



ARKANSAS SENTENCING COMMISSION

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Impact Assessment for HB1554 Sponsored by Representative Penzo

Subtitle TO ESTABLISH SAFE HARBOR PROVISIONS FOR VICTIMS OF HUMAN TRAFFICKING;
AND TO ESTABLISH AN AFFIRMATIVE DEFENSE.

Impact Summary¹ Minimal, affecting fewer than ten (10) offenders per year. While the offense creates a new course of conduct for which the likely number of occurrences cannot be determined, the small number of convictions for the offense as currently written makes it unlikely that the proposed bill will have a significant impact on the correctional resources of the State.

Change from Current Law² Amends various provisions of the Arkansas Code Annotated regarding human trafficking. The proposed bill amends A.C.A. § 5-18-103, Trafficking of persons, to modify one course of conduct by which a person can commit the offense of Trafficking of persons. Under the proposed bill, a person commits the offense of Trafficking of persons if he or she knowingly recruits, entices, solicits, isolates, harbors, transports, provides, maintains, or obtains a pregnant woman for the purpose of causing the pregnant woman to place her unborn child for adoption by: (1) the use or threatened use of physical force, (2) *the physical restraint or threat of physical restraint of a person*, (3) *serious physical injury or threat of serious physical injury to a person*, (4) *abuse or threatened abuse of the law or legal process*, or (5) *any scheme, plan, or pattern that has a purpose to cause the pregnant woman to believe that, if the pregnant woman does not place the unborn child for adoption, a person would suffer serious physical injury or physical restraint*. [New language is indicated by *italics*.] Trafficking of persons is a Class A felony or a Class Y felony if the victim is a minor. [See attached for a complete reproduction of A.C.A. § 5-18-103].

The proposed bill creates an affirmative defense to prosecution for human trafficking if at the time of the offense, the person engaged in the conduct was a victim of trafficking of persons and engaged in the offense as a result of the trafficking of persons and amends language regarding sealing of convictions for victims of human trafficking. The proposed bill also defines “victim of trafficking of persons,” “abuse or threatened abuse of law or legal process,” and “serious harm.”

Impact Information The proposed bill creates a new course of conduct by which a person can commit the offense of Trafficking of persons. While data on the likely number of occurrences for the modified offense cannot be determined, the small number of convictions for the offense as currently written makes it unlikely that

¹ This impact assessment was prepared 3/30/2021 11:31 AM 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 Corrections 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

the proposed bill will have a significant impact on the correctional resources of the State. For this reason, the proposed bill is projected to have a minimal impact on the correctional resources of the State.

The Administrative Office of the Courts reports that for the three (3) year period beginning January 1, 2017, and ending December 31, 2019, there was one (1) conviction for a violation of A.C.A. § 5-18-103 (c)(1), Trafficking of persons, a Class A felony. For the same three (3) year period, there were seven (7) convictions for A.C.A. § 5-18-103 (c)(2), Trafficking of persons - victim is a minor, a Class Y felony.

A.C.A. § 5-18-103. Trafficking of persons.

(a) A person commits the offense of trafficking of persons if he or she knowingly:

- (1) Recruits, harbors, transports, obtains, entices, solicits, isolates, provides, or maintains a person knowing that the person will be subjected to involuntary servitude;
- (2) Benefits financially or benefits by receiving anything of value from participation in a venture under subdivision (a)(1) of this section;
- (3) Subjects a person to involuntary servitude;
- (4) Recruits, entices, solicits, isolates, harbors, transports, provides, maintains, or obtains a minor for commercial sexual activity;
- (5) Sells or offers to sell travel services that he or she knows include an activity prohibited under subdivisions (a)(1)-(4) of this section;
- (6) Recruits, entices, solicits, isolates, harbors, transports, provides, maintains, or obtains a pregnant woman for the purpose of causing the pregnant woman by the use of or threatened use of physical force to place the baby who is not yet born for adoption; or
- (7) Benefits financially or benefits by receiving anything of value from participating in an act described under subdivision (a)(6) of this section.

(b) It is not a defense to prosecution under subdivision (a)(4) of this section that the actor:

- (1) Did not have knowledge of a victim's age; or
- (2) Mistakenly believed a victim was not a minor.

(c)

- (1) Trafficking of persons is a Class A felony.
- (2) Trafficking of persons is a Class Y felony if a victim was a minor at the time of the offense.

(d) In addition to any other sentence authorized by this section, a person who violates this section by offering to pay, agreeing to pay, or paying a fee to engage in sexual activity upon conviction shall be ordered to pay a fine of two hundred fifty dollars (\$250) to be deposited into the Safe Harbor Fund for Sexually Exploited Children.

History

Acts 2013, No. 132, § 3; 2013, No. 133, § 3; 2013, No. 1257, § 4; 2015, No. 1080, § 1; 2019, No. 1022, § 1.