

Stricken language would be deleted from and underlined language would be added to present law.

1 State of Arkansas
2 89th General Assembly
3 Regular Session, 2013

A Bill

DRAFT BPG/LNS
SENATE BILL

4
5 By: Senator <NA>
6

7 For An Act To Be Entitled

8 AN ACT AMENDING THE CRIMINAL OFFENSES OF SECOND
9 DEGREE SEXUAL ASSAULT, THIRD DEGREE SEXUAL ASSAULT,
10 AND FOURTH DEGREE SEXUAL ASSAULT; AND FOR OTHER
11 PURPOSES.
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14 Subtitle

15 AMENDING THE CRIMINAL OFFENSES OF SECOND
16 DEGREE SEXUAL ASSAULT, THIRD DEGREE
17 SEXUAL ASSAULT, AND FOURTH DEGREE SEXUAL
18 ASSAULT.
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21 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:
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23 SECTION 1. Arkansas Code § 5-14-125 is amended to read as follows:
24 5-14-125. Sexual assault in the second degree.

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

27 (1) Engages in sexual contact with another person by forcible
28 compulsion;

29 (2) Engages in sexual contact with another person who is
30 incapable of consent because he or she is:

31 (A) Physically helpless;

32 (B) Mentally defective; or

33 (C) Mentally incapacitated;

34 (3) Being eighteen (18) years of age or older, engages in sexual
35 contact with another person who is:

36 (A) Less than fourteen (14) years of age; and

1 (B) Not the person's spouse;

2 (4)(A) Engages in sexual contact with a minor and the actor is:

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

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

9 (iii) The minor's guardian, an employee in the
10 minor's school or school district, a temporary caretaker, or a person in a
11 position of trust or authority over the minor.

12 (B) For purposes of subdivision (a)(4)(A) of this section,
13 consent of the minor is not a defense to a prosecution;

14 (5)(A) Being a minor, engages in sexual contact with another
15 person who is:

16 (i) Less than fourteen (14) years of age; and

17 (ii) Not the person's spouse.

18 (B) It is an affirmative defense to a prosecution under
19 this subdivision (a)(5) that the actor was not more than:

20 (i) Three (3) years older than the victim if the
21 victim is less than twelve (12) years of age; or

22 (ii) Four (4) years older than the victim if the
23 victim is twelve (12) years of age or older; or

24 (6) Is a teacher, principal, athletic coach, or counselor in a
25 position of trust or authority in a public school in a grade kindergarten
26 through twelve (K-12) and engages in sexual contact with another person who
27 is:

28 (A) A student enrolled in the public school; and

29 (B) Less than twenty-one (21) years of age.

30 (b)(1) Sexual assault in the second degree is a Class B felony.

31 (2) Sexual assault in the second degree is a Class D felony if
32 committed by a minor with another person who is:

33 (A) Less than fourteen (14) years of age; and

34 (B) Not the person's spouse.

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36 SECTION 2. Arkansas Code § 5-14-126 is amended to read as follows:

1 5-14-126. Sexual assault in the third degree.

2 (a) A person commits sexual assault in the third degree if the person:

3 (1) Engages in sexual intercourse or deviate sexual activity
4 with another person who is not the actor's spouse, and the actor is:

5 (A) Employed with the Department of Correction, Department
6 of Community Correction, ~~Department of Human Services~~, or any city or county
7 jail, and the victim is in the custody of the Department of Correction,
8 Department of Community Correction, ~~Department of Human Services~~, or any city
9 or county jail;

10 (B) Employed or contracted with or otherwise providing
11 services, supplies, or supervision to an agency maintaining custody of
12 inmates, or detainees, ~~or juveniles~~, and the victim is in the custody of the
13 Department of Correction, Department of Community Correction, ~~Department of~~
14 ~~Human Services~~, or any city or county jail; ~~or~~

15 (C) In a position of trust or authority over the victim
16 and is employed or contracted with or otherwise providing services, supplies,
17 or supervision to an agency maintaining custody of a juvenile and the victim
18 is in the custody of the Department of Human Services; or

19 ~~(G)(D)~~ A mandated reporter under § 12-18-402(b), ~~or~~ a
20 member of the clergy, or and is a person in a position of trust or authority
21 over the victim and uses the position of trust or authority to engage in
22 sexual intercourse or deviate sexual activity; or

23 (2)(A) Being a minor, engages in sexual intercourse or deviate
24 sexual activity with another person who is:

- 25 (i) Less than fourteen (14) years of age; and
- 26 (ii) Not the person's spouse.

27 (B) It is an affirmative defense under this subdivision
28 (a)(2) that the actor was not more than three (3) years older than the
29 victim.

30 (b) It is no defense to a prosecution under this section that the
31 victim consented to the conduct.

32 (c) Sexual assault in the third degree is a Class C felony.

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34 SECTION 3. Arkansas Code § 5-14-127 is amended to read as follows:

35 5-14-127. Sexual assault in the fourth degree.

36 (a) A person commits sexual assault in the fourth degree if the

1 person:

2 (1) Being twenty (20) years of age or older:

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

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

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

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

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

9 (ii) Not the person's spouse; ~~or~~

10 (2) Engages in sexual contact with another person who is not the
11 actor's spouse, and the actor is employed with the Department of Correction,
12 Department of Community Correction, ~~Department of Human Services,~~ or any city
13 or county jail, and the victim is in the custody of the Department of
14 Correction, Department of Community Correction, ~~Department of Human Services,~~
15 or a city or county jail; or

16 (3) Engages in sexual contact with another person who is not the
17 actor's spouse, and the actor is employed with the Department of Human
18 Services, in a position of trust or authority, and the victim is in the
19 custody of the Department of Human Services.

20 (b)(1) Sexual assault in the fourth degree under subdivisions

21 (a)(1)(A) and (a)(2) of this section is a Class D felony.

22 (2) Sexual assault in the fourth degree under subdivision

23 (a)(1)(B) of this section is a Class A misdemeanor if the person engages only
24 in sexual contact with another person as described in subdivision (a)(1)(B)
25 of this section.

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