



*Arkansas
Sentencing
Commission*

**Impact Assessment for SB8
Sponsored by Senator Garner**

Subtitle TO PROHIBIT A REGISTERED SEX OFFENDER FROM RECORDING A PERSON UNDER FOURTEEN (14) YEARS OF AGE IN CERTAIN CIRCUMSTANCES; AND TO PROHIBIT THE UNLAWFUL USE OF A RECORDING OF A PERSON UNDER FOURTEEN (14) YEARS OF AGE ONLINE.

Impact Summary¹ Cannot be determined.

Change from current law² Amends Arkansas Code Title 5, Chapter 14, Subchapter 1, by creating Arkansas Code Annotated § 5-14-135, Registered offender prohibited from recording a person under 14 years of age - Unlawful use of recording online. The proposed offense is classified as a Class D felony. Please note that this impact focuses solely on the provision which creates a new felony offense.

Under the proposed bill, it is unlawful for a person who is required to register under the Sex Offender Registration Act of 1977, A.C.A. § 12-12-901 et seq., and who has been assessed as a Level 3 or Level 4 offender to knowingly:

- (1) record a person under fourteen (14) years of age and post the recording on an online social media platform or other internet website that allows the using or posting of a recording in any form after the person has previously been warned of his or her possible criminal exposure by a judge at his or her sentencing for the offense for which he or she is required to register as a sex offender, or by his or her parole or probation officer that recording a person under fourteen (14) years of age is a violation of his or her terms and conditions of his or her probation or parole, or
- (2) record a person under fourteen (14) years of age and post the recording on an online social media platform or other internet website that allows the using or posting of a recording in any form in a manner that would suggest to a reasonable person that the person recording and posting the recording was doing so to unlawfully incite the prurient interest of himself, herself, or another person.

The proposed bill also defines “record”, creates affirmative defenses to prosecution for this offense, creates notice requirements at sentencing and assessment, and requires that this prohibition be a term and condition of probation or parole for all Level 3 and 4 sex offenders under felony probation or parole.

¹ This impact assessment was prepared (2/5/2019, 10:38 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.

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

Impact Information

Because this proposed bill creates a new offense, data is unavailable as to the likely number of convictions per year. Therefore, the impact of this proposed bill cannot be determined. The following numbers are provided for informational purposes only. The Arkansas Crime Information Center reports the following as of December 11, 2018: There are 4,975 Level 3 and 432 Level 4 sex offenders on the Arkansas Sex Offender Registry. This would serve as the potential pool of offenders under the proposed bill.