

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

State of Arkansas
94th General Assembly
Regular Session, 2023

As Engrossed: H1/23/23 H3/1/23 H3/8/23

A Bill

HOUSE BILL 1141

By: Representatives Lundstrum, Barker, Bentley, K. Brown, Burkes, Crawford, Duke, C. Fite, D. Garner, Haak, D. Hodges, McAlindon, McGrew, Unger, Vaught

By: Senators C. Penzo, J. Dotson, Irvin, G. Leding, G. Stubblefield, *M. McKee*

For An Act To Be Entitled

AN ACT TO DEFINE THE TERM "CONSENT" REGARDING SEXUAL OFFENSES WITHIN THE ARKANSAS CRIMINAL CODE; AND FOR OTHER PURPOSES.

Subtitle

TO DEFINE THE TERM "CONSENT" REGARDING SEXUAL OFFENSES WITHIN THE ARKANSAS CRIMINAL CODE.

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

SECTION 1. Arkansas Code § 5-14-101, concerning definitions regarding sexual offenses under the Arkansas Criminal Code, is amended to add an additional subdivision to read as follows:

(16) "Consent" means a freely given, knowledgeable, and informed agreement by a person who is not physically helpless, mentally defective, mentally incapacitated, or under the legal age to consent.

SECTION 2. Arkansas Code § 5-14-101(3), concerning the definition of "forcible compulsion" regarding sexual offenses, is amended to read as follows:

(3) "Forcible compulsion" means ~~physical force or a~~

(A) Any bodily impact, restraint, confinement, or threat of bodily impact, restraint, or confinement, whether express or implied;

(B) Any threat, express or implied, of death or physical



injury to or kidnapping of any person; or

(C) Any other behavior that results in a sexual act against the will of the person upon whom the sexual act is committed;

SECTION 3. Arkansas Code § 5-14-125(a)(6), concerning sexual assault in the second degree, is amended to read as follows:

(6)(A) Is a teacher, principal, athletic coach, or counselor in a public or private school in a grade kindergarten through twelve (K-12), in a position of trust or authority, and uses his or her position of trust or authority over the victim to engage in sexual contact with a victim who is:

~~(A)(i) A student enrolled in the public or private school;~~
and

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

(B) It is no defense to a prosecution under subdivision (a)(6)(A) of this section that the victim consented to the conduct.

SECTION 4. Arkansas Code § 5-14-127(a)(2), concerning sexual assault in the fourth degree, is amended to read as follows:

(2)(A) Engages in sexual contact with another person who is not the actor's spouse, and the actor is employed with the Division of Correction, Division of Community Correction, Department of Human Services, or any city or county jail, and the victim is in the custody of the Division of Correction, Division of Community Correction, Department of Human Services, or a city or county jail.

(B) It is no defense to a prosecution under subdivision (a)(2)(A) of this section that the victim consented to the conduct.

SECTION 5. Arkansas Code § 5-26-202, concerning the offense of incest, is amended to add an additional subsection to read as follows:

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

/s/Lundstrum