (B) By a person eighteen (18) years of age or older to a
11 person not his or her spouse who is younger than ~~fifteen (15)~~ sixteen (16)
12 years of age:

13 (i) Sexual intercourse, deviate sexual activity, or
14 sexual contact;

15 (ii) Attempted sexual intercourse, deviate sexual
16 activity, or sexual contact; or

17 (iii) Solicitation of sexual intercourse, deviate
18 sexual activity, or sexual contact;

19 ~~(C) By a person twenty (20) years of age or older to a~~
20 ~~person not his or her spouse who is younger than sixteen (16) years of age;~~

21 ~~(i) Sexual intercourse, deviate sexual activity, or~~
22 ~~sexual contact;~~

23 ~~(ii) Attempted sexual intercourse, deviate sexual~~
24 ~~activity, or sexual contact; or~~

25 ~~(iii) Solicitation of sexual intercourse, deviate~~
26 ~~sexual activity, or sexual contact;~~

27 ~~(D)~~(C) By a caretaker to a person younger than eighteen
28 (18) years of age:

29 (i) Sexual intercourse, deviate sexual activity, or
30 sexual contact;

31 (ii) Attempted sexual intercourse, deviate sexual
32 activity, or sexual contact;

33 (iii) Forcing or encouraging the watching of
34 pornography;

35 (iv) Forcing, permitting, or encouraging the
36 watching of live sexual activity;

- 1 (v) Forcing the listening to a phone sex line;
- 2 (vi) An act of voyeurism; or
- 3 (vii) Solicitation of sexual intercourse, deviate
- 4 sexual activity, or sexual contact; or
- 5 ~~(E)~~(D) By a person younger than fourteen (14) years of age
- 6 to a person younger than eighteen (18) years of age:
- 7 (i) Sexual intercourse, deviate sexual activity, or
- 8 sexual contact by forcible compulsion; or
- 9 (ii) Attempted sexual intercourse, deviate sexual
- 10 activity, or sexual contact by forcible compulsion;

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