

State of Arkansas
90th General Assembly
Third Extraordinary Session, 2016

A Bill

Call Item 12
HOUSE BILL 1011

By: Representative Shepherd
By: Senator J. Hutchinson

For An Act To Be Entitled

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

Subtitle

CONCERNING THE CRIMINAL OFFENSE OF SEXUAL
INDECENCY WITH A CHILD; AND TO DECLARE AN
EMERGENCY.

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

SECTION 1. Arkansas Code § 5-14-110 is amended to read as follows:
5-14-110. Sexual indecency with a child.

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

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

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

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

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



of age of the victim; ~~or~~

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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