



*Arkansas
Sentencing
Commission*

**Impact Assessment for HB1369
Sponsored by Representative Capp**

Subtitle CONCERNING THE OFFENSE OF FAILURE TO APPEAR; AND TO AMEND THE DEFINITION OF “PENDING CHARGE”.

Impact Summary¹ Cannot be determined.

Change from current law² Amends the definition of “pending charge” found in Arkansas Code Annotated § 5-54-120. Under current law, “pending charge” is defined as a charge that results from an arrest or after the filing of a criminal information or indictment and that has not been resolved by acquittal, conviction, dismissal, or nolle prosequi. Under the proposed bill, a “pending charge” also includes a charge that results from an issuance of a citation or criminal summons.

Impact Information

This bill enlarges the pool of offenders who can be charged with a violation of A.C.A. § 5-54-120, Failure to appear. Data is unavailable as to the number of potential offenders who have failed to appear after issuance of a citation or criminal summons.

The following information has been provided for reference. According to Arkansas Sentencing Commission data, in calendar year 2016, there were 892 offenders convicted of a violation of A.C.A. § 5-54-120, Failure to appear, Class C felony. Of those, there were 659 cases in which Failure to appear was the most serious offense. Of those 659, 397 were sentenced to probation or a suspended imposition of sentence. Of the 262 remaining, 38 were sentenced to a Community Corrections Center, with an average sentence length of 27 months. The remaining 224 were sentenced to the Arkansas Department of Correction for an average sentence length of 59 months.

¹ This impact assessment was prepared (2/6/2019 3:23 p.m.) by the staff of the Arkansas Sentencing Commission pursuant to A. C. A. § 16-90-802(d)(6) with data supplied by the Arkansas Department of Correction and the Administrative Office of the Courts. A micro-simulation model may be used for bills which have the potential for significant impact on correctional resources. The following designations will be used: “minimal” = less than 10 offenders per year will be affected; “medium” = would require budgetary increases for ADC inmate costs; and “major” = would require budgetary increases for ADC inmate costs and construction costs for additional beds.

² Standard punishment ranges:

Class Y	10-40 years or life	Class C	3-10 years; up to \$10,000	Class A	Up to 1 year; up to \$2,500
Class A	6-30 years; up to \$15,000	Class D	0-6 years; up to \$10,000	Class B	Up to 90 days; up to \$1,000
Class B	5-20 years; up to \$15,000	Unclassified	As specified in statute	Class C	Up to 30 days; up to \$500

A.C.A. § 5-54-120. Failure to appear.

(a) A person commits the offense of failure to appear if he or she fails to appear without reasonable excuse subsequent to having been:

(1) Cited or summonsed as an accused; or

(2) Lawfully set at liberty upon condition that he or she appear at a specified time, place, and court.

(b) Failure to appear is a:

(1) Class C felony if the required appearance was in regard to a pending charge or disposition of a felony charge either before or after a determination of guilt of the charge;

(2) Class D felony if the required appearance was in regard to an order to appear issued before a revocation hearing under § 16-93-307 and the defendant was placed on probation or suspended sentence for a felony offense;

(3) Class A misdemeanor if the required appearance was in regard to a pending charge or disposition of a Class A misdemeanor charge either before or after a determination of guilt of the charge;

(4) Class B misdemeanor if the required appearance was in regard to a pending charge or disposition of a Class B misdemeanor charge either before or after a determination of guilt of the charge;

(5) Class B misdemeanor if the required appearance was in regard to a pending charge or disposition of a Class C misdemeanor charge either before or after a determination of guilt of the charge;

(6) Class B misdemeanor if the required appearance was in regard to a pending charge or disposition of a Class D misdemeanor charge either before or after a determination of guilt of the charge;

(7) Class B misdemeanor with the same penalty as the unclassified misdemeanor in the pending charge or disposition if the required appearance was in regard to a pending charge or disposition of an unclassified misdemeanor either before or after a determination of guilt on the charge; and

(8) Class C misdemeanor if the required appearance was in regard to a pending charge or disposition of a violation either before or after a determination of guilt of the charge.

(c) This section does not apply to an order to appear imposed as a condition of suspension or probation under § 5-4-303.

HISTORY: Acts 1975, No. 280, § 2820; A.S.A. 1947, § 41-2820; Acts 1991, No. 916, § 1; 2011, No. 514, § 1; 2011, No. 570, § 32; 2013, No. 1193, § 1.