

1 State of Arkansas
2 92nd General Assembly
3 Regular Session, 2019
4

As Engrossed: H2/20/19

A Bill

HOUSE BILL 1280

5 By: Representative Gazaway
6

For An Act To Be Entitled

8 AN ACT CONCERNING THE OFFENSE OF PUBLIC INTOXICATION;
9 AND FOR OTHER PURPOSES.
10

Subtitle

11 CONCERNING THE OFFENSE OF PUBLIC
12 INTOXICATION.
13

14
15
16
17 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:
18

19 SECTION 1. DO NOT CODIFY. Legislative intent.

20 (a) It is the intent of the General Assembly to increase the available
21 penalty for repeat offenders of the offense of public intoxication, not to
22 necessarily punish those persons who may have demonstrated a problem with or
23 a dependency on alcohol, but to provide the judiciary with a longer time
24 frame during which a sentencing court may sentence a person to probation or a
25 diversionary program and during which the person may be ordered to seek
26 treatment for an alcohol problem or alcohol dependency.

27 (b) The General Assembly further intends that this act not be used to
28 unnecessarily fine or incarcerate a person with a demonstrated alcohol
29 problem or alcohol dependency who is not committing any other criminal act
30 when he or she commits the offense of public intoxication and that sentencing
31 courts use discretion and consider alternative sanctions or available
32 probationary or diversionary programs when sentencing repeat offenders under
33 this act.
34

35 SECTION 2. Arkansas Code § 5-71-212 is amended to read as follows:

36 5-71-212. Public intoxication – Drinking in public.



1 (a) A person commits the offense of public intoxication if he or she
2 appears in a public place manifestly under the influence of alcohol or a
3 controlled substance to the degree and under circumstances such that:

4 (1) The person is likely to endanger himself or herself or
5 another person or property; or

6 (2) The person unreasonably annoys a person in his or her
7 vicinity.

8 (b)(1) *Public intoxication is a Class C misdemeanor.*

9 (2)(A) Public intoxication is an unclassified misdemeanor if the
10 person has been convicted of public intoxication two (2) or more times within
11 five (5) years of the date of the current offense.

12 (B) If convicted of the unclassified misdemeanor of public
13 intoxication for a third or subsequent offense of public intoxication
14 occurring within a five (5) year period, in addition to a fine of no more
15 than five hundred dollars (\$500), the person may be sentenced to:

16 (i) Probation not to exceed one (1) year, with a
17 condition that the defendant enroll in a program of treatment or counseling
18 for alcohol abuse or alcohol dependency;

19 (ii) A term not to exceed thirty (30) days in a
20 county jail, with an additional probationary period to include as a condition
21 of probation that the defendant enroll in a program of treatment or
22 counseling for alcohol abuse or alcohol dependency, with the total time of
23 jail and probation not to exceed one (1) year; and

24 (iii) Provided that with regard to any revocation of
25 probation under (b)(2)(i) or (ii), that any jail sentence imposed for
26 revocation of probation not exceed thirty (30) days in the county jail.

27 (c) A person commits the offense of drinking in public if the person,
28 other than in a place of business licensed to sell alcoholic beverages for
29 consumption on the premises, consumes any alcoholic beverage:

30 (1) In any public place;

31 (2) On any highway or street;

32 (3) Upon any passenger coach, streetcar, or in or upon any
33 vehicle commonly used for the transportation of passengers; or

34 (4) In or about any depot, platform, waiting station or room, or
35 other public place.

36 (d) Drinking in public is a Class C misdemeanor.

1 (e) ~~The provisions of this~~ This section ~~shall not be construed to~~ does
2 not prohibit or restrict the consumption of an alcoholic beverage when
3 consumed as a part of a recognized religious ceremony or ritual.

4
5 /s/Gazaway

6
7
8 **APPROVED: 4/8/19**
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28
29
30
31
32
33
34
35
36