



*Arkansas  
Sentencing  
Commission*

**Impact Assessment for HB1172  
Sponsored by Representatives Tosh, Drown,  
Ballinger, et al.**

**Subtitle** CREATING A SENTENCE ENHANCEMENT FOR CERTAIN CRIMINAL OFFENSES TARGETING A CURRENT OR FORMER LAW ENFORCEMENT OFFICER, FIRST RESPONDER OR HIS OR HER FAMILY; AND TO DECLARE AN EMERGENCY.

**Impact Summary**<sup>1</sup> Cannot be determined.

**Change from current law**<sup>2</sup> Amends Arkansas Code Annotated § 5-4-701, Definitions, by defining “family member of a current or former law enforcement officer or first responder,” “first responder,” and “law enforcement officer.” Under the proposed bill, a family member of a current or former law enforcement officer or first responder means the husband, wife, son, daughter, brother, sister, or parent of a current or former law enforcement officer of first responder. The proposed bill defines first responder as a firefighter or a person employed as an emergency medical provider. The proposed bill also states that a law enforcement officer includes, without limitation, a prosecuting attorney or deputy prosecuting attorney, a code enforcement officer, and a corrections officer.

Amends Arkansas Code Title 5, Chapter 4, Subchapter 7, by creating a new section: § 5-4-704, Sentence enhancement for offense targeting current or former law enforcement officer, first responder, or family member of current or former law enforcement officer or first responder. Under the proposed bill, a person is subject to an enhanced sentence if the person purposely selected the victim of an offense committed by the person because of the victim’s current or former employment as a law enforcement officer or first responder or because the victim is a family member of a current or former law enforcement officer or first responder.

The proposed enhancement is applied as follows:

- for a Class A misdemeanor conviction or a conviction for an unclassified misdemeanor with a possible sentence greater than ninety (90) days imprisonment, an additional term of imprisonment of up to one (1) year.
- for a Class C felony, Class D felony, or an unclassified felony, an additional period of imprisonment of at least six (6) months, but no more than two (2) years.

<sup>1</sup> This impact assessment was prepared (1/18/2017, 12:45 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

- for a Class Y felony, Class A felony, or Class B felony, an additional period of imprisonment of at least two (2) years, but not more than ten (10) years.

The proposed enhancement is not available if the victim of the offense is a law enforcement officer or first responder and an element of the underlying offense is that the victim is a law enforcement officer or first responder.

This proposed enhancement must be charged in the information or indictment in order to be applied.

**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 is undetermined.

Under the proposed bill, the enhancement is not available if the victim of the offense is a law enforcement officer or first responder and an element of the offense is that the victim is a law enforcement officer or first responder. These offenses include, but are not limited to, the following:

- Capital Murder, A.C.A. § 5-10-101(a)(3),
- Battery I, A.C.A. § 5-13-201,
- Battery II, A.C.A. § 5-13-202(a)(4)(A),
- Aggravated assault on a law enforcement officer, A.C.A. § 5-13-211,
- Criminal Impersonation, A.C.A. § 5-37-208,
- Filing instrument affecting title or interest in real property, A.C.A. § 5-37-226,
- Resisting arrest, A.C.A. § 5-54-103,
- Interference with a law enforcement officer, A.C.A. § 5-54-104,
- Project a laser light on a law enforcement officer, A.C.A. § 5-54-132, and
- Terrorism – enhanced penalties, A.C.A. § 5-54-206.

#### **Other States**

Currently, Louisiana is the only state that has enacted similar legislation. There are no inmates currently serving a sentence in the Louisiana Department of Correction under this law. Colorado, Iowa, Florida, Kentucky, New York, Texas and Wisconsin have pending legislation similar to the proposed bill.