

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

State of Arkansas  
92nd General Assembly  
Regular Session, 2019

As Engrossed: S1/30/19  
**A Bill**

SENATE BILL 8

By: Senator T. Garner  
By: Representatives Pilkington, Petty

### **For An Act To Be Entitled**

AN ACT TO PROHIBIT A REGISTERED SEX OFFENDER FROM RECORDING A PERSON UNDER FOURTEEN (14) YEARS OF AGE IN CERTAIN CIRCUMSTANCES; TO PROHIBIT THE UNLAWFUL USE OF A RECORDING OF A PERSON UNDER FOURTEEN (14) YEARS OF AGE ONLINE; AND FOR OTHER PURPOSES.

### **Subtitle**

TO PROHIBIT A REGISTERED SEX OFFENDER FROM RECORDING A PERSON UNDER FOURTEEN (14) YEARS OF AGE IN CERTAIN CIRCUMSTANCES; AND TO PROHIBIT THE UNLAWFUL USE OF A RECORDING OF A PERSON UNDER FOURTEEN (14) YEARS OF AGE ONLINE.

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

*SECTION 1. Arkansas Code Title 5, Chapter 4, Subchapter 1, is amended to add an additional section to read as follows:*

*5-4-109. Sentencing for sex offense.*

*A person who is convicted of an offense for which he or she is required to register as a sex offender under the Sex Offender Registration Act of 1997, § 12-12-901 et seq., shall be notified at his or her sentencing by the court that he or she is prohibited from recording a person under fourteen (14) years of age under § 5-14-135 if he or she is assessed as a Level 3 or Level 4 offender.*



SECTION 2. Arkansas Code Title 5, Chapter 14, Subchapter 1, is amended to add an additional section to read as follows:

5-14-135. Registered offender prohibited from recording person under 14 years of age – Unlawful use of recording online.

(a) As used in this section, "record" means to photograph, make, capture, generate, or save a print, negative, slide, motion picture, computer data file, videotape, or other mechanically, electronically, or chemically reproduced visual image or material.

(b) It is unlawful for a person who is required to register under the Sex Offender Registration Act of 1997, § 12-12-901 et seq., and who has been assessed as a Level 3 or Level 4 offender to knowingly:

(1) Record a person under fourteen (14) years of age and post the recording of the person on an online social media platform or other internet website that allows the using or posting of a recording in any form after the person has previously been warned of his or her possible criminal exposure by a judge at the person's sentencing for the offense for which the person is required to register as a sex offender, or by his or her parole or probation officer that recording a person under fourteen (14) years of age is a violation of his or her terms and conditions of his or her probation or parole; or

(2) Record a person under fourteen (14) years of age and post the recording of the person on an online social media platform or other internet website that allows the using or posting of a recording in any form in a manner that would suggest to a reasonable person that the person recording and posting the recording was doing so to unlawfully incite the prurient interest of himself, herself, or another person.

(c) A violation of this section is a Class D felony.

(d) It is a defense to prosecution under this section that:

(1) The person received permission from the parent or guardian of the person under fourteen (14) years of age to record the person under fourteen (14) years of age or to use or post a recording of the person under fourteen (14) years of age on an online social media platform or other internet website that allows the using or posting of a recording;

(2) The person who recorded or whose recording was used or posted on an online social media platform or other internet website that

allows the using or posting of a recording was the parent or guardian of the person under fourteen (14) years of age;

(3) The person under fourteen (14) years of age who was recorded was not the subject of the recording or was in the background of the recording;

(4) A reasonable person would believe the appearance of the person under fourteen (14) years of age was ancillary to the main subject of the recording; or

(5) The recording of the person under fourteen (14) years of age was used or posted by a news organization.

SECTION 3. Arkansas Code Title 12, Chapter 12, Subchapter 9, is amended to add an additional section to read as follows:

12-12-928. Prohibition against recording a person under 14 years of age – Notification.

A person required to register as a sex offender under this subchapter and who has been assessed as a Level 3 or Level 4 sex offender shall be notified at his or her assessment that he or she is prohibited from recording a person under fourteen (14) years of age under § 5-14-135.

SECTION 4. Arkansas Code Title 16, Chapter 93, Subchapter 1, is amended to add an additional section to read as follows:

16-93-111. Parole or probation prohibitions for sex offenses.

A person required to register as a sex offender under the Sex Offender Registration Act of 1997, § 12-12-901 et seq., who is under felony probation or released on parole shall have as a term and condition of his or her probation or parole a prohibition against recording a person under fourteen (14) years of age under § 5-14-135 if he or she is assessed as a Level 3 or Level 4 offender.

/s/T. Garner