

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

State of Arkansas
91st General Assembly
Regular Session, 2017

As Engrossed: H3/3/17
A Bill

HOUSE BILL 1173

By: Representative Tucker
By: Senator J. Hutchinson

For An Act To Be Entitled

AN ACT TO AMEND AND MAKE CONSISTENT THE OFFENSES OF
SEXUAL INDECENCY WITH A CHILD AND SEXUAL ASSAULT IN
THE FOURTH DEGREE; AND FOR OTHER PURPOSES.

Subtitle

*TO AMEND AND MAKE CONSISTENT THE OFFENSES
OF SEXUAL INDECENCY WITH A CHILD AND
SEXUAL ASSAULT IN THE FOURTH DEGREE.*

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 twenty (20) 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) Being twenty (20) years of age or older, the person solicits another person who is less than sixteen (16) years of age or who is represented to be less than sixteen (16) years of age to engage in:

(A) Sexual intercourse; or

(B) Deviate sexual activity;

(3) Being twenty (20) years of age or older, the person solicits



another person who is less than sixteen (16) years of age or who is represented to be less than sixteen (16) years of age to only engage in sexual contact;

~~(1)(4)~~ (4) 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; or

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

~~(C) Sexual contact;~~

~~(2)(A)(5)(A)~~ (5)(A) With the purpose to arouse or gratify a sexual desire of himself or herself or a sexual desire of 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)(a)(5)(A)~~ (5)(A) of this section if the person is within three (3) years of age of the victim;

~~(3)(6)~~ (6) With the purpose to arouse or gratify a sexual desire of himself or herself or a sexual desire of 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)(7)~~ (7) With the purpose to arouse or gratify his or her sexual desire or a sexual desire of another person, 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)(8)~~ 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 the actor or another person; or

(9) 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 only engage in sexual contact.

(b) Sexual indecency with a child is a:

(1) Class C felony under subdivision (a)(1) of this section;

(2) Class D felony under subdivision (a)(2) of this section, and subdivisions (a)(4)-(8) of this section; and

(3) Class A misdemeanor under subdivisions (a)(3) and (a)(9) of this section.

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

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

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

(1) Being twenty (20) years of age or older, engages in sexual intercourse, deviate sexual activity, or sexual contact with another person who is:

(A) Less than fifteen (15) years of age; and

(B) Not the person's spouse;

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

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

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

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

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

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

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

(3) Being twenty (20) years of age or older only engages in sexual contact with another person who is:

(A) Less than sixteen (16) years of age; and

(B) Not the person's spouse;

(4) Being eighteen (18) years of age or older, engages in sexual intercourse or deviate sexual activity with another person who is:

(A) Less than fifteen (15) years of age; and

(B) Not the person's spouse;

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

(A) Less than fifteen (15) years of age; and

(B) Not the person's spouse; or

~~(2)(6)~~ Engages in sexual contact with another person who is not the actor's spouse, ~~and~~ the actor is employed with the Department of Correction, Department of Community Correction, Department of Human Services, or any city or county jail, the actor is in a position of trust or authority over the victim and uses the position of trust or authority to engage in sexual contact, and the victim is in the custody of the Department of Correction, Department of Community Correction, Department of Human Services, or a city or county jail.

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

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

(1) Class C felony under subdivision (a)(1) of this section;

(2) Class D felony under subdivisions (a)(2), (a)(4), and (a)(6) of this section; and

(3) Class A misdemeanor under subdivisions (a)(3) and (a)(5) of this section.

/s/Tucker