

State of Arkansas  
91st General Assembly  
Regular Session, 2017

# A Bill

HOUSE BILL 1658

By: Representatives Tucker, Gazaway

## For An Act To Be Entitled

AN ACT CONCERNING THE OFFENSE OF SEXUAL ASSAULT IN  
THE THIRD DEGREE; AND FOR OTHER PURPOSES.

### Subtitle

CONCERNING THE OFFENSE OF SEXUAL ASSAULT  
IN THE THIRD DEGREE.

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

SECTION 1. Arkansas Code § 5-14-126 is amended to read as follows:  
5-14-126. Sexual assault in the third degree.

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

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

(A) Employed with the Department of Correction, Department  
of Community Correction, Department of Human Services, or any city or county  
jail, ~~and~~ the victim is in the custody of the Department of Correction,  
Department of Community Correction, Department of Human Services, or any city  
or county jail, and 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  
intercourse or deviate sexual activity;

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

(C) A mandated reporter under § 12-18-402(b) or a member of the clergy and is in a position of trust or authority over the victim and uses the position of trust or authority to engage in sexual intercourse or deviate sexual activity; or

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

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

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

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

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