



*Arkansas
Sentencing
Commission*

**Impact Assessment for HB 1808
Sponsored by Representative Hammer**

Subtitle TO CREATE THE OFFENSE OF SEXUAL EXTORTION; INCLUDING SEXUAL EXTORTION AS A DISQUALIFYING OFFENSE FOR CERTAIN EMPLOYMENT OR LICENSURE; AND TO INCLUDE SEXUAL EXTORTION AS AN OFFENSE REQUIRING REGISTRATION AS A SEX OFFENDER.

Impact Summary¹ Cannot be determined.

Change from current law² Amends Arkansas Code Annotated § 5-14-101, concerning definitions for sexual offenses, to add definitions of “recording,” “sexually explicit conduct,” and “state of nudity.”

The proposed bill creates A.C.A. § 5-14-113, Sexual extortion. Under the proposed bill, a person commits the offense of Sexual extortion, a Class B felony, if he or she performs any of the following actions:

- With the purpose to coerce another person to engage in sexual contact or sexually explicit conduct, the person communicates a threat to damage the property of the other person, harm the reputation of the other person, or produce or distribute a recording of the other person engaged in sexually explicit conduct or depicted in a state of nudity.
- With the purpose to produce or distribute a recording of a person in a state of nudity or engaged in sexually explicit conduct, the person communicates at threat to damage the property of the other person, harm the reputation of the other person, or produce or distribute a recording of the other person engaged in sexually explicit conduct or depicted in a state of nudity.
- The person knowingly causes another person to engage in sexual contact or sexually explicit conduct or to produce or distribute a recording of the person in a state of nudity or engaged in sexually explicit conduct by communicating a threat to damage the property of the other person, harm the reputation of the other person, or produce or distribute a recording of the other person engaged in sexually explicit conduct or depicted in a state of nudity.

The proposed bill also adds the offense of sexual extortion to lists of disqualifying offenses for several occupations and to the list of offenses for which a person is required to register as a sex offender.

¹ This impact assessment was prepared 3/6/2017 (2:59 p.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 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

Impact Information

Because this bill creates a new offense, the impact on the financial resources of the State cannot be determined. Some conduct covered under the proposed bill is potentially already criminalized under existing law, A.C.A. § 5-13-208, Coercion, Class A misdemeanor, or A.C.A. § 5-26-314, Unlawful distribution of sexual images or recordings, Class A misdemeanor. See attached for a reprint of these code provisions. The following data is provided for informational purposes only.

The Administrative Office of the Courts reports that for the three year period beginning January 1, 2013, and ending December 31, 2015, there was one (1) conviction for a violation of A.C.A. § 5-13-208, and zero convictions for a violation of A.C.A. § 5-26-314.

A.C.A. § 5-13-208. Coercion.

(a) A person commits coercion if he or she compels or induces another person to engage in conduct from which the other person has a legal right to abstain, or to abstain from engaging in conduct in which the other person has a legal right to engage, by purposeful conduct designed to instill in the other person a fear that, if a demand is not complied with, the actor or another person will:

- (1) Cause physical injury to any person;
- (2) Cause damage to property;
- (3) Subject any person to physical confinement;
- (4) Accuse any person of an offense or cause criminal proceedings to be instituted against any person; or
- (5) Expose a secret or publicize an asserted fact, whether true or false, tending to subject any person to hatred, contempt, or ridicule.

(b) Coercion is a Class A misdemeanor.

HISTORY: Acts 1975, No. 280, § 1609; A.S.A. 1947, § 41-1609.

A.C.A. § 5-26-314. Unlawful distribution of sexual images or recordings.

(a) A person commits the offense of unlawful distribution of sexual images or recordings if, being eighteen (18) years of age or older, with the purpose to harass, frighten, intimidate, threaten, or abuse another person, the actor distributes an image, picture, video, or voice or audio recording of the other person to a third person by any means if the image, picture, video, or voice or audio recording:

- (1) Is of a sexual nature or depicts the other person in a state of nudity; and
- (2) The other person is a family or household member of the actor or another person with whom the actor is in a current or former dating relationship.

(b) The fact that an image, picture, video, or voice or audio recording was created with the knowledge or consent of the other person or that the image, picture, video, or voice or audio recording is the property of a person charged under this section is not a defense to prosecution under this section.

(c) Unlawful distribution of sexual images or recordings is a Class A misdemeanor.

(d) (1) Upon the pretrial release of a person charged under this section, the court shall enter an order consistent with Rules 9.3 and 9.4 of the Arkansas Rules of Criminal Procedure and shall give notice to the person charged under this section of the penalties contained in Rule 9.5 of the Arkansas Rules of Criminal Procedure.

(2) An order under subdivision (d)(1) of this section remains in effect during the pendency of any appeal of a conviction under this section.

HISTORY: Acts 2015, No. 304, § 2.