



*Arkansas
Sentencing
Commission*

**Impact Assessment for HB1809
Sponsored by Representative Love**

Subtitle TO CREATE AN ADDITIONAL TERM OF IMPRISONMENT FOR OFFENSES THAT CONSTITUTE SERIOUS ACTS OF VIOLENCE AGAINST A PERSON AT A CHURCH OR OTHER PLACE OF WORSHIP.

Impact Summary¹ Cannot be determined.

Change from current law² Amends Arkansas Code Title 5, Chapter 4, Subchapter 7, by creating a new section: § 5-4-707, Additional term of imprisonment for offense constituting violence against church or other place of worship. Under the proposed bill, a person is subject to an additional term of imprisonment if the person purposely selected the victim of an offense committed by the person because the victim was present on the grounds of or in a church or other place of worship at the time of the offense and committed a serious felony involving violence against the victim. This proposed enhancement must be charged in the information or indictment in order to be applied.

The additional term of imprisonment under the proposed bill is for a minimum of one (1) year but no more than ten (10) years in the Department of Correction. Any additional term of imprisonment is consecutive to any other sentence imposed and an offender is not eligible for parole or community correction transfer for the additional term of imprisonment.

The proposed bill also defines “serious felony involving violence.”

Impact Information

The proposed bill creates a new enhancement for which data is unavailable as to the likely number of enhanced sentences per year. Therefore, the impact of this proposed bill is undetermined.

The following data is provided for informational purposes only. There are currently similar enhancement provisions for offenses committed in the presence of or targeting certain individuals. Numbers provided below indicate those offenders serving a term of incarceration for one of the enhanced penalties and those offenders whose primary offense is one of the enhanced penalties.

¹ This impact assessment was prepared (03/18/2019, 3:04 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

A.C.A. Code §	# of inmates at ADC	# of inmates at ADC, Primary Offense
Enhancements in surrounding code		
5-4-702, Enhanced penalties for offenses committed in the presence of a child	47	5
5-4-704, Sentence enhancement for offense targeting current or former LEO, first responders, or their families	0	0
5-4-705, Sentence enhancement for offense targeting railroad or public transit employees	0	0

The FBI reports for calendar year 2017, there were 292 incidents that occurred in the United States in which a bias motivated offense was committed in a church, synagogue, temple, or mosque. [See FBI UCR 2017 Hate Crime Statistics Report.] Please note that not all law enforcement agencies report statistics to the FBI.

5-4-702. Enhanced penalties for offenses committed in presence of a child.

(a) Any person who commits a felony offense involving homicide, §§ 5-10-101 -- 5-10-103, assault or battery, § 5-13-201 et seq., or domestic battering or assault on a family member or household member, §§ 5-26-303 -- 5-26-309, may be subject to an enhanced sentence of an additional term of imprisonment of not less than one (1) year and not greater than ten (10) years if the offense is committed in the presence of a child.

(b) Any person who commits the offense of aggravated cruelty to a dog, cat, or equine under § 5-62-104 may be subject to an enhanced sentence of an additional term of imprisonment not to exceed five (5) years if the offense is committed in the presence of a child.

(c)

(1) To seek an enhanced penalty established in this section, a prosecuting attorney shall notify the defendant in writing that the defendant is subject to the enhanced penalty.

(2) If the defendant is charged by information or indictment, the prosecuting attorney may include the written notice in the information or indictment.

(d) The enhanced portion of the sentence is consecutive to any other sentence imposed.

(e) Any person convicted under this section is not eligible for early release on parole or community correction transfer for the enhanced portion of the sentence.

HISTORY: Acts 2001, No. 1707, § 2; 2007, No. 1047, § 1; 2009, No. 33, § 1; 2009, No. 936, § 1; 2017, No. 389, § 1.

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.

(a) A person is subject to an enhanced sentence under this section if the person purposely selected the victim of an offense committed by the person because the victim is:

(1) Currently employed or was formerly employed as a law enforcement officer or first responder; or

(2) A family member of a current or former law enforcement officer or first responder.

(b) If a sentence enhancement is sought under this section, the information or indictment shall include:

(1) That the sentence enhancement under this section is being sought; and

(2) The allegations supporting the imposition of the enhanced sentence under this section.

(c) The sentence enhancement under this section is as follows:

(1) If the person is convicted of a Class A misdemeanor or an unclassified misdemeanor with a possible sentence greater than ninety (90) days' imprisonment, an additional period of imprisonment of not more than one (1) year;

(2) If the person is convicted of 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; and

(3) If the person is convicted of a Class Y felony, Class A felony, or Class B felony, an additional period of imprisonment of at least two (2) years but no more than ten (10) years.

(d) The sentence enhancement under this section is not applicable if:

(1) The victim of the offense is a law enforcement officer or first responder; and

(2) An element of the underlying offense is that the victim is a law enforcement officer or first responder.

HISTORY: Acts 2017, No. 332, § 3.

5-4-705. Sentence enhancement for offense targeting railroad or public transit employee.

(a) A person is subject to an enhanced sentence under this section if the person purposely selected the victim of an offense committed by the person because the victim is a railroad or public transit employee.

(b) If a sentence enhancement is sought under this section, the information or indictment shall include:

(1) That the sentence enhancement under this section is being sought; and

(2) The allegations supporting the imposition of the enhanced sentence under this section.

(c) The sentence enhancement under this section is as follows:

- (1) If the person is convicted of a Class A misdemeanor or an unclassified misdemeanor with a possible sentence greater than ninety (90) days' imprisonment, an additional period of imprisonment of not more than one (1) year;
- (2) If the person is convicted of 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; and
- (3) If the person is convicted of a Class Y felony, Class A felony, or Class B felony, an additional period of imprisonment of at least two (2) years but no more than ten (10) years.

HISTORY: Acts 2017, No. 955, § 2.