

Arkansas Statutory References to Sexual Assault*

In Arkansas, the statutory references to sexual assault are as follows:

Arkansas Code 5-14-101. Sexual Assault Definitions:

- (1) "Deviate sexual activity" means any act of sexual gratification involving:
 - (A) The penetration, however slight, of the anus or mouth of one person by the penis of another person; or
 - (B) The penetration, however slight, of the labia majora or anus of one person by any body member or foreign instrument manipulated by another person;
- (2) "Forcible compulsion" means physical force or a threat, express or implied, of death or physical injury to or kidnapping of any person;
- (3) "Mentally defective" means that a person suffers from a mental disease or defect which renders the person incapable of understanding the nature and consequences of sexual acts or unaware the sexual act is occurring. A determination that a person is mentally defective shall not be based solely on his intelligence quotient;
- (4) "Mentally incapacitated" means that a person is temporarily incapable of appreciating or controlling the person's conduct as a result of the influence of a controlled or intoxicating substance:
 - (A) Administered to the person without the person's consent; or
 - (B) Which renders the person unaware the sexual act is occurring;
- (5) "Physically helpless" means that a person is:
 - (A) Unconscious or is physically unable to communicate lack of consent; or
 - (B) Is rendered unaware the sexual act is occurring;
- (6) "Public place" means a publicly or privately owned place to which the public or substantial numbers of people have access;
- (7) "Public view" means observable or likely to be observed by a person in a public place;
- (8) "Sexual contact" means any act of sexual gratification involving the touching, directly or through clothing, of the sex organs, or buttocks, or anus of a person or the breast of a female;
- (9) "Sexual intercourse" means penetration, however slight, of the labia majora by a penis; and

(10) "Guardian" means a parent, stepparent, legal guardian, legal custodian, foster parent, or anyone who, by virtue of a living arrangement, is placed in an apparent position of power or authority over a minor.

Arkansas Code 5-14-103. Rape:

(A) A person commits rape if he engages in sexual intercourse or deviate sexual activity with another person:

(1) By forcible compulsion; or

(2) Who is incapable of consent because he is physically helpless, mentally defective or mentally incapacitated; or

(3) Who is less than fourteen (14) years of age; or

(4) Who is less than eighteen (18) years of age, and the actor:

a) The victim's guardian;

b) Uncle, aunt, grandparent or step-grandparent, grandparent by adoption;

c) Brother, sister or the whole or half-blood or by adoption;

d) Nephew, niece or first cousin.

e) It is an affirmative defense to prosecution under this subdivision (D) that the actor was not more than three (3) years older than the victim.

(B) It is not a defense to prosecution under (3) or (4) of this section that the victim consented to the conduct.

(C) It is an affirmative defense to prosecution under (3) of this section that the actor was not more than three (3) years older than the victim.

(D) Rape is a Class Y felony.

(1) A court may issue a permanent no contact order when:

(a) A defendant pleads guilty or nolo contendere; or

(b) All the defendant's appeals have been exhausted and the defendant remains convicted.

(2) If a judicial officer has reason to believe that mental disease or defect of the defendant will or has become an issue in the case, the judicial officer shall enter such orders as are consistent with Arkansas Code 5-2-305.

Arkansas Code 5-14-103. Sexual Assault First Degree:

(A) A person commits sexual assault in the first degree if the actor engages in sexual intercourse or deviate sexual activity with another person, not the person's spouse, who is less than eighteen (18) years of age and the actor:

(1) Is employed with the Department of Correction, Department of Community Punishment, Department of Human Services, any city or county jail or juvenile

detention facility, and the victim is in the custody of the Department of Correction, Department of Community Punishment, Department of Human Services, any city or county jail, or juvenile detention facility, or their contractors or agents; or

(2) Is a professional under Arkansas Code 12-12-507(b) and is in a position of trust or authority over the victim and uses the position to engage in sexual intercourse or deviate sexual activity; or

(3) Is an employee in the victim's school or school district, a temporary caretaker, or a person in a position of trust or authority over the victim. It is an affirmative defense to prosecution under this subdivision that the actor was not more than three (3) years older than the victim

(B) Is it no defense to prosecution that the victim consented to the conduct.

(C) Sexual assault in the first degree is a Class A felony.

Arkansas Code 5-14-103. Sexual Assault Second Degree:

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

(1) Engages in sexual contact with another person by forcible compulsion; or

(2) Engages in sexual contact with another person who is incapable of consent because the person is physically helpless, mentally defective, or mentally incapacitated; or

(3) Being eighteen (18) years of age or older, engages in sexual contact with the sex organs of another person, not the person's spouse, who is less than fourteen (14) years of age.

(4) (A) Engages in sexual contact with another person who is less than eighteen (18) years of age and the person:

(a) Is employed with the Department of Correction, Department of Community Punishment, any city or county jail or any juvenile detention facility, and the minor is in custody at one of the facilities operated by the agency or contractor employing the person;

(b) Is a professional under Arkansas Code 12-12-507(b) or is in a position of trust or authority over the minor; or

(c) Is the minor's guardian, an employee in the minor's school or school district, a temporary caretaker, or a person in a position of trust over the minor.

(4) (B) It is not a defense to prosecution under (4) of this section that the minor consented.

(5) Is a teacher in a public school in grades kindergarten through twelve (K-12) and engages in sexual contact with another person who is a student enrolled in the school and who is less than twenty-one (21) years of age; or

(6) Being less than eighteen (18) years old, the person engages in sexual contact with a person not the person's spouse who is less than fourteen (14) years old.

(1) It is an affirmative defense to prosecution under this section that the person was not more than three (3) years older than the victim if the victim is less than twelve (12) years of age.

(2) It is an affirmative defense to prosecution under this section that the person was not more than four (4) years older than the victim if the victim is twelve (12) years of age or older.

(B) Sexual assault in the second degree is a Class B felony.

(C) Sexual assault in the second degree is a Class D felony if committed by a person less than eighteen (18) years of age with a person, not the person's spouse, who is less than fourteen (14) years of age.

Arkansas Code 5-14-103. Sexual Assault Third Degree:

(A) A person commits sexual assault in the third degree if the person engages in sexual intercourse or deviate sexual activity with another person, not the person's spouse, and the person:

(1) Is employed with the Department of Correction, Department of Community Punishment, Department of Human Services, any city or county jail, and the victim is in the custody of the Department of Correction, Department of Community Punishment, Department of Human Services, or any city or county jail; or

(2) Is a professional under Arkansas Code 12-12-507(b) or a member of the clergy, and is in a position of trust or authority over the victim and uses the position to engage in sexual intercourse or deviate sexual activity.

(B) Is it no defense to prosecution under (A) of this section that the victim consented to the conduct.

(C) A person commits sexual assault in the third degree if the person being under eighteen (18) years of age, engages in sexual intercourse or deviate sexual activity with another person not the person's spouse, who is less than fourteen (14) years of age.

(D) It is an affirmative defense under (C) of this section that the person was not more than three (3) years older than the victim.

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

Arkansas Code 5-14-103. Section 5. Sexual Assault in the Fourth Degree:

(A) A person commits sexual assault in the fourth degree if, being twenty (20) years of age or older, the person engages in sexual intercourse, deviate sexual activity, or sexual contact with another person, not the person's spouse, who is less than sixteen (16) years of age; or

(B) The person engages in sexual contact with another person, not the person's spouse, who is less than sixteen (16) years of age.

(C) Sexual assault in the fourth degree under (A) of this section is a Class D felony.

(D) Sexual assault in the fourth degree under (B) of this section is a Class A misdemeanor.

Arkansas Code 5-14-110. Sexual Indecency With a Child:

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

(1) Being eighteen (18) years old 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 sexual intercourse, deviate sexual activity, or sexual contact; or

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

(B) It is an affirmative defense if the person is within three (3) years of age of the victim.

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

Act 509. An Act to Require Law Enforcement Officers to Complete Training Concerning Sexual Assaults; and for Other Purposes.

(A) The Commission on Law Enforcement Standards and Training shall require all law enforcement officers to complete a minimum of twenty (20) hours of training concerning sexual assaults as a part of Basic Police Training Course curriculum.

(B) Practicum training will be sufficient for this requirement.

(C) The training shall, at a minimum, cover the following topics:

(1) The dynamics of sexual assault;

- (2) The laws concerning sexual assault;
- (3) Sexual assault victim interview techniques; and
- (4) Support services available to sexual assault victims.

* Information provided through the Arkansas Commission on Child Abuse, Rape and Domestic Violence website.