



*Arkansas  
Sentencing  
Commission*

**Impact Assessment for HB1236  
Sponsored by Representative Baltz**

**Subtitle** CONCERNING RESTITUTION TO THE DEPENDENTS OF A VICTIM OF A FELONY INVOLVING VIOLENCE AND CREATING THE OFFENSE OF FAILURE TO NOTIFY EMERGENCY PERSONNEL OF AN ENDANGERED CHILD IN CERTAIN CIRCUMSTANCES.

**Impact Summary**<sup>1</sup> Undetermined.

**Change from current law**<sup>2</sup> Amends Arkansas Code Annotated § 5-4-205(b) to allow restitution payments to the dependent of a victim of a felony involving violence if the victim dies as a result of the violent felony.

Amends Arkansas Code Title 5, Chapter 27 by creating a new section: § 5-27-211, Failure to notify emergency personnel of an endangered child in certain circumstances. An offender is guilty of a D felony if:

- (1) a person commits a felony involving violence as defined in A.C.A. § 5-4-501(d)(2),
- (2) as a result of the commission of the felony involving violence, the offender leaves a child at the location of the felony, resulting in a dangerous situation, and
- (3) the offender fails to notify emergency personnel as to the location and condition of the child within a reasonable time.

**Impact Information**

Data is unavailable as to the number of occurrences of conduct prohibited in this proposed bill.

For comparison purposes, see Endangering the welfare of a minor, A.C.A. §§ 5-27-205, 5-27-206, 5-27-207. (See attached code provisions, page 3-4.)

<sup>1</sup> This impact assessment was prepared (2/5/15 7:23 a.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.

<sup>2</sup> 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

According to Arkansas Sentencing Commission data, in 2013 there were 1,054 convictions for felonies involving violence as defined in A.C.A. § 5-4-501(d)(2). These convictions are broken down as follows:

Murder in the first degree § 5-10-102	66*
Murder in the second degree § 5-10-103	45*
Kidnapping § 5-11-102	39*
Aggravated Robbery § 5-12-103	117*
Rape § 5-14-103	105*
Battery in the first degree § 5-13-201	174*
Terroristic Act § 5-13-301	64
Sexual assault in the first degree § 5-14-124	39
Sexual assault in the second degree § 5-14-125	260
Domestic battering in the first degree § 5-26-303	40*
Aggravated residential burglary § 5-39-204	37*
Unlawful discharge of a firearm from a vehicle § 5-74-107	20
Criminal use of prohibited weapons, B felony § 5-73-104	48

The numbers listed above marked with an asterisk (\*) include inchoate (conspiracy, attempt, and solicitation) convictions. These are the only offenses with inchoate versions included in A.C.A. § 5-4-501(d)(2).

Note: There is nothing in the data that indicates whether a child was present during the commission of any of the above crimes.

**A.C.A § 5-27-205. Endangering the welfare of a minor in the first degree.**

(a) A person commits the offense of endangering the welfare of a minor in the first degree if, being a parent, guardian, person legally charged with care or custody of a minor, or a person charged with supervision of a minor, he or she purposely:

(1) Engages in conduct creating a substantial risk of death or serious physical injury to a minor; or

(2) Deserts a minor less than ten (10) years old under circumstances creating a substantial risk of death or serious physical injury.

(b) Endangering the welfare of a minor in the first degree is a Class D felony.

(c) (1) It is an affirmative defense to a prosecution under this section that a parent voluntarily delivered a child to and left the child with, or voluntarily arranged for another person to deliver a child to and leave the child with, a medical provider or law enforcement agency as provided in § 9-34-201 et seq.

(2) (A) Nothing in subdivision (c)(1) of this section shall be construed to create a defense to any prosecution arising from any conduct other than the act of delivering a child as described in subdivision (c)(1) of this section.

(B) Subdivision (c)(1) of this section specifically does not constitute a defense to any prosecution arising from an act of abuse or neglect committed prior to the delivery of a child to a medical provider or law enforcement agency as provided in § 9-34-201 et seq.

**HISTORY:** Acts 1975, No. 280, § 2407; A.S.A. 1947, § 41-2407; Acts 2001, No. 236, § 2; 2005, No. 2207, § 1.

**A.C.A § 5-27-206. Endangering the welfare of a minor in the second degree.**

(a) (1) A person commits the offense of endangering the welfare of a minor in the second degree if he or she knowingly engages in conduct creating a substantial risk of serious harm to the physical or mental welfare of another person known by the person to be a minor.

(2) As used in this section, "serious harm to the physical or mental welfare" means physical or mental injury that causes:

(A) Protracted disfigurement;

(B) Protracted impairment of physical or mental health; or

(C) Loss or protracted impairment of the function of any bodily member or organ.

(b) Endangering the welfare of a minor in the second degree is a Class A misdemeanor.

**HISTORY:** Acts 1975, No. 280, § 2408; A.S.A. 1947, § 41-2408; Acts 2005, No. 2207, § 2.

**A.C.A § 5-27-207. Endangering the welfare of a minor in the third degree.**

**(a) (1)** A person commits the offense of endangering the welfare of a minor in the third degree if the person recklessly engages in conduct creating a substantial risk of serious harm to the physical or mental welfare of a person known by the actor to be a minor.

**(2)** As used in this section, "serious harm to the physical or mental welfare" means physical or mental injury that causes:

**(A)** Protracted disfigurement;

**(B)** Protracted impairment of physical or mental health; or

**(C)** Loss or protracted impairment of the function of any bodily member or organ.

**(b)** Endangering the welfare of a minor in the third degree is a Class B misdemeanor.

**HISTORY:** Acts 2005, No. 2207, § 3.