



*Arkansas
Sentencing
Commission*

**Impact Assessment for HB1633
Sponsored by Representatives Tosh
& A. Collins**

Subtitle TO AMEND THE LAW REGARDING WITNESS INTIMIDATION, RETALIATION, TAMPERING WITH EVIDENCE, JURY TAMPERING, AND BRIBERY.

Impact Summary¹ Cannot be determined.

Change from current law² Increases penalties for multiple criminal offenses found in Arkansas Code Title 5, Chapter 53. The amended penalty provisions are detailed in the below table.

A.C.A. § and Title	Current Penalty	Penalty under Proposed Bill
§ 5-53-108, Witness bribery	Class C felony	Class B felony
§ 5-53-109, Intimidating a witness	Class C felony	Class B felony
§ 5-53-110, Tampering with official proceedings/investigations	Class A misdemeanor	Class D felony
§ 5-53-111, Tampering with physical evidence	Class D felony	No change
§ 5-53-111, Tampering with physical evidence	Class B misdemeanor	Class D felony
§ 5-53-112, Retaliation against a witness, informant, or juror	Class D felony	Class C felony
§ 5-53-114, Intimidating a witness, informant, or juror	Class C felony	Class B felony
§ 5-53-115, Jury tampering	Class D felony	Class C felony

Impact Information

The proposed bill raises penalties for multiple offenses. (See attached for full text of current statutes.) The following data is provided for informational purposes only.

¹ This impact assessment was prepared (3/4/2019, 1:58 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

An examination of the Arkansas Department of Correction intake file for the one-year period beginning January 1, 2017 and ending December 31, 2017 revealed the following:

- four (4) inmates serving a term of incarceration for which A.C.A. § 5-53-109, Intimidating a witness, was the most serious offense;
- one (1) inmate serving a term of incarceration for which A.C.A. § 5-53-114, Intimidating a witness, informant, or juror, was the most serious offense; and
- one (1) inmate serving a term of incarceration for which A.C.A. § 5-53-112, Retaliation against a witness, informant, or juror, was the most serious offense.

These six (6) offenders would likely see an increased sentence length under this proposed bill due to the increase in felony classification. However, due to lack of uniform reporting of misdemeanor convictions which would become felonies under the proposed bill, the overall impact cannot be determined.

The Administrative Office of the Courts reports the following conviction information for the three year period beginning January 1, 2015 and ending December 31, 2017 for these statutes as currently written:

A.C.A § and Title		Convictions
§ 5-53-108	Witness bribery	10
§ 5-53-109	Intimidating a witness	23
§ 5-53-110	Tampering with official proceedings/investigations	7
§ 5-53-111	Tampering with physical evidence	288
§ 5-53-112	Retaliation against a witness, informant, or juror	8
§ 5-53-114	Intimidating a witness, informant, or juror	5
§ 5-53-115	Jury tampering	0

A.C.A § 5-53-108. Witness bribery.

- (a) A person commits witness bribery if he or she:
 - (1) Offers, confers, or agrees to confer any benefit upon a witness or a person he or she believes may be called as a witness with the purpose of:
 - (A) Influencing the testimony of that person;
 - (B) Inducing that person to avoid legal process summoning that person to testify; or
 - (C) Inducing that person to absent himself or herself from an official proceeding to which that person has been legally summoned; or
 - (2) Solicits, accepts, or agrees to accept any benefit and the conferring of the benefit is prohibited by this section.
- (b) Witness bribery is a Class C felony.

HISTORY: Acts 1975, No. 280, § 2608; A.S.A. 1947, § 41-2608.

A.C.A § 5-53-109. Intimidating a witness.

- (a) A person commits the offense of intimidating a witness if he or she threatens a witness or a person he or she believes may be called as a witness with the purpose of:
 - (1) Influencing the testimony of that person;
 - (2) Inducing that person to avoid legal process summoning that person to testify; or
 - (3) Inducing that person to absent himself or herself from an official proceeding to which that person has been legally summoned.
- (b) Intimidating a witness is a Class C felony.

HISTORY: Acts 1975, No. 280, § 2609; A.S.A. 1947, § 41-2609.

A.C.A § 5-53-110. Tampering.

- (a) A person commits the offense of tampering if, believing that an official proceeding or investigation is pending or about to be instituted, he or she induces or attempts to induce another person to:
 - (1) Testify or inform falsely;
 - (2) Withhold any unprivileged testimony, information, document, or thing regardless of the admissibility under the rules of evidence of the testimony, information, document, or thing and notwithstanding the relevance or probative value of the testimony, information, document, or thing to an investigation;
 - (3) Elude legal process summoning that person to testify or supply evidence, regardless of whether the legal process was lawfully issued; or
 - (4) Absent himself or herself from any proceeding or investigation to which that person has been summoned.
- (b) Tampering is a Class A misdemeanor.

HISTORY: Acts 1975, No. 280, § 2610; A.S.A. 1947, § 41-2610; Acts 2007, No. 827, § 45.

A.C.A § 5-53-111. Tampering with physical evidence.

(a) A person commits the offense of tampering with physical evidence if he or she alters, destroys, suppresses, removes, or conceals any record, document, or thing with the purpose of impairing its verity, legibility, or availability in any official proceeding or investigation.

(b)

(1) Tampering with physical evidence is a Class D felony if the person impairs or obstructs the prosecution or defense of a felony.

(2) Otherwise, tampering with physical evidence is a Class B misdemeanor.

HISTORY: Acts 1975, No. 280, § 2611; A.S.A. 1947, § 41-2611.

A.C.A § 5-53-112. Retaliation against a witness, informant, or juror.

(a) A person commits the offense of retaliation against a witness, informant, or juror if he or she harms or threatens to harm another by any unlawful act in retaliation for anything lawfully done in the capacity of witness, informant, or juror.

(b) Retaliation against a witness, informant, or juror is a Class D felony.

(c) "Informant" means a person who provides information to any law enforcement agency in an effort to assist the law enforcement agency in solving a crime or apprehending a person suspected of a criminal offense.

HISTORY: Acts 1975, No. 280, § 2612; A.S.A. 1947, § 41-2612; Acts 1997, No. 1238, § 1; 2005, No. 1994, § 465.

A.C.A § 5-53-114. Intimidating a juror, witness, or informant.

(a) A person commits the offense of intimidating a juror, a witness, or an informant if he or she threatens a juror, a witness, or an informant with the purpose of influencing the juror's vote or decision or the witness's or informant's statement or testimony.

(b) Intimidating a juror, a witness, or an informant is a Class C felony.

(c) "Informant" means a person who provides information to any law enforcement agency in an effort to assist the law enforcement agency in solving crimes and apprehending persons suspected of criminal offenses.

HISTORY: Acts 1975, No. 280, § 2614; A.S.A. 1947, § 41-2614; Acts 2005, No. 1994, § 466.

A.C.A § 5-53-115. Jury tampering.

(a) A person commits the offense of jury tampering if he or she attempts directly or indirectly to communicate with a juror, other than as a part of the official proceedings in which the juror is participating, with the purpose of influencing the juror's vote, decision, or other action as a juror.

(b) Juror tampering is a Class D felony.

HISTORY: Acts 1975, No. 280, § 2615; A.S.A. 1947, § 41-2615.