



# ARKANSAS SENTENCING COMMISSION

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## Impact Assessment for SB519 Sponsored by Senator Irvin

**Subtitle** TO CREATE THE VULNERABLE PERSON PROTECTION ACT; AND TO EXPAND PROTECTION OF CERTAIN TYPES OF VULNERABLE PERSONS IN THIS STATE BY ESTABLISHING ADDITIONAL CRIMINAL PENALTIES.

**Impact Summary**<sup>1</sup> Minimal, affecting fewer than ten offenders per year.

**Change from Current Law**<sup>2</sup> The proposed bill creates a new chapter in Title 5 of the Arkansas Code Annotated which creates criminal penalties for certain offenses against vulnerable persons, provides definitions, and sets out an affirmative defense to prosecution for some courses of conduct.

Under the proposed bill, three new criminal offenses are created concerning abuse, neglect, or exploitation of vulnerable persons. The elements for each course of conduct require that a person, being a healthcare provider or caregiver, purposely either abuse, neglect, or exploit a vulnerable person under his or her care or to whom he or she has access to due to his or her position as a healthcare provider or caregiver. The offending conduct and surrounding circumstances impact the potential penalties. Please see the table below for a brief synopsis:

Offense Title	Conduct	Penalty
§ 5-29-203 Abuse of a vulnerable person.	Abuse causes serious physical injury or a substantial risk of death to the vulnerable person	Class B felony
	Abuse causes physical injury to the vulnerable person	Class D felony
	Abuse otherwise committed	Class B misdemeanor
§ 5-29-204 Neglect of a vulnerable person.	Neglect causes serious physical injury or a substantial risk of death to the vulnerable person	Class D felony
	Neglect causes physical injury to the vulnerable person	Class B misdemeanor
	Neglect otherwise committed	Class C misdemeanor
§ 5-29-205 Exploitation of a vulnerable person.	Value of exploited assets ≥ \$2,500.00	Class B felony
	Value of exploited assets ≥ \$200.00 but < \$2,500.00	Class C felony
	Value of exploited assets < \$200.00	Class A misdemeanor

The proposed bill defines “Vulnerable person” as a person who is 1) sixty-nine (69) years of age or older, or 2) in an

<sup>1</sup> This impact assessment was prepared 4/3/2023 2:45 PM 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 Corrections 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.

<sup>2</sup> Standard punishment ranges:

Class Y 10-40 years or life  
 Class A 6-30 years; up to \$15,000  
 Class B 5-20 years; up to \$15,000

Class C 3-10 years; up to \$10,000  
 Class D 0-6 years; up to \$10,000  
 Unclassified As specified in statute

Misdemeanors  
 Class A Up to 1 year; up to \$2,500  
 Class B Up to 90 days; up to \$1,000  
 Class C Up to 30 days; up to \$500

inpatient facility receiving twenty-four (24) hour care. Definitions for other terms used in this subchapter: “Abuses”, “Assets”, “Caregiver”, “Exploits”, “Healthcare provider”, “Inpatient facility”, “Misappropriation”, “Neglects”, and “Sexual contact” are included in the proposed bill.

Under the proposed bill, it is an affirmative defense to the prosecution of A.C.A. § 5-29-203, Abuse of a vulnerable person, for the use of a physical restraint or a chemical restraint if the physical restraint or chemical restraint was necessary for the immediate safety of the vulnerable person, another patient, or staff in the inpatient facility.

Under current law, occurrences of elder abuse, A.C.A. § 5-28-103, criminalize abuse, neglect, and exploitation of an endangered or impaired person. The penalty for occurrences of A.C.A. § 5-28-103 is either a Class B or Class D felony, or Class A, Class B, or Class C misdemeanor.

**Impact Information** The proposed bill creates new criminal offenses for which the likely number of occurrences is unknown. The low number of reported convictions for similar courses of conduct already criminalized in A.C.A. § 5-28-103 makes it unlikely the new offenses will result in a meaningful increase in convictions. For this reason, the proposed bill is projected to have a minimal impact on correctional resources.

The following data is provided for informational purposes only. The Administrative Office of the Courts (AOC) reports that for the three (3) year period beginning on 1/1/2020 and ending on 12/31/2022, there were 28 felony convictions of A.C.A. § 5-28-103. The Division of Correction (ADC) reports that as of December 2, 2022, there are currently 7 offenders serving a term of incarceration for a violation of A.C.A. § 5-28-103. Of these, 6 are serving a term of incarceration for which A.C.A. § 5-28-103 is the primary offense.