



*Arkansas  
Sentencing  
Commission*

**Impact Assessment for HB1173  
Sponsored by Representative Tucker**

**Subtitle** TO AMEND AND MAKE CONSISTENT THE OFFENSES OF SEXUAL INDECENY WITH A CHILD AND SEXUAL ASSAULT IN THE FOURTH DEGREE; AND TO AMEND THE DEFINITION OF ‘SEXUAL ABUSE’ UNDER THE CHILD MALTREATMENT ACT.

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

**Change from current law**<sup>2</sup> Amends Arkansas Code Annotated § 5-14-110, Sexual indecency with a child and A.C.A. § 5-14-127, Sexual assault in the fourth degree, to address inconsistencies in the ages of offenders and victims in the two statutes.

This proposed bill amends the conduct constituting A.C.A. § 5-14-110, Sexual indecency with a child.

- Under current law, a person commits Sexual indecency with a child if:
  - being eighteen years of age or older, the person solicits another person, who is less than fifteen (15) years of age or represented to be less than fifteen (15) years of age to engage in sexual intercourse, deviate sexual activity, or sexual contact.
    - The proposed bill raises the age of the victim to less than sixteen (16) years of age or represented to be less than sixteen (16) years of age.
  - With the purpose to arouse or gratify a sexual desire of any other person, the offender purposely exposes his or her sex organs to another person who is less than fifteen years of age.
    - The proposed bill raises the age of the victim to less than sixteen (16) years of age.
- Sexual indecency with a child is a Class D felony, which goes unchanged by the proposed bill.

This proposed bill also amends the conduct constituting A.C.A. § 5-14-127(a)(1), Sexual assault in the fourth degree. Under current law, a person must be twenty (20) years of age or older to commit sexual assault in the fourth degree. The proposed bill lowers this to eighteen (18) years of age.

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<sup>1</sup> This impact assessment was prepared (1/26/2017, 7:46 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

The proposed bill also creates an affirmative defense to prosecution under both A.C.A. § 5-14-110 and A.C.A. § 5-14-127 when the offender is within three (3) years of age of the victim.

### **Impact Information**

Because this proposed bill expands the potential pool of offenders and victims for these crimes, data on how many new convictions there would be is unavailable. Therefore the impact cannot be determined. The following data is provided for informational purposes only.

According to the Arkansas Sentencing Commission (ASC) database, which captures sentencing data submitted on a Sentencing Order from Circuit Courts statewide, there were 56 convictions for A.C.A. § 5-14-110, Sexual indecency with a child, for calendar year 2014. Of those sentences, 31 were sentenced to a term of incarceration at the Arkansas Department of Correction (ADC) and 25 were sentenced to probation or suspended imposition of sentence (SIS). Victim information was captured for 25 sentences to ADC. The ages of the victims of offenders sentenced to ADC are as follows:

- 3 years old (1 victim)
- 4 years old (2 victims)
- 6 years old (1 victim)
- 9 years old (2 victims)
- 10 years old (1 victim)
- 11 years old (2 victims)
- 12 years old (1 victim)
- 13 years old (5 victims)
- 14 years old (9 victims)
- 15 years old (1 victim)

The ASC database also indicates that for the same time period, there were 68 convictions for A.C.A. § 5-14-127, Sexual assault in the fourth degree. Of those, 40 were sentenced to ADC and 28 were sentenced to probation or SIS. The average offender age for those sentenced to ADC was 28 years old.