



ARKANSAS SENTENCING COMMISSION

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Impact Assessment for HB1062 Sponsored by Representative L. Fite

Subtitle AN ACT TO INCREASE THE LOOKBACK PERIOD FOR PRIOR CONVICTIONS OF BOATING OR DRIVING WHILE INTOXICATED FOR THE PURPOSE OF SENTENCE ENHANCEMENT; AND FOR OTHER PURPOSES.

Impact Summary¹ Cannot be determined. The proposed bill increases the lookback period for prior offenses of boating or driving while intoxicated, which will increase the number of offenses which can be considered subsequent offenses. Data does not exist as to the number of offenses that would be subject to an increased penalty under the expanded lookback period. Therefore, the impact cannot be determined.

Change from Current Law² The proposed bill modifies Arkansas Code Annotated § 5-65-111, Periods of Incarceration, to extend the lookback period for subsequent convictions for driving or boating while intoxicated. The table below details the changes:

A.C.A.	Current Law	Proposed Bill
§ 5-65-111 (b)(1), second offense	5 years	10 years
§ 5-65-111 (c)(1), third offense	5 years	10 years
§ 5-65-111 (d)(1), fourth offense	5 years	10 years
§ 5-65-111 (e)(1), fifth offense	5 years	10 years
§ 5-65-111 (f)(1), sixth or subsequent offense	10 years	20 years

Impact Information The proposed bill extends the lookback period used to qualify an offender for an extended sentence for subsequent convictions for Driving or boating while intoxicated. Because data is not collected regarding the number of convictions that have “fallen off” for convictions of Driving or boating while intoxicated, the impact of this proposed bill cannot be determined. The increase in cases and incarcerated offenders between a fifth offense and a sixth offense indicates increasing the lookback period would likely have an impact on correctional resources, but the data to determine exactly how many more offenders would be subjected to the increased penalties does not exist. The following data is for informational purposes only.

¹ This impact assessment was prepared 1/25/2021 9:21 AM 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.

² 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

The Administrative Office of the Courts (AOC) reports that for the three (3) year period beginning on January 1, 2017 and ending on December 31, 2019, there were:

- 1,757 misdemeanor convictions for A.C.A. § 5-65-111,
- 148 convictions for A.C.A. § 5-65-111 (d)(1), Driving or boating while intoxicated, fourth offense,
- 32 convictions for A.C.A. § 5-65-111 (e)(1), Driving or boating while intoxicated, fifth offense, and
- 59 convictions for A.C.A. § 5-65-111 (f)(1), Driving or boating while intoxicated, sixth offense.

It is important to note that misdemeanors are often disposed of in District Court, and that not all District courts report data to the AOC. For this reason, the number of misdemeanor DWI or BWI convictions is likely higher than reported.

The Arkansas Division of Correction (ADC) reports eleven (11) inmates currently serving a term of incarceration for a violation of A.C.A. § 5-65-111 (d)(1), Driving or boating while intoxicated, fourth offense, as currently written. Two (2) of those inmates are serving a sentence for which A.C.A. § 5-65-111 (d)(1), Driving or boating while intoxicated, fourth offense, is the most serious offense.

The ADC reports two (2) inmates currently serving a term of incarceration for a violation of A.C.A. § 5-65-111 (e)(1), Driving or boating while intoxicated, fifth offense, as currently written. One (1) of those inmates is serving a sentence for which A.C.A. § 5-65-111 (e)(1), Driving or boating while intoxicated, fifth offense, is the most serious offense.

The ADC reports ten (10) inmates currently serving a term of incarceration for a violation of A.C.A. § 5-65-111 (f)(1), Driving or boating while intoxicated, sixth offense, as currently written. Nine (9) of those inmates are serving a sentence for which A.C.A. § 5-65-111 (f)(1), Driving or boating while intoxicated, sixth offense, is the most serious offense.