



## 95TH GENERAL ASSEMBLY

### State of Illinois

2007 and 2008

**HB4319**

by Rep. Sandra M. Pihos

#### SYNOPSIS AS INTRODUCED:

720 ILCS 5/12-17

from Ch. 38, par. 12-17

Amends the Criminal Code of 1961. Provides that it is not a defense to predatory criminal sexual assault of a child that the accused reasonably believed the victim of the offense to be 13 years of age or over when the offense was committed and the State does not have to prove that the accused knew that the victim of the offense was under 13 years of age when the offense was committed.

LRB095 15485 RLC 41478 b

CORRECTIONAL  
BUDGET AND  
IMPACT NOTE ACT  
MAY APPLY

A BILL FOR

1 AN ACT concerning criminal law.

2 **Be it enacted by the People of the State of Illinois,**  
3 **represented in the General Assembly:**

4 Section 5. The Criminal Code of 1961 is amended by changing  
5 Section 12-17 as follows:

6 (720 ILCS 5/12-17) (from Ch. 38, par. 12-17)

7 Sec. 12-17. Defenses.

8 (a) It shall be a defense to any offense under Section  
9 12-13 through 12-16 of this Code where force or threat of force  
10 is an element of the offense that the victim consented.  
11 "Consent" means a freely given agreement to the act of sexual  
12 penetration or sexual conduct in question. Lack of verbal or  
13 physical resistance or submission by the victim resulting from  
14 the use of force or threat of force by the accused shall not  
15 constitute consent. The manner of dress of the victim at the  
16 time of the offense shall not constitute consent.

17 (b) It shall be a defense under subsection (b) and  
18 subsection (c) of Section 12-15 and subsection (d) of Section  
19 12-16 of this Code that the accused reasonably believed the  
20 person to be 17 years of age or over. It is not a defense to  
21 Section 12-14.1 (predatory criminal sexual assault of a child)  
22 that the accused reasonably believed the victim of the offense  
23 to be 13 years of age or over when the offense was committed

1 and the State does not have to prove that the accused knew that  
2 the victim of the offense was under 13 years of age when the  
3 offense was committed.

4 (c) A person who initially consents to sexual penetration  
5 or sexual conduct is not deemed to have consented to any sexual  
6 penetration or sexual conduct that occurs after he or she  
7 withdraws consent during the course of that sexual penetration  
8 or sexual conduct.

9 (Source: P.A. 93-389, eff. 7-25-03.)